

## Hospice and Palliative Care Resources for the Coronavirus Disease (COVID-19)



### NHPCO COVID-19 Update – 04/14/20

NHPCO has created this update for hospice and palliative care providers to share recent news and helpful links.

*“You are there for your community. NHPCO is there for you.”*

#### Policy Updates

##### **Questions About CARES Act Funding**

As previously reported, on Friday April 10, HHS began distribution of the \$30 billion in grant funding from CARES Act Provider Relief Fund for Medicare FFS providers in response to the coronavirus (COVID-19) pandemic. The funding would have come into your account as HHS Payments. If no payment has been received as of today, providers may want to follow up with HHS to check the status of the payment. For more information, go to the [HHS Provider Relief page](#) or call the CARES Provider Relief line at **866-569-3522**.

##### **CARES ACT Provider Relief Funding Terms and Conditions**

On Friday, April 10, you may have received an unexpected payment on or about Friday, April 10th via Optum Bank with “HHSPAYMENT” as the payment description. That payment was from the Public Health and Social Services Emergency Fund (“Relief Fund”) which was set up pursuant to the CARES Act to provide \$100 billion of relief funding to healthcare providers. The payment received is from the first \$30 billion of the total \$100 billion Relief Fund. The payment is not a loan; it is a grant that the hospice can use for qualified expenses and losses that meet a series of [Terms and Conditions](#).

NHPCO has received questions from many hospice providers about the terms and conditions that accompany the payment. As outlined by Husch Blackwell, “the Terms and Conditions specifically require compliance with 45 CFR §§75.302, 361 and 365, all of which relate to record keeping under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Health and Human Services (“HHS”) Awards. Thus, the Terms and Conditions should likely be reviewed as the terms of an HHS award. And in any event, the HHS Office of Inspector General is tasked to enforce the Terms and Conditions.”

Unfortunately, these Terms and Conditions are vague and could give rise to opportunities for the Office of Inspector General, the Department of Justice, or whistleblowers to allege a violation of these Terms and Conditions. Absent more useful guidance from HHS regarding who may keep the Relief Fund payments and how they may be spent, there are a number of “best practices” hospices may want to consider related to evaluating, tracking and allocating expenses to the Relief Fund payments to mitigate

potential risks. How providers spend the Relief Fund will be audited at some point in the future so any documentation must be auditable and supported.

**Learn more about the Terms and Conditions before you accept the grant:**

- [Husch Blackwell, Madison, WI](#) (Tools for Your Hospice Toolbox: How to Evaluate, Allocate and Track the Use of CARES Act Relief Payments - An Introduction)
- [Jones Walker, Birmingham, AL](#) (Blog post on CMS Gives Emergency Dollars to Medicare Providers ... but With Strings Attached)
- [Arnall Golden Gregory, Atlanta, GA](#) (Article: Medicare cash influx to skilled nursing facilities has strings attached and some may not keep it)

**Paycheck Protection Program FAQs**

The Treasury Department released a set of [Frequently Asked Questions](#) today about the Paycheck Protection Program.

**CMS Releases Additional Guidance for Nursing Home Transfers and Discharges**

CMS is providing [supplemental information](#) for transferring or discharging residents between skilled nursing facilities (SNFs) and/or nursing facilities based on COVID-19 status (i.e., positive, negative, unknown/under observation). In general, if two or more certified LTC facilities want to transfer or discharge residents between themselves for the purposes of cohorting, they do not need any additional approval to do so. However, if a certified LTC facility would like to transfer or discharge residents to a non-certified location for the purposes of cohorting, they need approval from the State Survey Agency.

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