

# **COVID-19 \$484 Billion Relief Bill**

Prepared for Sykes & Co.  
by  
Brown & Fortunato, P.C.

April 28, 2020



Brown & Fortunato, P.C.

A LAW FIRM

Sykes & Co. is committed to providing important information to its pharmacy clients as they face the COVID-19 pandemic. One of the steps that Sykes & Co. has taken is to team up with the Health Care Group of Brown & Fortunato (“B&F”), a law firm that specializes in representing pharmacies. B&F has prepared this whitepaper for Sykes & Co. to share with its pharmacy clients.

On April 24, 2020, President Trump signed into law a new \$484 billion COVID-19 relief bill with almost unanimous Congressional support. On April 22, 2020, HHS provided additional guidance on the use of the remainder of the \$100 billion in the Provider Relief Fund created by the CARES Act—the first \$30 billion of which is set forth in Sykes & Co.’s whitepaper entitled “Release of \$30 Billion.”

### **The \$484 Billion Relief Bill Signed April 24, 2020**

The \$484 billion in the new Paycheck Protection Program and Health Care Enhancement Act (“The PPPHCE Act”) is largely earmarked for existing programs but does include some new funding. The funding is allocated in the following manner:

- \$310 billion of the program will go towards replenishing the Paycheck Protection Program. There are new requirements on who may access at least a portion of the funding including a reservation of almost one-fifth of the funds for use by small and mid-sized banks. If a pharmacy applied for a loan and did not receive it, then the pharmacy should work with its lender to ascertain the status of the application. These funds are expected to go very quickly, so decisive action on the part of applicants will be vital.
- The SBA will receive an additional \$50 billion to fund EIDL loans and grants and an additional \$10 billion for other small grants.
- HHS will receive an additional \$75 billion in funds that health care providers may access. The stated purpose of these funds is to prevent, prepare for, and respond to COVID-19 and to reimburse providers that have been adversely affected by the pandemic. Recipients will be required to apply for these funds in a manner that will be determined by the Secretary of HHS.
- \$25 billion has also been earmarked for COVID-19 testing programs.

Like the CARES Act and the funds allocated for various programs, it will be vital for pharmacies to closely monitor the programs for which the pharmacy may qualify. Quick action is necessary. We consider the funds deposited into pharmacy accounts beginning April 10, 2020, (from the original \$30 billion of the Provider Relief Fund) to be an aberration and expect all distributions moving forward to require affirmative action from pharmacies wishing to benefit from the programs.

## **HHS Provides Direction on the Remainder of the Original \$100 Billion Provider Relief Fund**

On Wednesday, April 22, 2020, HHS released details on how it plans to allocate the remaining \$70 billion of the original Congressional allocation from the Provider Relief Fund. Significant aspects of the new programs include the following:

- In a April 22, 2020, media briefing, HHS Secretary Alex Azar provided guidance that the government will be closely monitoring the use of CARES Act funds and that there will be significant work performed by HHS and the OIG to ensure program integrity.
- HHS increased the original \$30 billion general allocation to health care providers by \$20 billion and provided clarification about how the additional \$20 billion general fund will be allocated. The additional \$20 billion will be allocated so that the overall general fund of \$50 billion ends up being allocated broadly to providers consistent with net patient revenue from all sources in 2018. Since the original allocation was based on Medicare receipts, additional distributions will largely go to providers whose business is primarily from other sources, including Medicaid and third-party payors. Providers will need to submit revenue data through an HHS portal to receive this funding; but as of April 24, 2020, this portal was not yet available. We expect this or a similar portal to be made available for providers wishing to access PPPHCE Act funds.
- HHS allocated \$10 billion to providers particularly impacted by COVID-19 as well as \$10 billion for cash infusions to rural health care providers.
- Much of the remaining \$30 billion is expected to be used to reimburse providers at Medicare rates for COVID-19 treatment of the uninsured.
- The Indian Health Service is expected to receive roughly \$400 million to be allocated based upon need and the impact of COVID-19.
- HHS has also updated the Terms and Conditions for acceptance of the Provider Relief Fund grants—these changes should be reviewed but largely are not substantive.

Pharmacies should be monitoring the HHS Provider Relief Fund to ensure that they timely submit revenue information in order to obtain a share of the remaining \$20 billion general allocation. It is also possible that funds from the latest relief bill may be made available to pharmacies. Frequent monitoring of the HHS website is recommended to ensure that opportunities are not missed. It is important to note that scrutiny on the use of these funds may be unlike anything seen previously. Accordingly, discretion and exhaustive documentation will be required to ensure that pharmacies do not face enforcement actions down the road related to the use of COVID-19 relief funds.

---

*Jeffrey S. Baird, JD, is Chairman of the Health Care Group at Brown & Fortunato, P.C., a law firm with a national health care practice based in Texas. He represents pharmacies,*

*infusion companies, HME companies and other health care providers throughout the United States. Mr. Baird is Board Certified in Health Law by the Texas Board of Legal Specialization and can be reached at (806) 345-6320 or [jbaird@bf-law.com](mailto:jbaird@bf-law.com).*

THIS ARTICLE DOES NOT CONSTITUTE LEGAL ADVICE. THIS ARTICLE WAS PREPARED ON A SPECIFIC DATE. THE LAW MAY HAVE CHANGED SINCE THIS ARTICLE WAS WRITTEN. BEFORE ACTING ON THE ISSUES DISCUSSED IN THIS ARTICLE, IT IS IMPORTANT THAT THE READER OBTAIN ADVICE FROM A HEALTH CARE ATTORNEY.

F:\DOCS\9999\007\WHITEPAPER\2H35276.DOCX