

Speaker Introductions



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Agenda

- Government Stimulus – Phases 1 to ??
- What's New?
- HHS Provider Relief Fund
- Tracking Lost Revenue & Identifying Expenses
- Accounting Considerations

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Government Stimulus- Phases 1 to ??

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Government Stimulus – Phases 1 TO ??

- To date, four new laws have been passed in response to the COVID-19 pandemic.



Date	Law Name	Amount
March 6	Coronavirus Preparedness and Response Supplemental Appropriations Act	\$8.3 Billion
March 17	Families First Coronavirus Response Act	\$347 Billion
March 27	Coronavirus Aid, Relief, and Economic Security Act (CARES Act)	\$2.2 Trillion
April 24	Paycheck Protection Program and Health Care Enhancement Act	\$484 Billion
??	Additional Funding	\$\$

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Stimulus – Phases 1 & 2

Phase 1

March 6, 2020

Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020

- \$7.8 billion in emergency funding to develop and manufacture vaccines and other supplies
- Support to state, local and tribal public health agencies
- \$490 million for expanded telehealth options through the Medicare program

Phase 2

March 18, 2020

Families First Coronavirus Response Act

- Intended to give relief to individuals affected by COVID-19
- \$1 billion in grants to pay for and process unemployment insurance
- Granted temporary emergency paid sick leave and paid family and medical leave
- Offered employer payroll tax credit to offset the cost of paid leave
- Increased funding and expanded access to nutrition assistance for schools, low-income children and seniors
- \$1 billion for uninsured individuals to receive access to free testing
- Required private insurers, Medicare and Medicaid to cover diagnostic testing

Stimulus – Phases 3 & 3.5 (CARES Act Part II)

March 27, 2020

Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

- \$2.2 trillion financial stimulus
- Designed to assist small and large businesses and include billions of dollars in loan and grant allocations, regulatory relief for certain industries and income tax relief
- HHS is distributing money to healthcare organizations through the **Provider Relief Fund** to support healthcare related expenses, lost revenue and ensure COVID-19 treatment for uninsured patients
- **Paycheck Protection Program**
- Other tax changes including charitable contribution limitations, net operating loss, section 461(l), section 163(j) and qualified improvement property

April 24, 2020

Paycheck Protection Program and Health Care Enhancement Act

- \$310 billion designated for the Paycheck Protection Program
- \$10 billion for Economic Injury Disaster Loan grants
- \$75 billion additional funding for hospitals and healthcare providers
- \$25 billion for COVID-19 testing



Paycheck Protection Program & Forgiveness

Many small business owners have applied for Paycheck Protection Program loans, created under the CARES Act as an incentive for employers to maintain payroll during the COVID-19 pandemic. Notably, the SBA will forgive all or a portion of the loans under the Paycheck Protection Program, provided that all borrower and documentation requirements are met.

Eligible Costs	Ineligible Expenses
<ul style="list-style-type: none"> Payroll Costs Group healthcare benefits (including insurance premiums) and retirement benefits Paid sick, medical, or family leave where no tax credits were taken (not those under FFCRA) Employee's salaries, commissions, or similar compensation Utilities Rent 	<ul style="list-style-type: none"> Accounts payable, including payments made to proprietorships and independent contractors Life insurance costs Principal portions of mortgage or other debt payments Payments of interest on other debt obligations established after February 15, 2020 Any other costs not in the first column

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Paycheck Protection Program

Other requirements for debt forgiveness include:

- At least 75% of the PPP loan proceeds must be used for payroll costs (as defined in the regulations)
- Salary levels and number of employees must be maintained according to the rules
- Loans are used to offset no more than eight weeks of eligible expenses following the receipt of the loan

Notice 2020-32: No tax expense deduction allowed

- If the loan forgiveness is excluded from gross income, an expense deduction will not be allowed for tax purposes

Frequently Asked Questions - PPP

- **Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer? (From Treasury's website 5.4.20)**
 - No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of re-employment may forfeit eligibility for continued unemployment compensation. (From Treasury's website 5.4.20)

Frequently Asked Questions - PPP

- Do businesses owned by large companies with adequate sources of liquidity to support the business's ongoing operations qualify for a PPP loan? (From Treasury's website 5.4.20)

