

HHS Updates Provider Relief Fund FAQs – Distribution Errors, Recent Acquisitions of Practices/Hospitals, and Updating High Impact Data

Late on May 19, 2020, the U.S. Department of Health and Human Services (HHS) issued another round of updates to its [Frequently Asked Questions \(FAQs\)](#) regarding distributions from the [Provider Relief Fund](#). HHS has changed its website and these FAQs several times over the last two weeks without notice, which has caused some confusion and concern. HHS' most recent guidance addresses distribution errors, recent acquisitions of practices and hospitals, and updates to high impact data.

A Summary of the May 19 Guidance Follows:

- **Distribution Payment Error** – Previously, HHS advised that if a provider believes it was overpaid or received a payment in error, the provider is directed to reject the entire payment and submit the appropriate revenue documents to the general distribution portal to facilitate HHS to determine the correct payment. HHS has now added that if a provider believes it was underpaid, the provider should keep the payment and submit their revenue information in the provider portal to determine their correct payment.
- **Rejection of Distribution After Sale of Practice/Hospital** – A medical practice or hospital may accept a distribution under the Provider Relief Fund so long as the entity, as identified by its taxpayer identification number (TIN), provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19 on or after January 31, 2020. If, due to a sale, a practice or hospital did not provide diagnoses, testing, or care to COVID-19 patients on or after January 31, 2020, the TIN holder must reject any distribution.
- **Accounting for Pre-Acquisition Revenue** – If an organization recently purchased a practice during or after the year of the organization's most recent tax filing, the practice's adjusted gross receipts should be calculated as follows: gross receipts as shown on the organization's most recent tax return *plus* gross receipts of the practice acquired *minus* gross receipts of providers sold.
 - If an organization's adjusted gross receipts exceed the gross receipts of the organization's tax return by more than 20%, the organization may enter the adjusted gross receipts figure in the Provider Relief Fund Payment Portal. **An organization that has already submitted its application in the payment portal may resubmit a revised application using the adjusted gross receipts number to account for an acquisition so long as the adjusted gross receipts exceed the gross receipts shown in the organization's tax return by more than 20%.**
 - Otherwise, the organization should enter the gross receipts shown on its tax return.
- **CHOWs: No Transfer of Distributions to New Owner** – If an organization sold its only practice or facility under a change in ownership in 2019 and did not provide diagnoses, testing, or care for individuals with COVID-19 on or after January 31, 2020, it may not accept a distribution from the Provider Relief Fund or transfer any such distribution to the new owner. Likewise, a current TIN owner is prohibited from accepting distribution payments from another entity or attesting to the Terms and Conditions on behalf of a previous owner to retain payment under the Provider Relief Fund. If the current TIN owner did not receive a direct payment under the general distribution, it was not eligible for a general distribution payment. However, it may still receive other distributions.
- **Updating High-impact Data** – Providers are encouraged to update their capacity and COVID-19 census data to ensure timely payments in the event the provider becomes a high-impact provider.

Key Takeaways:

- **If you believe there is an error with your Provider Relief Fund general distribution**, and you believe you were overpaid, HHS requires that you reject the payment. If you believe you were underpaid, HHS has now clarified that you may keep the payment you received while submitting additional revenue information to HHS in support of your request for additional payment.
- **If you recently sold a practice or hospital**, you may not accept distributions under the Provider Relief Fund if you did not diagnose, test, or provide care to COVID-19 patients on or after January 31, 2020, even if you intend to transfer the distribution to the new owner.
- **If you recently acquired a practice or hospital:**
 - You may account for the acquisition when submitting revenue information to HHS in the payment portal so long as the practice's or hospital's adjusted gross receipts exceed the gross receipts shown in the organization's tax return by more than 20%. Adjusted gross receipts should be calculated as: gross receipts as shown on the organization's most recent tax return *plus* gross receipts of the practice acquired *minus* gross receipts of providers sold. If you have already submitted a payment application to HHS, you can resubmit an application accounting for an acquisition, if eligible, using the adjusted gross receipts calculation.
 - In other words, while HHS seems open to potentially adjusting an organization's Provider Relief Fund payments to account for material increases in gross receipts due to an acquisition (i.e., increases of 20% or more that are unaccounted for in the organization's most recent tax return), **gross receipt increases of less than 20% will not be considered by HHS as a basis for adjusting an organization's Provider Relief Fund payment.**
 - Do not accept distribution transfers from previous owners.
- **All providers should consider establishing a practice of updating their capacity and COVID-19 census data**, which will allow timely payments of high-impact distributions if the need arises.

Additional Resources:

- [HHS Provider Relief Fund: General Distribution FAQ Updates; Addition of Targeted Allocation FAQs](#)
- [HHS Updates Provider Relief Fund General Distribution FAQs – Extends Attestation Deadline to 45 Days](#)
- [Available Now: HHS Frequently Asked Questions Regarding General Distribution Portal](#)
- [Open Now: HHS General Distribution Portal](#)
- [Delivery of Next Wave of HHS Provider Relief Authorized](#)
- [Health Care Providers: What Can I Do With the Money I Just Received from HHS?](#)
- [CARES Act Provider Relief Fund](#)

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