

The Provider Relief Fund: Frequently Asked Questions

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The Provider Relief Fund: Frequently Asked Questions

The Provider Relief Fund (PRF) was established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136) to reimburse, through grants or other mechanisms, eligible health care providers for increased expenses or lost revenue attributable to Coronavirus Disease 2019 (COVID-19). The CARES Act provided \$100 billion to prevent, prepare for and respond to coronavirus, domestically and internationally. The amounts were subsequently increased by \$78 billion, with \$75 billion added in the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA, P.L. 116-139) and \$3 billion in the Consolidated Appropriations Act, 2021 (P.L. 116-260). The latter was the first time the Provider Relief Fund was referred to in statute and required changes to the fund's reporting requirements and requirements for future fund allocations.

The answers to the frequently asked questions (FAQs) in this report provide overview information on the PRF, how funds have been allocated, and the fund's requirements for provider reporting. In addition, this report describes the use of the PRF to pay providers for providing coronavirus testing, treatment, and vaccines to uninsured individuals and the use of the fund to pay providers for costs associated with vaccinating individuals who are underinsured (e.g., who do not have insurance that covers vaccine administration).

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The Provider Relief Fund (PRF) was established in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act, P.L. 116-136), which provided \$100 billion to reimburse health care providers for increased expenses or lost revenue attributable to Coronavirus Disease 2019 (COVID-19). The amounts were subsequently increased by \$78 billion, with \$75 billion appropriated in the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA, P.L. 116-139) and \$3 billion appropriated in the Consolidated Appropriations Act, 2021 (P.L. 116-260). The latter law was the first time the Provider Relief Fund was referred to in statute and required changes to the fund's reporting requirements and requirements for future fund allocations.

The answers to the frequently asked questions (FAQs) below provide overview information on the fund, how funds have been allocated, and the fund's requirements for provider reporting. Data on the fund are publicly available and updated regularly as new funds are released or as entities return funds.¹ Due to ongoing data updates, this report does not include information on amounts remaining;² however, agency data are available for download and can be used to examine the amounts that remain in the fund and the amount that a particular entity or state received, among other things.

Fund Overview Questions

What Is the Provider Relief Fund?

The CARES Act appropriated \$100 billion to “to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus.”³ These funds were appropriated to the Public Health and Social Services Emergency Fund (PHSSEF), a flexible funding source within the

Department of Health and Human Services (HHS). The fund was later termed the “Provider Relief Fund.” The language did not specify an administering entity for the fund. HHS elected to have the fund administered by the Health Resources and Services Administration (HRSA). HRSA is also administering the Uninsured Fund and the Coverage Assistance Fund, both of which are using an unspecified amount of the PRF to pay providers (see “What Is the Relationship Between the Provider Relief Fund, the Uninsured Fund, and the Coverage Assistance Fund?”).

¹ U.S. Department of Health and Human Services (HHS), “CARES Act Provider Relief Fund: Data,” <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/data/index.html#fifty-billion-targeted-allocations>. Note that these data include amounts appropriated to the Provider Relief Fund (PRF) in the three laws. To download these data, go to <https://data.cdc.gov/Administrative/HHS-Provider-Relief-Fund/kh8y-3es6>.

² One news report suggests that all PRF funds have been allocated; however, this information has not been confirmed. As discussed in this CRS report, PRF funds may be returned from earlier allocations and some payment amounts are being reconsidered. For the news report that all funds have been allocated, see Rachel Cohrs, “The Biden Administration Used Billions in Hospital COVID-19 Funds to Pay Drug Makers,” *Stat*, January 26, 2022, <https://www.statnews.com/2022/01/26/the-biden-administration-used-billions-in-hospital-covid-19-funds-to-pay-drugmakers/>.

³ P.L. 116-136, 134 STAT. 563.

Do Providers Have to Repay Their PRF Funds?

PRF funds are grants and do not have to be repaid.⁴ Providers must attest to receiving these funds and comply with the applicable terms and conditions of the PRF (see “What Requirements Apply to Providers Receiving PRF Funds?”).

What Type of Health Providers Are Eligible for the Fund?

The CARES Act provided funds for lost revenue and defined eligible providers as follows: “public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities not otherwise described in this proviso as the Secretary may specify, within the United States (including territories), that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID-19.”⁵ In these provisions, “the Secretary” refers to the HHS Secretary. Allocations from the fund have included both specific types of providers (e.g., nursing homes) and providers that bill specific programs (e.g., Medicare Fee-for-Service).⁶

How Much Was Appropriated to the Fund?

A total of \$178 billion was appropriated to the fund across three laws, as follows:

- \$100 billion in the CARES Act,
- \$75 billion in the Paycheck Protection Program and Health Care Enhancement Act, and
- \$3 billion in the Consolidated Appropriations Act, 2021.

These funds were appropriated through the Public Health and Social Services Emergency Fund as emergency-designated discretionary appropriations and remain available until they are expended.

What Agency Administers the Fund?

