



To: Medicaid Directors
From: NAMD Staff
Date: April 1, 2020
Re: Statutory COVID-19 Funding Opportunities for States and Providers

As states continue to respond to the COVID-19 public health emergency, NAMD is hearing urgent need for measures to ensure providers remain solvent and able to provide services. Congress is aware of these needs and has taken steps to provide funding that can be accessed by states and providers for this purpose. However, not all of this funding is necessarily allocated to existing health programs.

NAMD has prepared this memo to give Medicaid Directors a sense of the types of funding available and how it may be accessed. Note that we haven't included duplicative information on the enhanced FMAP option in this memo, which has been covered in CMS FAQs and other NAMD resources. We hope this memo is helpful as you continue planning how to meet provider needs during this emergency.

Context: CMCS Not Currently Approving Advanced Payments to Providers

At both a meeting with the NAMD Board and on a March 31, 2020 all-state call, CMCS leaders indicated awareness of state concerns regarding provider solvency. However, its stance is that careful thought is required to ascertain the path forward for making Medicaid payments available to providers who are not providing services. CMCS noted that Congress has appropriated significant funds to make up for lost provider revenue, and Medicaid should not be duplicating those available funds. There may be options under state plan authority to make advance payments, primarily to institutional providers, though these payments would be subject to reconciliation. Making advance payments with no expectation of reconciliation to actual expenditures would require an 1115 construct. CMCS has not yet committed to approving these types of 1115s. Instead, CMCS intends to monitor how appropriated funds are distributed and listen to states and providers to identify any remaining gaps that require additional action. CMCS emphasized that these issues are economy-wide and there is a need to better understand its role within that context.

CARES Act Resources for States

- **Section 5001, Coronavirus Relief Fund:** Appropriates \$150 billion for states, Tribal governments, and local governments. Funds will be apportioned according to population. Funds may only be used for expenditures incurred due to the COVID-19 emergency from March 1, 2020 through December 31, 2020 that were not accounted for in the government's most recently approved budget.
 - \$3 billion each for DC and the Territories.
 - \$8 billion for Tribal governments.
 - Minimum of \$1.25 billion for each state.

CARES Act Resources for Providers via Employer Programs and Tax Incentives

- **Section 1102, Paycheck Protection Program:** This program allocates \$349 billion, available through June 30, to provide eligible small businesses with government-backed loans through the Small Business Administration (SBA). These loans may be forgiven if the borrower keeps employees on payroll.
 - Loan amounts will be equal to 10 weeks of company payroll, up to \$10 million, and may be utilized to pay payroll, rent, and utilities to keep company doors open.
 - Eight weeks of payroll, rent, mortgage payments, and utilities may be forgiven if the company maintains its workforce. Forgiveness amounts will be reduced proportional to layoffs or salary reductions.
 - Businesses which rehire laid off employees may still benefit from full loan forgiveness.
 - All small businesses and 501(c)(3) nonprofits with fewer than 500 employees or that meet the SBA's small business criteria, and independent contractors.
 - The program operates directly through financial institutions, with waivers of most requirements normally associated with these types of loans. Applicants only need to make a good faith certification of the loan's necessity and that the loan will be used to retain workers; no hardship demonstration is required.
- **Section 1110, Emergency EIDL Grants:** Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to the same entities eligible for the Paycheck Protection Program (All small businesses and 501(c)(3) nonprofits with fewer than 500 employees or that meet the SBA's small business criteria, and independent contractors). Private non-profits are also eligible.
 - EIDL provides operational liquidity of up to \$2 million to small businesses in designated disaster areas.
 - Any EIDL loans made in response to COVID-19 before December 31, 2020 will certain requirements waived.
 - EIDL loan recipients may request an advance on the loan of \$10,000, the SBA will disburse within three days. This advance does not need to be repaid and thus functions as a grant. SBA is allocated \$10 billion for this grant program.
- **Section 2301, Employee Retention Credit for Employers Subject to Closure Due to COVID-19:** Provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 emergency.
 - These credits are available to employers whose operations are either fully or partially suspended due to a shut-down order, or employers whose gross receipts decline by more than 50 percent compared to the same quarter in the prior year.
 - For employers with more than 100 FTEs, this credit is restricted to wages paid to employees not providing service due to COVID-19.
 - For employers with less than 100 FTEs, this credit is applicable to all wages.
- **Section 2302, Delay of Payment of Employer Payroll Taxes:** Allows employers to defer payment on the employer contribution of Social Security payroll taxes through the end of the year. Half of the deferred amount will be due by December 31, 2021 and the remaining half by December 31, 2022.