*In addition to reviewing applicable affiliation rules to determine eligibility, all borrowers must assess their economic need for a PPP loan under the standard established by the CARES Act and the PPP regulations at the time of the loan application. Although the CARES Act suspends the ordinary requirement that borrowers must be unable to obtain credit elsewhere (as defined in section 3(h) of the Small Business Act), **borrowers still must certify in good faith that their PPP loan request is necessary. Specifically, before submitting a PPP application, all borrowers should review carefully the required certification that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant."** Borrowers must make this certification in good faith, taking into account their current business activity and their ability to access other sources of liquidity sufficient to support their ongoing operations in a manner that is not significantly detrimental to the business. For example, it is unlikely that a public company with substantial market value and access to capital markets will be able to make the required certification in good faith, and such a company should be prepared to demonstrate to SBA, upon request, the basis for its certification. Lenders may rely on a borrower's certification regarding the necessity of the loan request. **Any borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith.***

PPP – One Final Thought

If the New York Times called your business tomorrow and asked questions as to how the certification was made and whether you should have taken the money, how would you answer?

Employer Retention Credit – FAQ from IRS Website as of May 4, 2020

1. What is the Employee Retention Credit?

The Employee Retention Credit is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021. The maximum amount of qualified wages taken into account with respect to each employee for all calendar quarters is \$10,000, so that the maximum credit for an Eligible Employer for qualified wages paid to any employee is \$5,000.

2. Who is an Eligible Employer?

Eligible Employers for the purposes of the Employee Retention Credit are employers that carry on a trade or business during calendar year 2020, including tax-exempt organizations, that either:

- Fully or partially suspend operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or
- Experience a significant decline in gross receipts during the calendar quarter.

Employer Retention Credit – FAQ from IRS Website as of May 4, 2020

3. How is the significant decline in gross receipts calculated?

A significant decline in gross receipts is calculated by determining the first calendar quarter in 2020 (if any) in which an employer's gross receipts are less than 50 percent of its gross receipts for the same calendar quarter in 2019. If the gross receipts decline to that extent, the employer also must later determine if there is a later calendar quarter in 2020 in which the employer's 2020 quarterly gross receipts are greater than 80 percent of its gross receipts for the same calendar quarter in 2019. If so, the significant decline in gross receipts ends with the first calendar quarter that follows the first calendar quarter in which the employer's 2020 quarterly gross receipts are greater than 80 percent of its gross receipts for the same calendar quarter in 2019, or with the first calendar quarter of 2021.

Example: Employer I's gross receipts were \$100,000, \$190,000, and \$230,000 in the first, second, and third calendar quarters of 2020, respectively. Its gross receipts were \$210,000, \$230,000, and \$250,000 in the first, second, and third calendar quarters of 2019, respectively. Thus, Employer I's 2020 first, second, and third quarter gross receipts were approximately 48 percent, 83 percent, and 92 percent of its 2019 first, second, and third quarter gross receipts, respectively. Accordingly, Employer I had a significant decline in gross receipts commencing on the first day of the first calendar quarter of 2020 (the calendar quarter in which gross receipts were less than 50 percent of the same quarter in 2019) and ending on the first day of the third calendar quarter of 2020 (the quarter following the quarter for which the gross receipts were more than 80 percent of the same quarter in 2019). Thus, Employer I is entitled to a retention credit with respect to the first and second calendar quarters.

Employer Retention Credit – FAQ from IRS Website as of May 4, 2020

4. When is the operation of a trade or business partially suspended for the purposes of the Employee Retention Credit?

The operation of a trade or business is partially suspended if an appropriate governmental authority imposes restrictions on the employer's operations by limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19 such that the employer can still continue some, but not all of its typical operations.

For more information, see [Determining When an Employer's Trade or Business Operations are Considered to be Fully or Partially Suspended Due to a Governmental Order](#).

Employer Retention Credit – FAQ from IRS Website as of May 4, 2020

5. If a governmental order requires non-essential businesses to suspend operations but allows essential businesses to continue operations, is the essential business considered to have a full or partial suspension of operations?