The CARES Act did not specify an administering entity within HHS. HHS elected to have the fund administered by HRSA. HRSA is also administering two companion funds: (1) the Uninsured Program,⁷ which includes an unspecified amount allocated from the CARES appropriation to the PRF (see “What Is the Relationship Between the Provider Relief Fund, the Uninsured Fund, and the Coverage Assistance Fund?”), and (2) the COVID-19 Coverage Assistance Fund, which covers the administrative costs for patients who have insurance, but

⁴ This contrasts with the Medicare Accelerated and Advance Payment Program, in which providers received Medicare payments in advance of providing and billing for these services to Medicare beneficiaries. For more information, see CRS Report R46698, *Medicare Accelerated and Advance Payments and COVID-19: Frequently Asked Questions*.

⁵ P.L. 116-136, 134 STAT. 563.

⁶ See information about targeted distributions and general distributions at HHS, “CARES Act Provider Relief Fund: General Information,” <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/general-information/index.html>.

⁷ Formally, this is termed the “COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured”; see HHS, Health Resources and Services Administration (HRSA), “COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing, Treatment, and Vaccine Administration for the Uninsured,” <https://www.hrsa.gov/coviduninsuredclaim>.

whose insurance does not cover vaccine administrative cost fees or has cost sharing for these fees.⁸

What Data Are Available on the Fund?

HHS makes data on the fund publicly available and updates the data regularly as new funds are distributed or as entities return funds.⁹ Data are available for download and can be used to examine the amounts that remain in the fund and the amount that a particular entity or state received, among other things. The data that HHS provide on payments are limited to provider name, state, city, and payment amount. This tends to limit the ability to analyze data by provider type (e.g., evaluate how much money hospitals received). Analysts may find that such data cannot be reliably merged with other data sets (e.g., Medicare provider data) because the variation in entity names (e.g., capitalization) makes it difficult to accurately merge data.

Fund Allocation Questions

How Has Funding Been Allocated?

In statute, the HHS Secretary had broad authority to determine how the PRF would be allocated. HHS has chosen to allocate funds in two ways: (1) general, which are available to a broad group of providers, and (2) targeted distributions, which have more restrictive eligibility general aimed at providing funds to a facility type with high needs (e.g., nursing homes). The two types are described in more detail below.

General Distributions

HHS has made four general distributions. Parts of the fourth general distribution were released in December 2021 and January 2022.¹⁰

Phase One

The first, Phase One, was a general allocation distributed to health care providers that billed Medicare Fee-for-Service.¹¹ This distribution occurred because the federal government paid those providers directly and therefore had the ability to provide funds quickly to those entities. Entities did not need to apply for these funds. The CARES Act, enacted on March 27, 2020, established

⁸ HHS, HRSA, “COVID-19 Coverage Assistance Fund,” <https://www.hrsa.gov/covid19-coverage-assistance>.

⁹ To download these data, go to <https://data.cdc.gov/Administrative/HHS-Provider-Relief-Fund/kh8y-3es6>.

¹⁰ HHS, “HHS is Releasing \$9 Billion Provider Relief Fund Payments to Support Health Care Providers Affected by the COVID-19 Pandemic,” press release, December 14, 2021, <https://www.hhs.gov/about/news/2021/12/14/hhs-releasing-9-billion-in-prf-payments-to-support-providers-affected-by-covid-19.html>, and HHS, “HHS is Distributing \$2 Billion More in Provider Relief Fund Payments to Health Care providers Impacted by the COVID-19 Pandemic,” press release, January 25, 2022, <https://www.hhs.gov/about/news/2022/01/25/hhs-distributing-2-billion-more-provider-relief-fund-payments-health-care-providers-impacted-covid-19-pandemic.html>.

¹¹ For more information about the various components of the Medicare program, see CRS Report R40425, *Medicare Primer*. For information about specific dollar amounts and where the distributions were drawn from, see HHS, HRSA, “Provider Relief Fund Past Payments: Past General Distributions,” <https://www.hrsa.gov/provider-relief/past-payments/general-distribution>, and U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

the PRF; Phase One funding began on April 10, 2020. Initially, HRSA intended to provide \$50 billion through this allocation; however, when accounting for returned funds, the total amount provided was \$42.8 billion. For this allocation, HRSA allocated \$30 billion to providers based on the provider's Medicare Fee-for-Service payments in 2018 and allocated an additional \$20 billion to these providers based on annual gross receipts in the most recent tax year available. The allocation of \$20 billion took into account the amounts that providers had already received from the \$30 billion allocation. Phase One payments were available only to providers that billed Medicare Fee-for-Service in 2018; as such, some safety-net and other provider types that serve Medicaid and uninsured populations were either ineligible for this allocation or received lower amounts because of this methodology.