- **Section 2303, Modifications for Net Operating Losses:** Allows businesses to carry back a net operating loss arising in a tax year beginning in 2018, 2019, or 2020 for five years and temporarily removes the taxable income limitation on the net operating loss to allow it to fully offset income. This will allow companies to utilize losses and amend prior year returns to provide cashflow and liquidity.
- **Section 2304, Modification of Limitation on Losses for Taxpayers Other Than Corporations:** Modifies the loss limitation applicable to pass-through businesses and sole proprietors so they can utilize excess business losses to provide cashflow.
- **Section 2305, Modification of Credit for Prior Year Minimum Tax Liability of Corporations:** The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cut and Jobs Act, and corporate AMT credits were made available as refundable credits over several years, ending in 2021. This provision allows companies to more quickly recover these AMT credits and claim an immediate AMT refund.
- **Section 2306, Modification of Limitation on Business Interest:** Increases from 30 to 50 percent of taxable income the limitation on interest that businesses are allowed to deduct from 2019 and 2020 taxes.

CARES Act Resources for Providers via Health Programs

- **Public Health and Social Services Emergency Fund:** A \$100 billion appropriation to this fund for reimbursements to hospitals and health care providers for coronavirus expenses and lost revenue.
 - NAMD anticipates these funds will be disbursed via a grant application process. We will monitor which specific providers are eligible for these funds and in which amounts.
- **Section 3211, Supplemental Awards for Health Centers:** Additional \$1.32 billion in FY 2020 for health centers to address COVID-19.
- **Section 3212, Telehealth Network and Telehealth Resource Center Grant Programs:** Reauthorizes HRSA telehealth and telemedicine grant program through FY 2025, appropriates \$29 million per FY for these grants.
- **Section 3213, Rural Health Quality Improvement Grants:** Reauthorizes HRSA grant program through FY 2025, appropriates \$79.5 million per FY for these grants.
- **Section 3709, Medicare Sequester Relief:** Temporarily lifts the Medicare sequester of a two-percent reduction in payments to providers from May 1, 2020 through December 31, 2020.
- **Section 3710, Medicare Hospital IPPS COVID-19 Add-On:** Increases by 20 percent the weighting factor applied to the DRG for individuals diagnosed with COVID-19.
- **Section 3711, Increasing Access to Post-Acute Care During Emergency Period:** Waives Medicare rules for long-term care hospitals pertaining to site-neutral payment policies, in effect increasing Medicare reimbursement to these settings.
- **Section 3712, Preventing Medicare DME Payment Reduction:** Suspends for the duration of the emergency scheduled reductions in Medicare DME payments described in the CY 2019 Medicare ESRD PPS payment rule.

- **Section 3719, Expansion of the Medicare Hospital Accelerated Payment Program During the COVID-19 Public Health Emergency:** Expands allowable hospitals for participation in an existing Medicare program to request advance payments. These payments can be a six-month lump-sum or periodic payment advancement derived from prior payment periods. Most hospitals are eligible for 100% of the prior payment period; Critical Access Hospitals are eligible for 125%.
 - These Medicare advance payments may lessen the pressure on Medicaid revenue streams for eligible hospitals.
- **Section 4003, Emergency Relief and Taxpayer Protections:** Appropriates \$500 billion for Treasury Department loans, of which \$454 billion are reserved for loans, loan guarantees, and investments in support of the Federal Reserve's lending facilities to eligible states, business, and municipalities. These are targeted at businesses and nonprofits between 500 - 10,000 employees.

Families First Coronavirus Response Act Resources for Providers

- **Public Health and Social Services Emergency Fund:** \$1 billion appropriation for reimbursement of COVID-19 testing and testing-related services for uninsured individuals.
- **Paid Leave:** Requires employers to provide 10 days of paid sick leave and 10 weeks of paid family leave for individuals directly affected by COVID-19. These benefits are in effect through December 31, 2020.
 - These provisions apply to employers with fewer than 500 employees. The Department of Labor may waive these provisions for businesses with fewer than 50 employees and for health care workers and emergency responders.
 - Employers may claim 100 percent of wages paid to these employees via leave requirements as a refundable credit against payroll taxes. If these credits do not account for the cost of the leave, employers can seek an expedited advance from the Internal Revenue Service.