- No. An employer that operates an essential business is not considered to have a full or partial suspension of operations if the governmental order allows the employer to remain open, even though the governmental order requiring non-essential businesses to close may have an effect on the employer's operations. For more information regarding the application of the full and partial suspension rules if the essential business' suppliers are required to close due to a governmental order, see [if a governmental order causes the suppliers to an essential business to suspend their operations, is the essential business considered to have a suspension of operations?](#) For more information regarding the application of the full and partial suspension rules if the essential business's operating hours are affected by a governmental order, see [Are an employer's operations considered to be partially suspended for purposes of the Employee Retention Credit if the employer is required to reduce its operating hours by a governmental order?](#)
- Although an employer with an essential business may not be considered an Eligible Employer as a result of a full or partial suspension of its operations due to a governmental order, the employer may be considered an Eligible Employer if it experiences a significant decline in gross receipts. For more information on what constitutes a significant decline in gross receipts, see [Determining When an Employer is Considered to have a Significant Decline in Gross Receipts](#).



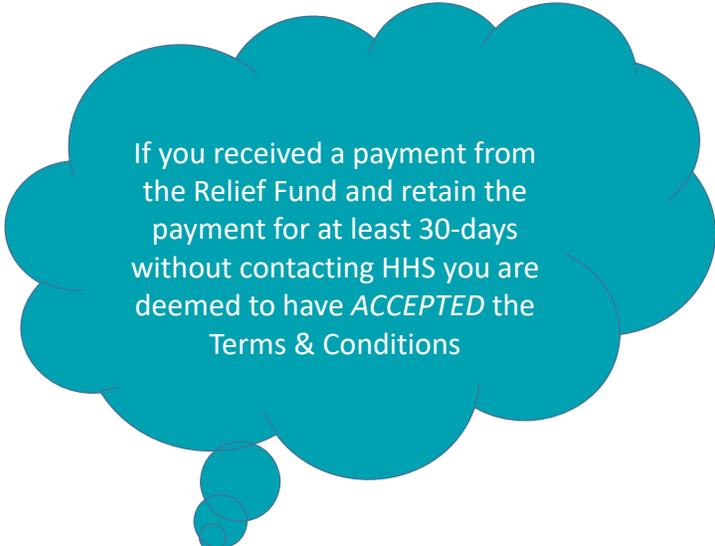
HHS Provider Relief Fund

GENERAL FUND	TARGETED ALLOCATIONS
<ul style="list-style-type: none">• \$30 billion to providers based on Medicare fee-for-service reimbursement in 2019.<ul style="list-style-type: none">• April 10th to April 17th• \$20 billion<ul style="list-style-type: none">• Beginning April 24th• Automatic for some organizations	<ul style="list-style-type: none">• Allocation for treatment of the uninsured• Allocation for COVID-19 high impact areas (\$10 billion)• Allocation for rural providers (\$10 billion)• Allocation for Indian Health Services (\$400 million)• Additional allocation including SNF, dentist & providers that solely bill Medicaid.

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This slide provides a detailed breakdown of the HHS Provider Relief Fund. It is divided into two columns: 'GENERAL FUND' and 'TARGETED ALLOCATIONS'. The 'GENERAL FUND' column lists two main categories: a \$30 billion allocation based on Medicare fee-for-service reimbursement in 2019 (with a sub-point for April 10th to 17th) and a \$20 billion allocation starting April 24th, which is automatic for some organizations. The 'TARGETED ALLOCATIONS' column lists five specific areas: treatment of the uninsured, COVID-19 high impact areas (\$10 billion), rural providers (\$10 billion), Indian Health Services (\$400 million), and additional allocation for SNF, dentists, and Medicaid providers. The slide includes the Marcum logo in the bottom left and a page number '24' with a reference code '0914000N' in the bottom right.



If you received a payment from the Relief Fund and retain the payment for at least 30-days without contacting HHS you are deemed to have *ACCEPTED* the Terms & Conditions

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Three Separate Portals

<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html>

CARES Act Provider Relief Fund Payment Attestation Portal
Providers who have been allocated a payment **must** use this portal to sign an attestation confirming receipt of the funds and agree to the terms and conditions within 30 days of payment.
[Sign Attestation](#) ↗

General Distribution Portal
Medicare providers for whom HHS did not have adequate cost report data on file **must** use this portal to submit their revenue information and agree to the terms and conditions to receive funds.
Providers who received funds automatically **must** submit their revenue information to be verified via the portal.
[Submit Revenue Information](#) ↗

COVID-19 Uninsured Program Portal
Providers who have conducted COVID-19 testing or provided treatment for uninsured COVID-19 individuals on or after February 4, 2020 **may** use this portal to request claims reimbursement.
[Request Reimbursement](#) ↗

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General Distribution Portal

All entities need to upload the following Documents to the general distribution portal:

- A provider’s “Gross Receipts or Sales” or “Program Service Revenue” as submitted on it federal income tax return;
- The provider’s estimated revenue losses in March 2020 and April 2020 due to COVID;
- A copy of the provider’s most recently filed federal income tax return;
- A listing of the TINs any of the provider’s subsidiary organizations that have received relief funds but that DO NOT file separate tax returns.