Phase Two

Phase 2 targeted Medicaid, CHIP, and dental providers and included assisted living facilities.¹² The allocation as announced was to provide \$18 billion to providers that were not included in Phase 1 of the general distribution. These providers received an amount equal to 2% of the provider's total patient care revenue. Phase 2 funds began in June and required that providers applying for funding include in their applications certain financial information related to documenting revenue necessary to determine the amount that a facility would receive.¹³ Because HRSA did not receive sufficient eligible applicants, the full \$18 billion was not allocated; instead, a total of \$5.09 billion was allocated to 103,449 providers during this distribution.¹⁴

Phase Three

Phase 3 targeted providers that had *not* received funding in prior distributions (i.e., because they were new or because they were behavioral health providers not included in a prior allocation). Providers that had previously received funding but had not received the full 2% of patient revenue in PRF assistance were also eligible to apply for additional funds, and could receive up to 2% of patient revenue. This limit resulted in approximately one-third of providers who applied not receiving Phase 3 funds.¹⁵ A total of \$24.5 billion was available in this distribution, and HHS began distributing these funds in November 2020 and distributed more than three-quarters of funding in 2020.¹⁶ As of November 22, 2021, HRSA had allocated \$21.36 billion through this allocation to 65,367 providers.¹⁷

¹² Medicare Fee-for-Service does not include dental benefits. As such, dentists generally do not bill the Medicare program. Some Medicare Advantage plans (i.e., managed care plans) may include these benefits as an optional service. Some assisted living facilities provide personal care and other types of services not covered by Medicare. These facilities, like other types of residential facilities, may have incurred additional expenses related to COVID-19 (e.g., for enhanced cleaning and personal protective equipment for staff).

¹³ See HHS, <https://www.hhs.gov/sites/default/files/provider-distribution-instructions-phase-2.pdf>.

¹⁴ Information on specific dollar values in given distributions were drawn from HHS, HRSA, "Provider Relief Fund Past Payments: Past General Distributions," <https://www.hrsa.gov/provider-relief/past-payments/general-distribution>, and U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

¹⁵ HHS, "Provide Relief Fund Phase 3: Payment Calculation Methodology," <https://www.hrsa.gov/sites/default/files/hrsa/provider-relief/phase-3-methodology-overview.pdf>, p. 4.

¹⁶ HHS, "Provide Relief Fund Phase 3: Payment Calculation Methodology," <https://www.hrsa.gov/sites/default/files/hrsa/provider-relief/phase-3-methodology-overview.pdf>, p. 1.

¹⁷ HHS, HRSA, "Provider Relief Fund Past Payments: Past General Distributions," <https://www.hrsa.gov/provider-relief/past-payments/general-distribution>.

HRSA also permitted entities to have the amounts they received in Phase 3 to be reconsidered in the fall of 2021. The agency announced a reconsideration process with applications that were due November 12, 2021.¹⁸ In its guidance for payment reconsideration, HRSA detailed the methodology used to distribute payments and how it identified entities that may have been outliers in terms of reporting lost revenue. The guidance directed providers to review this methodology and submit an online form if the entity believed its payment amount was incorrect.¹⁹

Phase Four

Phase 4 will provide \$17 billion for providers lost revenue and COVID-19-related expenses incurred between July 1, 2020, and March 3, 2021.²⁰ HHS released an initial \$9 billion of these payments in December 2021²¹ and released an additional \$2 billion in January 2022.²² HHS notes that it has processed more than 80% of the applications received for Phase 4. The remaining applications require additional review.²³ Given outstanding applications that may be eligible for payment, additional Phase 4 funds may be released in the future. Payments are being provided in accordance with the requirements in the Consolidated Appropriations Act, which required that

not less than 85% of (i) the unobligated balances available as the date of enactment of this Act, and (ii) any funds recovered from health care providers after the date of enactment of this Act, shall be for any successor to the Phase 3 General Distribution allocation to make payments to eligible health care providers based on applications that consider financial losses and changes in operating expenses occurring in the third or fourth quarter of calendar year 2020, or the first quarter of calendar year 2021, that are attributable to coronavirus.²⁴

This distribution is providing less than the 85% required in the law. HHS is also using Phase 4 to reimburse smaller providers that have lower operating margins and serve vulnerable communities at higher rates. It is also providing bonus payments to providers that serve Medicaid, CHIP, or Medicare populations with lower incomes and more complex medical needs.²⁵ HHS announced that PRF Phase 4 payments have two components: a base payment and a bonus payment. The base payment will be allocated to providers based on their change in revenue and expenses from July 1, 2020, to March 31, 2021 (the third and fourth quarter 2020 and the first quarter of 2021).

¹⁸ HHS, “Provide Relief Fund: Phase 3 Payment Reconsideration,” <https://www.hrsa.gov/provider-relief/payment-reconsideration>.

¹⁹ HHS, “Provider Relief Fund Phase 3: Payment Calculation Methodology,” <https://www.hrsa.gov/sites/default/files/hrsa/provider-relief/phase-3-methodology-overview.pdf>.

²⁰ HHS, “HHS Announces the Availability of \$25.5 Billion in COVID-19 Provider Funding,” press release, September 10, 2021, <https://www.hhs.gov/about/news/2021/09/10/hhs-announces-the-availability-of-25-point-5-billion-in-covid-19-provider-funding.html>.

²¹ CRS Insight IN11609, *COVID-19 Vaccine: Financing for Its Administration*.

²² HHS, “HHS is Releasing \$9 Billion Provider Relief Fund Payments to Support Health Care Providers Affected by the COVID-19 Pandemic,” press release, December 14, 2021, <https://www.hhs.gov/about/news/2021/12/14/hhs-releasing-9-billion-in-prf-payments-to-support-providers-affected-by-covid-19.html>.

