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# HFMA/NEHIA

## 2022 Compliance & Internal Audit Conference

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Mystic Marriott Hotel, Groton, CT



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## Provider Relief Fund – From no strings attached to notification of an audit

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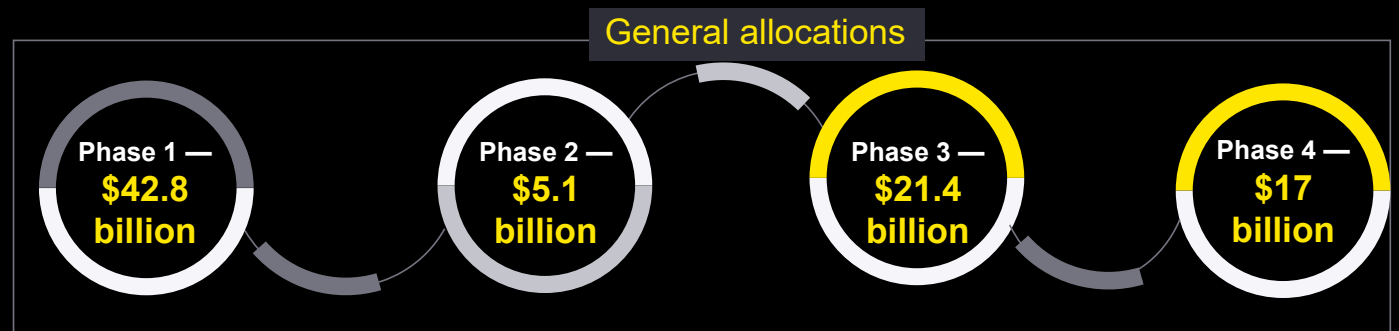
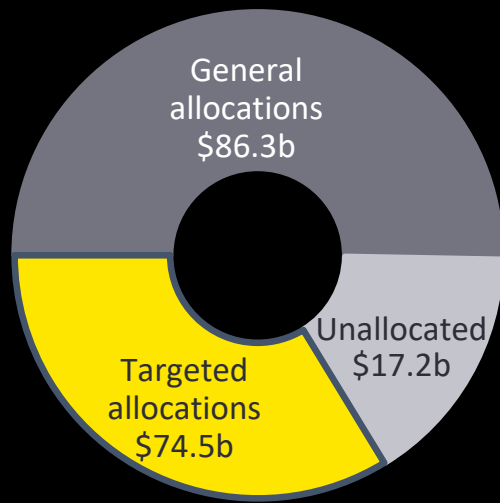
# Today's agenda

1. Background and timeline of the Provider Relief fund
2. Provider Relief Fund audits and terms and conditions
3. Steps to take now to ensure a smooth audit process

# Background and timeline of the Provider Relief fund



# Provider Relief Fund (PRF) - \$178 billion



- Targeted allocations**
1. Allocation for treatment, testing and vaccination of the uninsured: \$18.8 billion
  2. Allocation for COVID-19 high-impact areas: \$20.7 billion
  3. Allocation for rural providers: \$11 billion
  4. Allocation for Indian Health service: \$0.5 billion
  5. Skilled nursing facilities: \$9.4 billion
  6. Safety net hospitals: \$14.1 billion

Source: [Provider Relief Fund Past Payments](#) | Official web site of the U.S. Health Resources & Services Administration ([hrsa.gov](https://www.hrsa.gov))

# Timeline

## 2020

- **March 27.** Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted and created \$100b PRF
- **September 19.** HHS released the Notice of Reporting Requirements
- **December 28.** The Cononavirus Response and Relief Supplemental Appropriations (CRRSA) enacted, adding \$3B into the PRF

## 2021

- **June 11.** HHS released the final version of the Notice of Reporting Requirements
- **July 1.** Reporting Portal opened for Period 1 reporting
- **November 30.** Grace period for Period 1 reporting ends and PRF Reporting Portal closed

## 2022

- **January 1.** Reporting Portal opened for Period 2 reporting
- **July 1.** Reporting Portal opened for Period 3 reporting

## 2023

- **January 1.** Reporting Portal will open for Period 4 reporting
- **July 1.** Reporting Portal will open for Period 5 reporting





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## Provider Relief Fund audits and terms and conditions

# Terms and Conditions - Documentation, audit and recoupment

## Documentation

- Reporting Entities are required to maintain adequate documentation to support the funds were used in accordance with terms and conditions.
- The **burden of proof is on the Reporting Entity** to ensure that adequate documentation is maintained.