Different Terms & Conditions for Different Tranches of Money

The screenshot shows the HHS.gov website interface. At the top, there is a search bar with the text "I'm looking for...". Below the search bar are navigation tabs for "About HHS", "Programs & Services", "Grants & Contracts", and "Laws & Regulations". The main content area is titled "Terms and Conditions for Provider Relief Fund Distributions" and lists several PDF documents for different relief fund tranches, including "Relief Fund Payment from \$20 Billion General Distribution - PDF", "Relief Fund Payment from \$30 Billion General Distribution - PDF", "FFCRA Relief Fund Payment Terms and Conditions - PDF", and "Uninsured Relief Fund Payment Terms and Conditions - PDF".

Terms & Conditions – Final Thought

- Four options attorneys have identified for providers considering the latest terms and conditions are:
 - Retain funds and attest to terms and conditions
 - Keep funds and attempt to return a modified attestation that agrees only to those terms and conditions specified in the CARES Act
 - Return all funds to HHS
 - Keep funds but do not attest to terms and conditions

WE SUGGEST YOU CONSULT AN ATTORNEY IF YOU HAVE ANY QUESTIONS ABOUT THE TERMS & CONDITIONS PRIOR TO SIGNING THEM.

HHS PROVIDER RELIEF FUND REPORTING

GENERAL REPORTING

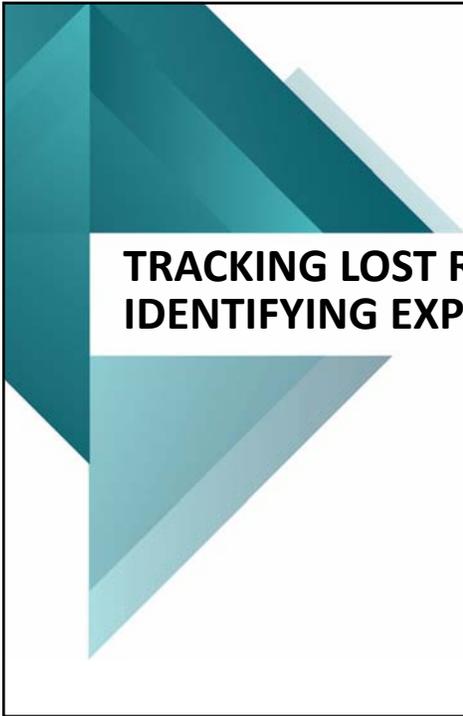
- Any Organization receiving more than \$150,000 in total from COVID-19 funds, must submit a report, no later than 10 days after the end of each calendar quarter.
- Total amount of funds received from HHS and amount of funds received that were expended or obligated for each

DETAILED LIST

- Name and description of project or activity
- Estimated number of jobs created or retained by the project or activity
- Detailed information on any level of sub-contracts or subgrants awarded

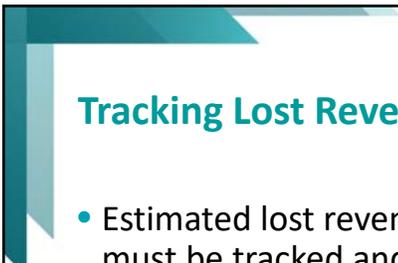
OTHER

- Maintain appropriate records and cost documentation described in
 - 45 CFR § 75.302 – Financial management, and
 - 45 CFR § 75.361 through 75.365 – Record Retention and Access
- Agree to fully cooperate in all audits to ensure compliance
- Organization cannot seek to collect out-of-pocket expenses from patient in excess of what would have been required if the care had been provided in-network