²³ HHS, “HHS is Distributing \$2 Billion More in Provider Relief Fund Payments to Health Care providers Impacted by the COVID-19 Pandemic,” press release, January 25, 2022, <https://www.hhs.gov/about/news/2022/01/25/hhs-distributing-2-billion-more-provider-relief-fund-payments-health-care-providers-impacted-covid-19-pandemic.html>.

²⁴ HHS, “Provider Relief Fund: Current and Future Payments: Phase 4 and APR Rural Distributions,” <https://www.hrsa.gov/provider-relief/future-payments>.

²⁵ P.L. 116-260, 134 STAT. 1920.

²⁶ HHS, “HHS Announces the Availability of \$25.5 Billion in COVID-19 Provider Funding,” press release, September 10, 2021, <https://www.hhs.gov/about/news/2021/09/10/hhs-announces-the-availability-of-25-point-5-billion-in-covid-19-provider-funding.html>.

HHS is allocating 75% of the Phase 4 allocation (i.e., \$12.75 billion) as base payments and is to provide relatively higher percentages to small and medium size providers. The remaining 25% of the Phase 4 allocation (i.e., \$4.25 billion) is being allocated as bonus payments based on provider's Medicare, Medicaid, and CHIP participation.²⁶ Applicants are required to verify their Tax ID Numbers (TIN) and use specified methodology to calculate their initial loss ratios. HRSA is calculating loss ratios by provider types and flagging outliers for additional review. It is also providing additional review to pharmacies and durable medical equipment suppliers.²⁷

Targeted Distributions

HHS also allocated PRF funds to certain types of providers in 2020 that had high needs due to COVID-19.²⁸ These included the following:

- *Hospitals with large numbers of COVID-19 admissions (total of \$20.69 billion in two rounds).* In May 2020, the PRF provided \$10 billion to 395 hospitals that had more than 100 COVID-19-related admissions and in July provided funds to 1,129 hospitals with one COVID-19 admission per day or a disproportionate intensity of COVID admissions.
- *Skilled nursing facilities and nursing homes.* The fund provided funds to nursing homes at various points in 2020. It provided \$5.0 billion in May to more than 15,000 facilities. It provided an additional \$2.25 billion in August for increased testing, staffing, and personal protective equipment (PPE) needs. These facilities were also eligible to receive \$2 billion in incentive payments in October and December of 2020.
- *Facilities funded by the Indian Health Service (IHS, including those operated by Indian Tribes, Tribal Organizations, and Urban Indian Organizations).* The PRF provided \$520 million in May 2020 to 319 IHS-funded health facilities.
- *Safety Net Hospitals.* The fund provided \$13.07 billion in June to 899 hospitals that met certain criteria based on their patient mix, the amount of uncompensated care they provided, or their profit margin.
- *Rural providers (including rural health clinics, rural community health centers, rural acute care hospitals, critical access hospitals, urban hospitals with certain rural Medicare designations,²⁹ and hospitals in small metropolitan areas.* The PRF provided a total of \$10.99 billion to 4,300 rural facilities in May 2020.
- *Children's hospitals.* The fund provided \$1.06 billion in August to 66 free-standing children hospitals as defined by Medicare or hospitals that were eligible

²⁶ HRSA, "HRSA Provider Relief Fund – Phase 4 and American Rescue Plan (ARP) Rural Distribution Revenue Application Instructions, Payment Methodology" <https://www.hrsa.gov/provider-relief/future-payments/phase-4-arp-rural/payment-methodology>.

²⁷ Ibid.

²⁸ For information on targeted distributions, see HHS, "Provider Relief Fund: Provider Relief Fund Past Payments, Past Targeted Distributions," <https://www.hrsa.gov/provider-relief/past-payments/targeted-distribution> and U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

²⁹ For information on these designations, see CRS Infographic IG10023, *Medicare Payment for Rural or Geographically Isolated Hospitals*.

for HRSA's Children's Hospital GME program.³⁰ These hospitals generally have low Medicare FFS payments, so they may not have received funding as part of the first general distribution.

What Is the Difference Between General and Targeted Distributions?

All providers who meet the criteria (e.g., bill Medicare) are eligible for a general distribution. To be eligible for targeted distribution, providers have to meet additional criteria (e.g., have a high number of COVID-19 inpatients). HHS awarded funds in general allocations to all types of health providers, with the total amount intended to equal 2% of an entity's patient revenues. HHS also made awards to certain types of health providers that had high needs. Providers are eligible under both types of allocations.

What Information Is Known About Returned Funds?

Providers generally have to register and submit the required information to receive PRF funds (with the exception of Phase 1, which was provided without application to Medicare Fee-for-Service providers). Providers, however, do not have to accept the funds they receive from the PRF. They can return funds for a variety of reasons. These include that funds were not needed or that the amount was incorrect and the entity returns the original amount while expecting the correct amount to be issued. HRSA's data are not sufficient to determine a reason for return; however, HRSA estimated that \$8.8 billion has been returned to agency.³¹ Nearly three-quarters of the funds returned were from the Phase One general allocation that was based on the provider's Medicare fee-for-service payments.³²

What Are Some Potential Drawbacks of the Methodology that HHS Used to Distribute Funds?

