Welcome third round of HHS relief funds, eased lending terms for accelerated payments

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If you took advantage of CMS' Accelerated and Advance Payment Program, CMS has good news for your repayment responsibilities. And if you also took advantage of the CARES Act Provider Relief program, HHS has good news there as well.

CMS announced the Accelerated and Advance Payment Program (AAPP) in April to help providers suffering from declining or arrested revenues with advance payments equivalent to up to three months' worth of their usual Part B payments (*PBN 4/9/20*). At 120 days from the loan date, Part B providers were told to expect recoupment letters that would request repayment — at an annual interest rate equal to the usual Medicare repayment rate, which at the time was 10.25%. CMS halted the loans within a few weeks, saying it had given out $34 billion already (*PBN 4/30/20*).

The Medicare repayment interest rate has declined to 9.5%, but AAPP beneficiaries needn't worry — because CMS has cut that interest rate for their program to 4%. And the agency has not been in a hurry to request repayment. In fact, Medicare financial experts said they haven't heard of any provider being asked to pay back yet, despite the fact that the first wave of advances should have come due in September.

Moreover, the official timeline for recoupment has now been pushed ahead considerably: CMS won't start collecting until a year from the loan date and will spread out its recoupment over 11 months for 25% of your advance. The agency will then spend six months getting back 50% of it. At that time — 29 months into the repayment cycle — you'll get a letter asking for full repayment of the balance. Thirty days after that, the 4% interest rate kicks in, "assessed for each full 30-day period that the balance remains unpaid," per the CMS fact sheet (*see resources, below*).

Medical trade groups, such as the American Hospital Association and the Medical Group Management Association (MGMA), can consider the decreased interest rate a victory. They had been asking for drastic reductions.

"The 10.25% rate seemed punitive, as though CMS was saying, 'Look, we're not trying to be a bank,'" says Eric D. Fader, a partner with the Rivkin Radler firm in New York City. "But 4% puts it back in the range for a good commercial loan."

Third time's the charm

Seven months into the public health emergency (PHE), HHS is preparing to distribute the third tranche of payments from the CARES Act Provider Relief Fund, and all providers are invited to apply who meet some basic requirements.

The Relief Fund, consisting of over $100 billion in aid earmarked to providers hit by COVID-19 financial problems, began doling out funds in April with an automatic payment worth approximately 6.2% of providers' total Medicare fee-for-service payments in 2019 (*PBN blog 4/13/20*). Later that month, CMS solicited applications for the second round of the funds, to equal 2% of provider payments based on all-payer data (*PBN blog 4/24/20*).

To date, HHS has distributed roughly $100 billion from the fund. This month HHS announced that it was offering $20 billion more in a third round of payments. Applications opened Oct. 5, and they will be due Nov. 6.

In this latest installment, providers "who previously received, rejected or accepted a General Distribution Provider Relief Fund payment" are eligible for the payments, according to HHS. So are new providers who began practicing between Jan. 1 and March 31, 2020. For the first time, behavioral health providers also are eligible.

Robert H. Iseman, a partner in the health services practice group at Rivkin Radler in Albany, N.Y., suggests the inclusion of these providers may be "an attempt to make sure that they that they maintain availability" during a time when COVID-19 seems to be contributing to emotional as well as physical issues for Americans.

HHS will also make sure that applicants who had not yet gotten their 2% from the preceding tranche are awarded that much before HHS calculates their new payment.

These are the other requirements, according to HHS:

- Providers must have provided on or after Jan. 31, 2020, diagnosis, testing or care for COVID-19 patients. "HHS broadly views every patient as a possible case of COVID-19 for purposes of eligibility," the agency states.
- Payment must be used to prevent, prepare for and respond to coronavirus, and reimburse health care related expenses or lost revenues attributable to coronavirus.

- Payment does not reimburse for expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse.
- The recipient shall comply with all reporting and information requirements.
- The recipient must consent to public disclosure of payment.
- The application process is pretty easy, mostly requiring you to account for your gains and losses under Medicare or other federal programs. You can start at the attestation page at *https://cares.linkhealth.com/#/.*

With so many COVID-related financial programs afoot, consider a word of warning from Marcie Damisch, an attorney and shareholder with Stradling, Yocca, Carlson & Rauth in Denver.

"Before claiming expenses or lost revenue of this nature, providers need to consider whether or not these losses or expenses were reimbursed from other sources and if there are other sources that are obligated to reimburse them," Damisch says. "In other words, no double dipping: HHS has indicated that it will be monitoring for fraud associated with distributed funds and providers who violate the terms and conditions may be subject to liability under the federal False Claims Act."

Resources

- Fact Sheet: Repayment Terms for Accelerated and Advance Payments Issued to Providers and Suppliers uring Covid-19 Emergency: *https://pbn.decisionhealth.com/Articles/Detail.aspx?id=531420*
- Trump Administration Announces $20 Billion in New Phase 3 Provider Relief Funding: *www.hhs.gov/about/news/2020/10/1/trump-administration-announces-20-billion-in-new-phase-3-provider-relief-funding.html*