COVID-19 CARES Act: Funding, Reporting and Compliance Requirements

Mueller Prost, a CPS vendor partner, is supporting organizations as they navigate the CARES Act. Tiffany Karlin, Partner, Consulting Services and Director of Healthcare for Mueller Prost, provides insights and guidance following the HHS Provider Relief Fund Reporting Update on January 15, 2021.

Tiffany Karlin
Partner, Consulting Services and Director of Healthcare, Mueller Prost

2020 brought monumental shifts in how we live our lives, operate our organizations, and protect ourselves and loved ones. In response to the rise of the COVID Pandemic, on December 27, 2020, President Donald Trump signed into law the "Consolidated Appropriations Act, 2021" (CARES Act) passed by Congress on December 21, 2020 ("the Act") and subsequent relief packages since that time, which brought numerous funding programs to aid in relief to American citizens and businesses. While these relief packages were desperately needed, they have also been wrought with unclear and costly compliance and reporting requirements.

Fast forward to January 2021, we are welcomed with a new year, tax requirements to be met for 2020, new stimulus money approved for the Nation's people, and a scramble to interpret reporting guidance for these various stimulus programs.

Paycheck Protection Program (PPP2):

The second round of PPP loans ("PPP2") is be available to first-time borrowers and to businesses that previously received a PPP loan. The maximum PPP2 loan is $2 million. Essentially, as a second time applicant for PPP funds, if you meet the qualifications showing you have had a substantial revenue decline along with the requirements noted below, you can apply for a second round of funds. Second-draw PPP loans are available to businesses, certain nonprofits, self-employed individuals, independent contractors, sole proprietors, housing cooperatives, small agricultural cooperatives, veterans' organizations and tribal businesses.

If you or your organization received an initial PPP loan, you may qualify for a second round if you:

- Can show a drop of at least 25% in annual gross receipts (excluding any CARES Act funds received) or for **any quarter** of 2020, compared with the same quarter in 2019.
- Have not permanently closed. Businesses that have temporarily closed or suspended operations can receive a second-draw loan.
- Previous recipients of PPP must have **300 or fewer employees**; have used, or will use, the full amount of their first PPP loan
    - **NOTE: First-time PPP borrowers** original rules apply from first round of PPP and be businesses with 500 or fewer employees that are eligible for other SBA 7(a) loans; sole proprietors, independent contractors, and eligible self-employed individuals; or not-for-profits, including churches.
- Section 501(c)(6) business leagues, such as chambers of commerce, visitors' bureaus, etc. are now eligible provided they have 300 or fewer employees and do not receive more than 15% of receipts from lobbying. The lobbying activities must comprise of no more than 15% of the

organizations' total activities and have cost no more than $1 million during the most recent tax year that ended prior to February 15, 2020.

- Borrowers that returned all or part of a previous PPP loan, can reapply for the maximum amount available to them.

Not-for-profit entities financial statement treatment for PPP loans: if the organization expects to meet the eligibility requirements and expects the PPP will be forgiven, the guidance is that the PPP should be accounted for under FASB ASC 958-605 as a conditional contribution/grant instead of a loan. In doing so, the conditional grant would be recognized into income based upon when the conditions/barriers are met. Conditions include both funds being sent on eligible expenditures and FTE tests. Organizations with fiscal year ends will have more of a challenge in determining the amount of the grant to recognize in income prior to the fiscal year end and how much will be carried over as a liability until the remaining conditions/barriers are met. It is important to track the eligible expenses to support the satisfaction of one of the conditions/barriers for the PPP funding whether under the first or second round of funding. The Act specifies that business expenses paid with forgiven PPP loans are tax-deductible, as was Congress' intent when it created the original PPP. The Act also repeals the requirement that PPP borrowers deduct the amount of any EIDL advances from the PPP forgiveness amount and now includes set-asides to support first and second time borrowers of PPP funds with 10 or fewer employees, first time borrowers recently made eligible and for loans made by community lenders.

The second round of funding does have a deadline of March 31, 2021. We just learned that if your banking relationship is with a bank that has under $1B in assets they are being given priority and applications can be submitted as early as Friday, January 15, 2021 and larger institutions beginning next Tuesday, January 19, 2021.

Health and Human Services (HHS) Funding:

The US Department of Health and Human Services (HHS) issued guidance regarding both the reporting and audit requirements for Provider Relief Fund payments received. These payments were in a phased approach by provider type and held different terms and conditions for usage of funds.