HHS awarded PRF funds to providers in amounts that were equal to 2% of a provider's patient revenue. This amount was cumulative and could have been received through multiple distributions. The use of patient revenue as a metric has been critiqued by some, because it may favor providers with a higher percentage of their revenue coming from privately insured patients—a result of private insurers paying providers higher rates than those paid by Medicare and Medicaid.³³ For example, the Medicaid and CHIP Payment Access Commission (MACPAC) found that Medicaid and CHIP providers tend to receive less from the fund because Medicaid providers generally had lower revenue. The commission also found that some providers that were not Medicare providers did not receive payments from the PRF.³⁴ In addition to these findings,

³⁰ For information on this program, see CRS Report R45067, *Children's Hospitals Graduate Medical Education (CHGME)*.

³¹ This information was drawn from U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

³² Ibid.

³³ Karyn Schwartz and Tricia Neuman, *Funding for Health Care Providers During the Pandemic: An Update*, Kaiser Family Foundation, Washington, DC, April 20, 2021, <https://www.kff.org/policy-watch/funding-for-health-care-providers-during-the-pandemic-an-update/>.

³⁴ MACPAC, *COVID Relief Funding for Medicaid Providers*, Washington, DC, January 2021,

news articles have indicated that access to PRF grants has contributed to surpluses for some large hospital systems.³⁵

The fourth general distribution is providing additional funding to smaller providers and to Medicaid/CHIP/Medicare providers that serve vulnerable populations. The Biden Administration stated that this methodology is part of its commitment to equity and to equity for providers that serve more vulnerable populations, such as low-income children.³⁶ As noted above, providers that serve more vulnerable populations may have fewer privately insured patients, which may result in lower revenue for these facilities because private insurers generally pay providers at higher rates than do payers such as Medicaid and CHIP. These providers may also serve more people who are uninsured.

How Are Allocations Determined?

HHS determined the amount that it would allocate to both targeted and general distributions. The initial statute that created the PRF (the CARES Act) and the subsequent statute that increased funding (PPHCEA) did not require funds to be allocated in a specific manner. The Consolidated Appropriations Act, 2021, enacted in December 2020, required that not less than 85% of the unobligated balance of the PRF (including amounts that are returned to the PRF) be used for an allocation that follows the Phase 3 general allocation. It also specified that for that allocation, revenue must be calculated considering financial losses in the last quarter of 2020 or the first quarter of 2021 that are attributable to the coronavirus. The Phase 4 distribution was announced on September 10, 2021, with the applicant portal available September 29, 2021.³⁷ The Phase 4 allocation was \$17 billion; using the Government Accountability Office's (GAO's) estimates of PRF funds allocated as of August 31, 2021, that amount represented 70.8% of funds remaining in the PRF.³⁸ HRSA told GAO that remaining funds were reserved for "future contingencies and emerging needs."³⁹ In fall 2021, HRSA also announced that providers could have their Phase 3 amount reconsidered; as such, some unallocated funds may be used for that purpose.⁴⁰ In addition, HHS has also reportedly used \$7 billion of PRF funds to acquire COVID-19 vaccines and therapeutics.⁴¹

<https://www.macpac.gov/wp-content/uploads/2021/02/COVID-Relief-Funding-for-Medicaid-Providers.pdf>.

³⁵ Alexandra Ellerbeck, "The Health 202: Pandemic Relief Funds Boosted Surpluses for Some Large Hospitals," June 21, 2021, <https://www.washingtonpost.com/politics/2021/06/21/health-202-pandemic-relief-funds-boosted-surpluses-some-large-hospitals/>.

³⁶ HHS, "HHS Announces the Availability of \$25.5 Billion in COVID-19 Provider Funding," press release, September 10, 2021, <https://www.hhs.gov/about/news/2021/09/10/hhs-announces-the-availability-of-25-point-5-billion-in-covid-19-provider-funding.html>.

³⁷ Ibid.

³⁸ U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

³⁹ Ibid, table note e.

⁴⁰ HHS, "Provide Relief Fund: Phase 3 Payment Reconsideration," <https://www.hrsa.gov/provider-relief/payment-reconsideration>.

⁴¹ Rachel Cohrs, "The Biden Administration Used Billions in Hospital COVID-19 Funds to Pay Drug Makers," *Stat*, January 26, 2022, <https://www.statnews.com/2022/01/26/the-biden-administration-used-billions-in-hospital-covid-19-funds-to-pay-drugmakers/>. HHS information confirming this report are not available at the time of this CRS report's publication. It is also unclear whether HHS could cite the acquisition of vaccines and therapeutics as an example of a "contingency or an emerging need."

What Is the Relationship Between the Provider Relief Fund, the Uninsured Fund, and the Coverage Assistance Fund?