## Audits

- The Reporting Entity must maintain appropriate records as described in 45 CFR § 75.302 – Financial management and 45 CFR § 75.361 through 75.365 – Record Retention and Access.
- The Reporting Entity agrees to **fully cooperate in all audits** the Secretary, Inspector General or Pandemic Response Accountability Committee conducts to ensure compliance with these Terms and Conditions.

## Recoupment

- Providers that have remaining PRF funds that they **cannot expend on permissible expenses or losses by the relevant deadline(s)** will return this money to HHS.
- HHS is authorized to recoup any PRF amounts that were made in error or exceed lost revenue or expenses due to COVID-19, or **in cases of noncompliance** with the Terms and Conditions.



## COVID-19 Disaster Relief Funding Compliance

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- Accepting federal relief funding requires compliance with the associated terms and conditions and can precede years of potential government inquiries, Office of Inspector General (OIG) audits, regulatory investigations and enforcement actions.
- New and multiple funding sources distributed federal pandemic relief without comprehensive compliance guidance, contributing to ambiguity in critical topics and uncertainty on compliance with terms and conditions. Further complexity resulted from the overlap of funding and guidance across federal departments and agencies, including:
  - U.S. Department of Health and Human Services (HHS)
  - U.S. Department of the Treasury
  - Federal Emergency Management Agency (FEMA)
  - U.S. Small Business Administration (SBA)
- HHS's evolving internal guidance as to the Provider Relief Fund alone raises significant compliance and regulatory challenges.

# COVID-19 Non-compliance Risks and Implications

- In addition to agency OIGs and the Department of Justice (DOJ), various interagency task forces and working groups have investigative oversight regarding relief funding. Working with governmental agencies presents more documentation requirements, potential OIG audits, and investigations for noncompliant practices.

## Government Agencies

- ▶ Pandemic Response Accountability Committee
- ▶ Special Inspector General for Pandemic Recovery
- ▶ HHS and DOJ False Claims Act (FCA) Working Group
- ▶ DOJ's National Response Strike Force

## Risks of Non-Compliance

- ▶ Adverse media and reputational damage
- ▶ Delayed or denial of grant approvals and funding
- ▶ Funding clawbacks
- ▶ OIG audit findings
- ▶ Regulatory investigations and enforcement
- ▶ Government compliance monitoring

# Provider Relief Fund Audits

## Audit selection

- OIG audits can occur up to three years after each PRF report is filed
- OIG will select a statistical sample of providers that received general and/or targeted distributions

## Four outside firms assisting with audit / financial reviews

- Creative Solutions Counseling
- Grant Thornton
- PricewaterhouseCoopers
- Kearney & Co.

Audit notification letters for PRF Reporting Period 1 and 2 have started

## Stated purpose of audits

- Determine whether the PRF disbursements were used in accordance with the T&Cs
- Confirm funds were used for health care-related expenses and lost revenues attributable to coronavirus
- Confirm the health care-related expenses or lost revenues reimbursed by PRF were not reimbursed or obligated to be reimbursed from other sources
- Identify any misused funds which would need to be returned to HRSA



Source: [Becker's Hospital CFO Report | HHS taps 4 firms to audit provider relief fund grants](#)

## Illustrative examples of PRF Audits

### OIG Audits

- Balance Billing
- General and Targeted Distributions
- HHS-OIG-OAS Data Collection

### HRSA Audits

- Period 1 and 2 Reporting
- Lost Revenue Assessment

- The scope of the audit and the associated information requests varies for each type of audit being conducted.

# HRSA PRF Audits – Period 1 and Period 2 Reporting

## Period 1 and Period 2 Reporting

- According to HRSA, the objectives of the Period 1 and Period 2 audit:
  1. Determine whether the PRF disbursements were used in accordance with the T&Cs,
  2. Confirm funds were used for health care-related expenses and lost revenues attributable to coronavirus,
  3. Confirm the health care-related expenses or lost revenues reimbursed by PRF were not reimbursed or obligated to be reimbursed from other sources, and;
  4. Identify any misused funds which would need to be returned to HRSA.