TRACKING LOST REVENUE & IDENTIFYING EXPENSES

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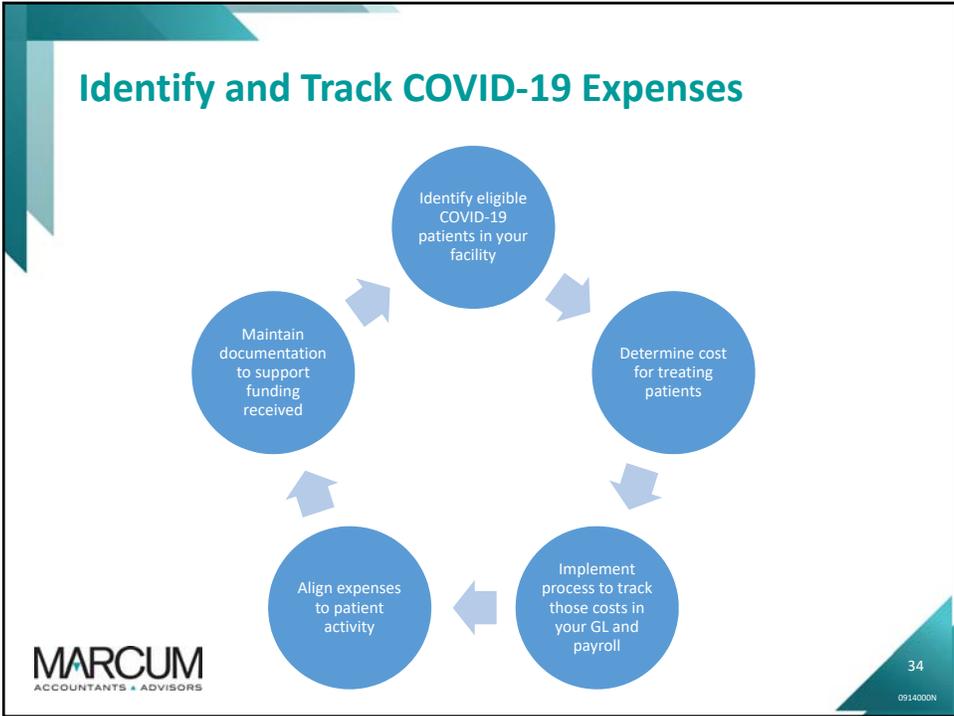


Tracking Lost Revenues

- Estimated lost revenues for March and April 2020 must be tracked and submitted to HHS
- HHS has offered the following options for estimating lost revenues:
 - Compare year-over-year revenue
 - Compare budgeted to actual revenue
- For April 2020, providers may estimate the total monthly loss based on data from the first few weeks and extrapolation from March data

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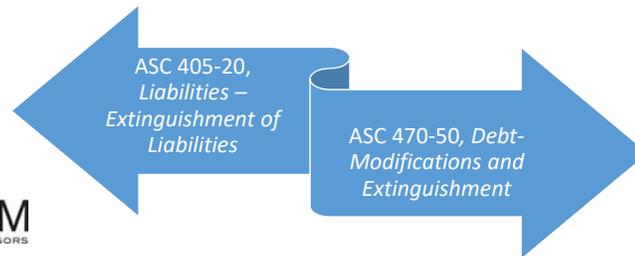


ACCOUNTING CONSIDERATIONS

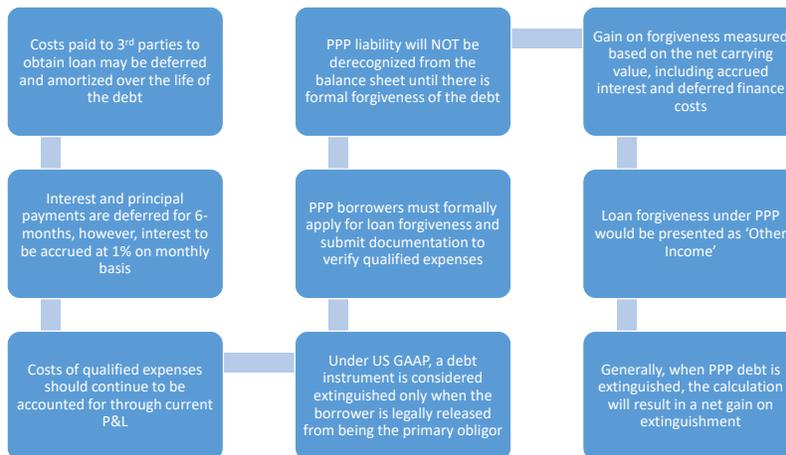
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Accounting for Paycheck Protection Program

- There is currently no guidance in U.S. GAAP that specifically addresses the accounting for a forgivable loan from a government entity; however, clarifying guidance may be issued
- In the absence of clarifying guidance, we would expect most organizations to use the guidance in ASC 405-20 and ASC 470-50



