

# Provider Relief FAQ (Update May 13, 2020)

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On March 6, 2020, the U.S. Department of Health and Human Services (HHS) updated their Provider Relief Fund FAQs to address questions regarding overpayments and amounts that providers must refund. Unfortunately, these updated FAQs still leave a number of open issues and do not provide clear answers for every circumstance. Namely, there remain numerous additional questions related to the calculation of the distributions and overpayments and more clarification is expected.

Various trade associations, including the Healthcare Financial Management Association, the National Association for Home Care & Hospice and others, have reported that HHS spokespersons have stated that HHS does not intend to recoup funds as long as a provider's lost revenues and increased expenses attributable to COVID-19 exceed the amount of relief funding a provider has received. HHS also indicated the "overpayment" reference in the fund attestation portal is meant to address situations where the provider knows that the distribution calculation is in error, such as incorrectly applied 2019 Medicare Fee-for-Service payments or 2018 net patient revenues.

However, in the updated FAQ, HHS specifically retained the right to audit Relief Fund recipients in the future to ensure that this requirement is met and collect any Relief Fund amounts that were made in error or exceed lost revenue or increased expenses due to COVID-19. Specifically, HHS provided that if a provider does not have or anticipate having COVID-related lost revenues or increased expenses equal to or in excess of the relief payments received, the provider should return the funds. Further, it is not clear exactly how these calculations will be made and whether the providers must calculate how much they should have received independently (and how exactly to calculate that amount).

Decisions on whether to keep, or return, the funds and the risks associated with the decisions need to be made on a case-by-case and provider-by-provider basis. Accordingly, to the extent you have specific questions regarding keeping any portion of the provider relief payments, please consult your attorney.

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## Key Contacts



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