### Example Document Requests

1. Questionnaire on organization and PRF reporting
2. Organizational charts and subsidiary information, including list of key personnel for PRF
3. Board of Director minutes from January 2020 to present
4. Audited financial statements
5. Federal Tax returns
6. Policies and procedures for purchases
7. Reconciliation of PRF Funds received to general ledger
8. Reconciliation of PRF Funds expenses reported to general ledger
9. Describe the impact of the PRF had on the business
10. Single audit or HRSA reports

# HRSA PRF Audits – Lost Revenue Assessment

## Lost Revenue Assessment

- According to HRSA, the objectives of the Lost Revenue Assessment:
  1. Determine whether the PRF payments reimbursed for lost revenues have been used in accordance with Terms and Conditions
  2. Confirm that funds were used for lost revenues attributable to coronavirus or COVID-19
  3. Determine whether lost revenues reimbursed by the PRF were reimbursed from other sources
  4. Determine if lost revenues were calculated using a reasonable and consistent approach during the period of availability

### Example Document Requests

1. General ledger detail with source data by PRF payor mix categories
2. Cost reports or project cost report periods under assessment that reconcile to lost revenues in PRF portal
3. Summary of reimbursements received from other funding sources
4. Audited financial statements and audit reports
5. Federal Tax returns
6. 340B Program policy (if applicable)
7. General revenue recognition policy
8. Policies and procedures relating to PRF lost revenue reporting
9. Description of how net patient care revenues were identified and accurately assigned to PRF payor mix categories

# HHS OIG Audits – Balance Billing

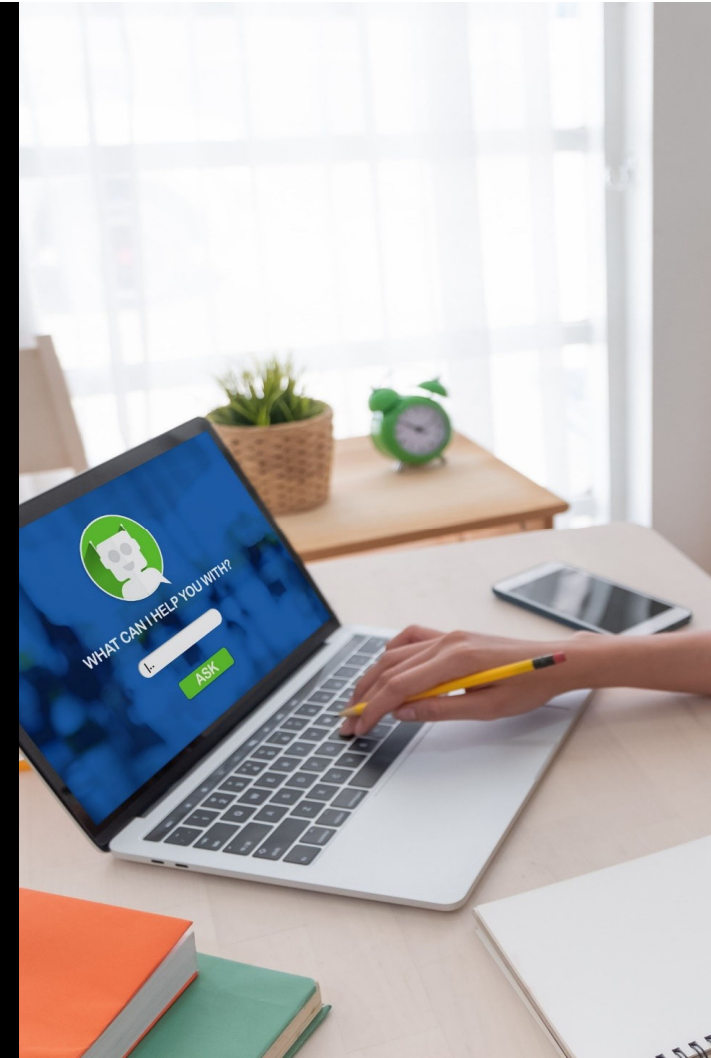
## Balance Billing

- The PRF payments include a “balance billing” requirement in the terms and conditions that providers were required to certify that they would not, for all care for presumptive or actual cases of COVID-19, seek to collect from the patient out-of-pocket expenses in an amount greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.
- Based on recent requests, Providers should be prepared to address the following requests from HHS OIG representatives.