Timeline of Funding Distribution:

"General Fund"

1. General Fund Phase 1- received appx: April 10-24
   - Sent to all Medicare Certified Healthcare Providers
2. General Fund High Impact Areas- received appx: May 7-22
   - Sent to all Hospital and SNF Providers
3. General Fund Phase 2- received appx: June 9
   - Sent to all Healthcare, Medicaid, Change in Ownership, Assisted Living Providers
4. General Fund Impact Areas- received appx: June 15
   - Sent to all Hospitals
5. General Fund Phase 3- received appx: November
   - Sent to all Healthcare, Behavioral Health Providers

“Targeted Fund”
1. COVID-19 High Impact Distribution-received appx: May/June/July
2. Rural Health Clinics
3. Targeted Infection Control for Skilled Nursing- received appx: August
4. Clinics, Urban Health Centers, Safety Net Hospitals
5. Uninsured Relief Fund
6. Skilled Nursing Quality Incentive Program (infection control)- received appx: October/November/December

General vs Targeted funds usage:

The most significant difference between these two “types of provider relief fund categories” is that the General Fund can be used utilized on “healthcare related expenses attributable to coronavirus not reimbursed or obligated to be reimbursed from other sources; and, lost revenues”, while Targeted Funds needed to be utilized on “costs associated with infection control measures”. To attest to the terms and conditions to have received and accepted these payments you had to have been one of the unique provider types for that specific funding and, after January 31, 2020, provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19 (HHS broadly views every patient as a possible case of COVID-19).

Reporting for Funds Used:

Any healthcare providers that have received $10,000 or more in aggregate of the total Provider Relief Funds are required to report use of funds in accordance with the program terms and conditions.

The Provider Relief Fund reporting is in place for providers to justify that these funds used were spent on “healthcare related expenses attributable to coronavirus **not reimbursed or obligated to be reimbursed from other sources**; and lost revenues. With the passing into law of the “Consolidated Appropriations Act” on December 21, 2020, the definition of lost revenue was further defined to state, “[a] *provider may calculate such lost revenues using the Frequently Asked Questions guidance released by the Department of Health and Human Services in June 2020, including the difference between such provider’s budgeted and actual revenue budget if such budget had been established and approved prior to March 27, 2020*.” Furthermore, guidance was later published that HHS considers themselves to be “payer of last resort”, therefore enforcing a no “double dipping” of COVID Relief Funding received, but also that all funding sources, including that of general revenue receipts, are exhausted before the use of HHS monies.

Reporting Entities that received **between $10,000 and $499,999 in aggregated payments:** are required to report in two aggregated categories: general and administrative expenses and healthcare related expenses.

Reporting Entities that receive **$500,000 or more in aggregated payments** same as above but with more detailed information within the two categories of general and administrative expenses and other healthcare related expenses. The expense breakdown is necessary to include mortgage/rent, personnel, utilities, supplies, equipment, and other high-level expense categories.

The portal to upload reporting and supporting documentation, as well as the formal guidance, has yet to be opened and was scheduled to do so Friday, January 15, 2021, however HHS formally announced that Friday that the deadline was postponed and did not provide further details about new deadlines, eligibility requirements, application process, or timeline for the distribution of these additional funds. This decision has been made by HHS due to the recent passage of federal legislation which adds $3.0 billion in funding to the PRF program. HHS is working to provide updated reporting requirements which comply with this new legislation.

While the new date for reporting has not been published, HHS encouraged providers to establish a reporting account by registering at the newly enabled PRF reporting website at https://prfreporting.hrsa.gov/s/

The HHS mandate further added additional requirements for both non-profit and for-profit recipients of Provider Relief Fund payments of $750,000 or more (collectively among all payments that have been distributed thus far). These providers would also be subject to government audit requirements (GAGAS/Single Audit). Non-profit entities trigger this audit at time of "expended" use of funds within the provider's fiscal year.

Important to note, that for non-profit providers who may fall under $750,000, but received other federal funds required to be listed on the Schedule of Expenditures of Federal Awards (SEFA), then that provider will also be subject to these audit requirements. As originally reported and then later amended, donated personal protection equipment (PPE) will not be listed on the SEFA and therefore will not count toward the $750,000 threshold.

Single Audits require higher levels of testing than that of a standard audit. They are conducted in accordance with generally accepted government auditing standards and follow testing requirements prescribed by the federal government in an annually issued compliance supplement. The audit will require tests of internal controls over financial reporting and compliance with applicable regulations for major programs.

Completed audits will be submitted to the Federal Audit Clearinghouse. Audits are normally due to the Federal Audit Clearinghouse upon the earlier of 30 days from the issuance of the audit reports, or nine months from the organization's year-end. There is updated guidance from the HHS granting three (3) extensions. For those providers who have fiscal year ends, new guidance stated that the implementation of these requirements begins for those with December 31, 2020 year end and any subsequent fiscal year ends.

Every day is a new day, and even as this article is published, you can be sure more updates will have unfolded. As with this pandemic, every day, we learn something new to adapt to!

If you are interested in learning more about Mueller Prost and how they can support your team, CPS would be happy to introduce you to Tiffany Karlin. Please contact your dedicated CPS Client Account Manager or CPS Vendor Account Manager, Tiffany Spooner, at 561-894-7617 or spoonertiffany@carepurchasing.com.