HHS is using a portion of the PRF appropriation to pay providers for treatment provided to uninsured individuals because no other funding was appropriated for this purpose. The Uninsured Fund has two components: (1) a total of \$2 billion appropriated in the Families First Coronavirus Response Act (P.L. 116-127)⁴² and PPPHCEA for uninsured testing and (2) an allocation from the CARES allocation to the PRF for uninsured treatment and coverage assistance for vaccines. PRF funds were not specifically appropriated for either purpose. Instead, in April 2020, the Trump Administration announced that it would use an unspecified portion of the CARES allocation to the PRF to reimburse providers for COVID-19 treatment provided to uninsured patients.⁴³ Subsequently, both the Trump Administration and the Biden Administration have clarified that this reimbursement will include administrative costs incurred by providers when vaccinating uninsured individuals. In addition, the Biden Administration is using the PRF for costs associated with vaccinating underinsured individuals through the newly created Coverage Assistance Fund.⁴⁴ Though the COVID-19 vaccine is free, providers can charge a third party for administrative costs related to provider time, storage, and record keeping, among others.⁴⁵ Some individuals may not have insurance coverage that includes vaccines or may face large out-of-pocket costs associated with their insurance plan's cost sharing for vaccines. The fund reimburses providers for the administrative costs associated with vaccinating these individuals.

HHS has not specified amounts for the uninsured fund or for underinsured vaccine costs. GAO estimated that HHS allocated \$10 billion for this purpose.⁴⁶

Reimbursements are provided on a rolling basis, with eligible claims being paid to providers as long as funds remain available. As such, should provider payments exceed \$10 billion, HHS may choose to increase the amount allocated for uninsured treatment and vaccines and the Coverage Assistance Fund. As stated above, \$2 billion was explicitly appropriated for uninsured testing, and this amount has been expended.⁴⁷ On May 25, 2021, the Biden Administration announced that it was allocating \$4.8 billion from the American Rescue Plan Act (ARPA, P.L. 117-2) for uninsured testing.⁴⁸ These amounts are separate from the PRF; as such, PRF funds are not currently being used for uninsured testing.

HHS is providing regularly updated information on amounts reimbursed from the Uninsured Fund at <https://tags.hhs.gov/Coronavirus/Uninsured>. Data are also available about the providers that receive reimbursements from this fund at <https://data.cdc.gov/Administrative/Claims->

⁴² CRS Report R46316, *Health Care Provisions in the Families First Coronavirus Response Act, P.L. 116-127*.

⁴³ CRS Insight IN11526, *COVID-19 and the Uninsured: Federal Funding Options to Pay Providers for Testing and Treatment*.

⁴⁴ HHS, HRSA, "COVID-19 Coverage Assistance Fund," <https://www.hrsa.gov/covid19-coverage-assistance>.

⁴⁵ CRS Insight IN11609, *COVID-19 Vaccine: Financing for Its Administration*.

⁴⁶ U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>.

⁴⁷ HHS, "HHS COVID-19 Funding: Treatment & Testing of the Uninsured," <https://tags.hhs.gov/Coronavirus/Uninsured>, and CRS Insight IN11526, *COVID-19 and the Uninsured: Federal Funding Options to Pay Providers for Testing and Treatment*.

⁴⁸ HHS, "HHS to Dedicate \$4.8 Billion from the American Rescue Plan to COVID19 Testing for the Uninsured," press release, May 25, 2021, <https://www.hhs.gov/about/news/2021/05/25/hhs-to-dedicate-billions-from-the-american-rescue-plan-for-the-uninsured.html>.

Reimbursement-to-Health-Care-Providers-and-/rksx-33p3. These data include the provider's name, city, state, what the claim was paid for (i.e., testing, treatment, or vaccines) and the geographic coordinates for the provider's location. As such, this dataset includes more information than what is available for the main PRF.

What Is the Relationship Between the PRF and the American Rescue Plan Funding for Rural Providers?

Section 9911 of the American Rescue Plan Act appropriated \$8.5 billion for rural providers that bill Medicare and Medicaid.⁴⁹ This funding stream is to be administered in a number of ways that are similar to the PRF (e.g., reporting requirements) but is separate from the \$178 billion appropriated for the PRF.

An announcement about the release of these funds and the application procedures was included in the September 10, 2021, announcement about the PRF Phase 4 distribution. This distribution will follow the same timeline, with the applicant portal available September 29, 2021.⁵⁰ In accordance with statute, the funds will be available to rural providers that bill Medicare and Medicaid. The Biden Administration announced that this distribution will use the Federal Office of Rural Health Policy definition of "rural."⁵¹ Like the PRF and Uninsured Funds, the rural fund is administered by HRSA.⁵²

On November 23, 2021, HRSA announced that it began distributing the rural payments to providers. Under this distribution, HRSA provided a minimum payment of \$500 to providers and provided payments to more than 40,000 providers.⁵³ Data on payments provided can be found at <https://data.cdc.gov/Global-Health/American-Rescue-Plan-ARP-Rural-Payments/8v6a-z6zq>.⁵⁴ Note that these data include the provider's name, city, state, and nine-digit zip code. As such, this dataset includes more information than what is available for the main PRF.

What Other Purposes Have the PRF Funds Been Used For?

GAO examined PRF allocations as of August 31, 2021, and found that \$0.980 billion was being used to administer the fund and that \$14.80 billion was allocated for "vaccine and therapeutic development and procurement activities."⁵⁵ Additional news reports found that HHS used

⁴⁹ For information about this funding source, see the "Health Care Infrastructure and Provider Support" section of CRS Report R46834, *American Rescue Plan Act of 2021 (P.L. 117-2): Public Health, Medical Supply Chain, Health Services, and Related Provisions*.