### Example Document Requests

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| 1. Policies and Procedures          | 9. Number of patients               |
| 2. Out-of-Network Billing Process   | i. Admitted & COVID-19 Positive     |
| 3. Documentation for Out-of-network | ii. Treated for COVID-19            |
| 4. Prevailing In-network-rate       | iii. Out-of-network & Treated       |
| 5. In-network Partners              | 10. COVID-19 Diagnosis              |
| 6. Coding for out-of-network        | i. Presumptive                      |
| 7. Dispute process                  | ii. Actual                          |
| 8. Key Personnel of Balance Billing | 11. Communication with stakeholders |

# Steps to take now to ensure a smooth audit process





# Preparing for COVID-19 funding Inquiries, OIG Audits and Regulatory Investigations

- Funding recipients can prepare in advance to mitigate their potential OIG audit expense and investigative burden. Given the guidance nuances and intricacies, funding recipients should consider:

1

Tracking spending and recovery submissions to avoid duplication of benefits

4

Update internal controls and compliance framework to include relief funding T&Cs

2

Memorialize key decisions, noting the current state of guidance at that time

5

Regularly monitor for supplemental governmental guidance to assess ramifications

3

Evaluate existing policies and procedures affecting relief funds and document the justification for any policy deviations

6

Organize and prepare documentation needed for potential audits

## Avoid duplication of benefits



Tracking spending and recovery submissions to avoid duplication of benefits

### Consider

- Document all sources of COVID relief funding
- Create a matrix to assign allowable uses of each source of COVID relief funding
- Create a memo describing the controls in place to ensure no duplication of benefits occurred

## Document decisions related to PRF reporting



Memorialize key decisions, noting the current state of guidance at that time

### Consider

- Document all interpretations, key decisions, or other information needed to understand the PRF reporting
- Reference the guidance relied upon and the date (i.e. Reporting Notice dated 6/11/21, FAQs, fact sheets, etc.)
- Provide enough detail that someone unfamiliar with the process could understand

## Evaluate existing policies and procedures



Evaluate existing policies and procedures affecting relief funds and document the justification for any policy deviations

### Consider

- Assess whether any current policies and procedures are not aligned with the relief funding terms and conditions (i.e. budget approval process, balance billing, etc.)
- Document any deviations or changes from existing policies

## Review internal controls



Update internal controls and compliance framework to include relief funding T&Cs

### Consider

- Evaluate the organization's risk assessment and integrate internal controls around relief funding terms and conditions
- Document the addition of, or changes to, internal controls to ensure relief funding terms and conditions are covered

## Monitor for guidance changes



Regularly monitor for supplemental governmental guidance to assess ramifications

### Consider

- Assign a member of the relief funding team to monitor for changes to guidance on a frequent basis
- Evaluate whether changes to guidance has an impact to current relief funding reporting or terms and conditions

## Organize relevant documentation



Organize and prepare documentation needed for potential audits

### Consider

- Organize documentation used for reporting to be easily accessible for a potential audit
- Ensure data used in reporting ties out to underlying data sources (audited financials, general ledger, tax returns, etc.)
- Document any exceptions

You have been notified of an audit – now what?

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## Mobilize a cross-functional team to plan for the audit

- Who will be the main point of contact?
- Which functions are needed? (Legal, Internal Audit, Compliance, Finance, Revenue Cycle, etc.)
- Refresh the team on the key assumptions, documentation, and reporting files

## Understand the scope of the audit

- What funding source is the audit covering? (i.e. all PRF funding, specific distributions, etc.)
- What time period is covered? (Period 1, Period 2, etc.)



You have been notified of an audit – now what? (cont'd)

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## Respond to requests for information

- Gather requested information – ask clarifying questions if needed
- Provide the information asked, but don't go overboard

## Create a file documenting the audit procedures and results

- Audits can come from multiple agencies and regulatory entities – documentation from one audit can be leveraged for another

# QUESTIONS

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