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## COVID-19 Town Hall for Hospices: Legal and Accounting Perspectives on Commonly Asked Provider Relief Fund Questions

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## Objective

- Facilitate a discussion of how to **evaluate particular expenses and losses** within the Relief Fund framework, based on **commonly asked questions** from hospices across the country
  - Practical considerations to help hospices operationalize their use of Relief Fund payments (“Payments”)
- Keep in mind throughout today’s discussion:
  - Balance decisions on the “details” with the “big picture optics”
  - Currently the government has not established standards or provided guidance on how to interpret or operationalize the Terms governing the Payment
  - Apply a “risk continuum” mindset

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## Limitations on Use

How Do the Terms Limit Use of the Payments?	Comment
“Payment will only be used to prevent, prepare for, and respond to coronavirus”	Currently, neither the Terms nor any guidance define or further interpret coverage criteria
“Payment shall reimburse the Recipient only for <b>health care related expenses</b> or <b>lost revenues</b> that are <b>attributable to coronavirus</b> ”	
Provider “will not use the Payment to reimburse expenses or losses that have been <b>reimbursed from other sources</b> or that other sources are obligated to reimburse”	

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## Evaluation Strategies

- In the absence of additional guidance or rulemaking, how can providers evaluate what expenses and losses may be covered?
  - Apply a “defense mindset”
  - Use a “reasonableness” standard
  - Understand the “risk continuum”
  - Be guided by the purpose of the Payments
  - Keep “optics/big picture” at the forefront

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## “Reasonableness” Considerations

- Consistency—Are you treating similar expenses and losses the same?
- Benchmark—What benchmark will you use to quantify the expense or loss?
  - HHS: Providers may use “a reasonable method” of estimating lost revenue attributable to coronavirus through benchmarks (e.g., budgeted revenue or revenue from same period in 2019)
- Necessity—Is the expense necessary or merely discretionary?
- Coverage from Another Source?
  - Per diem? Business interruption insurance? Other government funding (e.g., PPP loans)?
- What Is Your Risk Tolerance?
- What Is Your Big Picture?
  - Adding it up—Would your individual decisions when combined give the appearance that your organization is financially “better off”?

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Payment Limitation	Consideration	Comment
“Health care related” (applies to expenses)	Is the expense <b>necessary</b> for your operations or to care for or protect the health and safety of patients or staff?	The further removed the expense is from facilitating direct patient care, the greater likelihood for scrutiny (e.g., PPE, staffing, technology, professional services)
“Attributable to coronavirus”/“Prevent, prepare for, and respond to coronavirus” (applies to expenses and lost revenue)	<ul style="list-style-type: none"> <li>• Would you not have had the expense or loss <b>but for</b> COVID-19, or</li> <li>• If you still would have had the expense or loss, <b>how much greater</b> is the expense or loss as a result of COVID-19?</li> </ul>	Example: You had PPE expenses prior to COVID-19, but your PPE expenses are \$X greater as a result of COVID-19
Not reimbursable from another source (applies to expenses and lost revenue)		

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## Accounting

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- Treat Payment as a liability (deferred revenue) upon receipt
- Recognize revenue (generally other operating revenues) when the Terms related to the Payment are met . . . as expenses are incurred or lost revenues are substantiated related to coronavirus
- Maintain support for your accounting
  - Apply a “defense mindset” when determining whether you can recognize revenue
  - Use a “reasonableness” standard
  - Be guided by the purpose of the Payments

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## Segregate Payments: Potential for Single Audit and Uniform Guidance Considerations

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- What is a Single Audit?
  - A “super-audit” of the financial statements PLUS compliance with federal grants
  - Required for entities receiving over \$750,000 of federal funds
  - Meant to ensure that federal money is spent appropriately
  - Compliance audit is for both internal controls AND grant compliance
- HHS has **NOT** yet:
  - Specified whether the funds are subject to Uniform Guidance (Single Audit)
  - Specified a CFDA number for the money
  - Provided any details on compliance requirements
- What does this mean?
  - Many entities could be subjected to a Single Audit for the first time
  - Internal control findings could be high

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**Thank You**

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