⁵⁰ Ibid.

⁵¹ HHS, HRSA, "Defining Rural Population," <https://www.hrsa.gov/rural-health/about-us/definition/index.html>, and HHS, HRSA, "Rural Health Grants Eligibility Analyzer," <https://data.hrsa.gov/tools/rural-health?tab=Address>.

⁵² Ibid.

⁵³ HHS, "Biden-Harris Administration Begins Distribution American Rescue Plan Rural Funding to Support Providers Impacted by the Pandemic," press release, November 23, 2021, <https://www.hhs.gov/about/news/2021/11/23/biden-admin-begins-distributing-arp-prf-support-to-providers-impacted-by-pandemic.html>.

⁵⁴ The methodology used to provide claims can be found at HHS, Payment Methodology, American Rescue Plan Rural Payment Overview," <https://www.hrsa.gov/provider-relief/future-payments/phase-4-arp-rural/payment-methodology>.

⁵⁵ U.S. Government Accountability Office, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, 21-105051, October 27, 2021, p. Appendix 8, <https://files.gao.gov/reports/GAO-22-105051/index.html#appendix8>. For a discussion of the allocation of PRF funds for vaccines, see Rachel Cohrs, "The Trump Administration Quietly Spent Billion in Hospital Funds on Operation Warp Speed," *STAT*, March 2, 2021. The amount allocated for vaccines was estimated by GAO to be \$9.97 billion in their March report. See U.S.

approximately \$7 billion to acquire vaccines and therapeutics.⁵⁶ As such, approximately \$23 billion of the \$178 billion cannot be allocated to provider payments. As discussed above (see “How Has Funding Been Allocated?”), the majority of funds have been allocated to providers through either general or targeted distributions. In addition to these distributions, an unspecified amount of the PRF is being used to pay providers that provided uninsured testing, treatment, and vaccines and to pay providers for vaccine administration costs for uninsured individuals who do not have vaccine coverage or who have cost sharing for vaccine administration costs (see “What Is the Relationship Between the Provider Relief Fund, the Uninsured Fund, and the Coverage Assistance Fund?”).

Provider Requirements

What Must Providers Do to Receive Funds?

Requirements to receive funds varied by distribution. The first general distribution (i.e., Phase One) for Medicare Fee-for-Service Providers was automatic, as HHS had payment and revenue information for these providers. Subsequent allocations required that entities submit documentation to HHS to receive funds. For example, for targeted distributions related to having provided care to a large number of COVID-19 patients, hospitals were required to submit documentation of their COVID-19 patient caseloads. As another example, the Phase 3 general distribution permitted entities that had previously received funds to receive up to 2% of their patient revenue, which required submitting financial information to document patient revenue.

What Requirements Apply to Providers Receiving PRF Funds?

Providers were required to attest to certain terms and conditions to accept PRF funds. Each distribution of funds had specific terms and conditions associated with the distribution—for example, that the provider met the specific conditions of that distribution (e.g., was a Medicaid provider for the second general distribution).⁵⁷ Some terms and conditions apply across all of the allocations. These include certification that

- the entity provides or provided testing and care for actual or possible cases of COVID-19;
- the entity is not terminated or excluded from participating in the Medicare program or precluded from receiving payment from another federal health care program;
- that payment will be used only to prevent, prepare for, or respond to the coronavirus and will be used only for health care expenses or lost revenue attributable to the virus;
- that payment will not be used to reimburse expenses or losses that have been reimbursed by another source;

Government Accountability Office, *COVID-19 Sustained Federal Action is Crucial as Pandemic Enters Its Second Year*, 31-387, March 2021, p. 60, <https://www.gao.gov/assets/gao-21-387.pdf>.

⁵⁶ Rachel Cohrs, “The Biden Administration Used Billions in Hospital COVID-19 Funds to Pay Drug Makers,” *Stat*, January 26, 2022, <https://www.statnews.com/2022/01/26/the-biden-administration-used-billions-in-hospital-covid-19-funds-to-pay-drugmakers/>.

⁵⁷ For links to the terms and conditions associated with each distribution, see HHS, “CARES Act Provider Relief Fund: For Providers,” <https://www.hrsa.gov/provider-relief/past-payments/terms-conditions>.

- the entity will comply, in the required timeframe, with HHS reporting requirements associated with the fund and report truthfully, accurately, and completely;
- the entity will maintain appropriate records and cost documentation; and
- for all presumptive or actual cases of COVID-19, the entity will not seek to collect from the patient out-of-pocket expenses that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider for patients who have insurance plans with a specific provider network.⁵⁸

Entities are also required to comply with certain general provisions included in FY2020 appropriations, such as those related to executive pay, lobbying, gun control advocacy, and abortion, among others.⁵⁹

What Must Providers Report After Receiving Funds?

Entities that receive more than \$10,000 (either one time or in the aggregate) are required to report the uses of their funds and to have expended all received funds within a year of receiving them, and to report all their expenditures within three months after the end of the expenditure period. For example, funds awarded between April 10 and June 30, 2020, must be expended by June 30, 2021, and reported by September 30, 2021. In general, the usage deadline is a year from the end of the awarding period, and the reporting period commences the day after and continues for three months.⁶⁰ This CRS report discusses the requirements that were issued on June 11, 2021, which supersede prior reporting requirements and apply to all past and future PRF allocations.⁶¹ Entities are generally required to report using their normal basis of accounting. They are also required to report on

- interest earned on PRF payments;
- other assistance received (e.g., Paycheck Protection Program);⁶²
- use of Nursing Home Infection control payments, if applicable;
- use of general or targeted distribution payments, which may be used only for expenses that have not or will not be reimbursed by another source;
- net unreimbursed expenses attributable to coronavirus (requirements specify that this is to be calculated quarterly, net after PRF and other assistance payments are

⁵⁸ For more information on “in-network” and “out-of-network” coverage, see CRS Report R46856, *Surprise Billing in Private Health Insurance: Overview of Federal Consumer Protections and Payment for Out-of-Network Services*.

⁵⁹ HHS, “Acceptance of Terms and Conditions,” <https://www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf>, pp. 2-11.

⁶⁰ See Tables 1 and 2 on page 2 in HHS, “Provider Relief Fund General and Targeted Distribution Post-Payment Notice of Reporting Requirements,” June 11, 2021, <https://www.hhs.gov/sites/default/files/provider-post-payment-notice-of-reporting-requirements-june-2021.pdf>.

⁶¹ HHS, “Provider Relief Fund General and Targeted Distribution Post-Payment Notice of Reporting Requirements,” June 11, 2021, <https://www.hhs.gov/sites/default/files/provider-post-payment-notice-of-reporting-requirements-june-2021.pdf>.

⁶² For more information on this program, see CRS Insight IN11324, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Overview (Part 1)*, and CRS Insight IN11329, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Assessment of Alternatives (Part 2)*.

- applied and must be broken out quarterly by whether such expenses are general, administrative, and/or health care related); and
- lost revenue reimbursement. Specifically, lost revenue reimbursements may be applied to remaining amounts that were not expended on health care-related expenses due to the coronavirus. HHS requires that entities submit documents to support their claims of lost revenue, which may be calculated by either of three options: (1) the difference between actual patient care revenue in 2019 and 2020, (2) the difference between the budgeted amount (prior to March 27, 2020) and actual patient care revenue, or (3) any reasonable method of estimating revenue.⁶³

Who Is Responsible for Reporting on PRF Funds?

To receive funds from the PRF, an entity must have a Tax Identification Number (TIN). The entity then registers with that TIN and must report on all payments that meet the \$10,000 reporting threshold for the TIN. Under the PRF reporting requirements, the entity that registered its TIN has the responsibility to report to HHS, regardless of whether payments were transferred to a subsidiary. However, if an entity received payments directly (under its own TIN), but also received funds transferred from a parent entity, it must also report the transferred payments. HHS says that transferred targeted distributions payments (i.e., payments for high COVID-19 inpatient cases) are more likely to be audited by HRSA.⁶⁴

Can Providers Refuse or Return Funds?

Providers must attest to certain terms and conditions after receiving funds. Providers may choose to return funds if they choose not to abide by the terms and conditions of the attestation. In addition, providers must expend funds by a certain date, which varies based on when providers received funding.⁶⁵ For example, the earliest deadline is June 30, 2021, which applies to providers that received funds in Phase 1 (between April 10, 2020 and June 30, 2020). Providers that did not use their funds by the June 30, 2021, deadline associated with that distribution are required to return unexpended funds within 30 days after the end of the applicable reporting period.⁶⁶

Agency Requirements

What Are HHS Reporting Requirements for the Fund?

The Consolidated Appropriations Act, 2021, required the HHS Office of Inspector General (OIG) to submit a final report on its audit findings for the PRF not later than three years after the fund's final payments are made. The report is to be submitted to the House and Senate appropriations

⁶³ For methodology to calculate lost revenue, see pages 10-11 of HHS, "Provider Relief Fund General and Targeted Distribution Post-Payment Notice of Reporting Requirements," June 11, 2021, <https://www.hhs.gov/sites/default/files/provider-post-payment-notice-of-reporting-requirements-june-2021.pdf>.

⁶⁴ HHS notes some entities may be subject to additional auditing to ensure payment accuracy. See HHS, "Reporting Requirements and Auditing," <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/reporting-auditing/index.html>.

⁶⁵ For a time line, see HHS, HHS, "HHS Issues Revised Notice of Reporting Requirements and Reporting Timeline for Recipients of Provider Relief Fund Payments," press release, June 11, 2021, <https://www.hhs.gov/about/news/2021/06/11/hhs-issues-revised-reporting-requirements-timeline-for-provider-relief-fund-recipients.html>.

⁶⁶ HHS, HRSA, "Provider Relief Fund General Information," see "Terms and Conditions," at <https://www.hrsa.gov/provider-relief/faq/general>.

committees. The law also specified that the OIG may conduct audits of interim payments prior to the final report. Finally, the law required a report not later than 60 days after enactment of the Consolidated Appropriations Act, 2021 (i.e., February 25, 2021), that included the obligations made from the fund, summarized by state. It also required that these reports be updated every 60 days until the funds are expended.

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