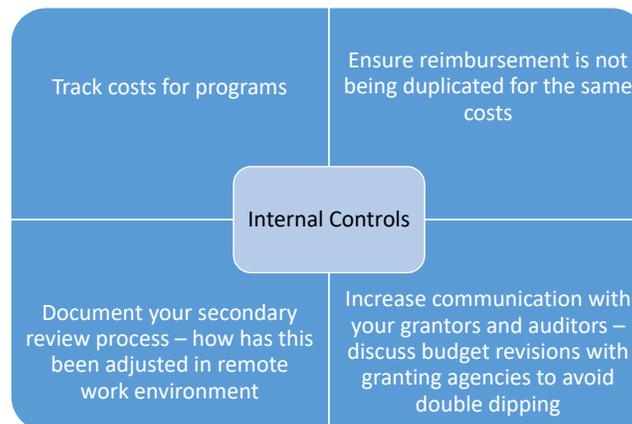
Accounting for Paycheck Protection Program



AICPA April 10, 2020 Letter to OMB

- The Governmental Audit Quality Center of the AICPA issued a letter to the OMB requesting guidance to address commonly asked questions including:
 - Are PPP loans and other CARES Act funds subject to single audit?
 - Applicability to for-profit organizations?
 - Effect of funding on programs and clusters?

Potential Single Audit Implications of CARES Act



Accounting Framework

- CARES Act provides assistance in the form of loans, grants, tax credits and other forms of government aid
- Organizations should carefully look at the form and substance of the assistance to determine the appropriate accounting framework to apply
 - Exchange transaction or a contribution

Accounting Framework (Continued)

Exchange transaction

- A reciprocal transfer in which each party receives and pays commensurate value
- Management determines the total transaction price, including an estimate of any variable consideration, at contract inception and reassesses this estimate at each reporting date
- Variable consideration is included in the transaction price only to the extent that it is **probable** that a significant reversal in the amount of cumulative revenue recognized will NOT occur when the uncertainty associated with the variable consideration is subsequently resolved
- The transaction price is recognized as revenue when, or as, the related performance obligation is satisfied

Accounting Framework (Continued)

Contribution

- An unconditional transfer of cash or other assets to an entity or a settlement or cancellation of its liabilities in a voluntary non reciprocal transfer by another entity acting other than as an owner

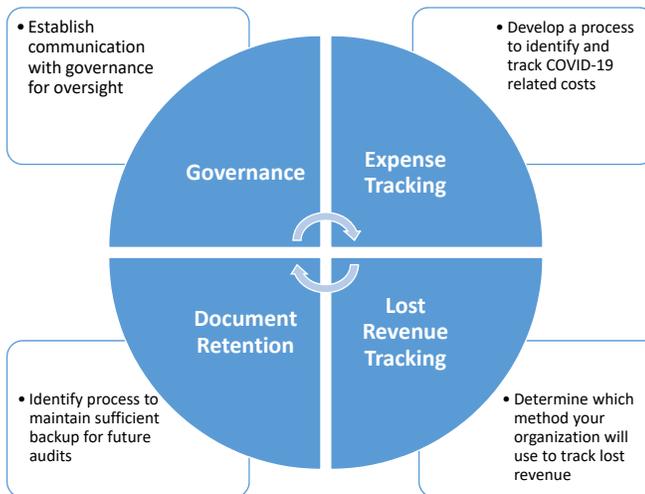
Changes in Transaction Price

- Consider whether historical models used to estimate contractual adjustments w/ 3rd party payors reflect future reimbursement expectations
 - Section 3710 allows for a 20% increase in the payment for COVID-19 patients
 - Section 3709 temporarily lifts the 2% Medicare sequestration from 5/1/20-12/31/20
- These provisions could increase reimbursements requiring updates to estimates of variable consideration in determining transaction price

Advance Payments from Medicare

- Qualified providers can request a lump-sum or periodic payment that reflects up to 6-months of Medicare services
- Accelerated payments will be recovered by Medicare from future Medicare claims submitted
- Since these payments are made on behalf of patients before the services are performed, the payments would typically be recorded as contract liabilities (deferred revenue)
- However, if any material amounts of advance payments are expected to be refunded rather than applied to future services, the amounts would be recorded as refund-type liabilities

Best Practices



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Q&A

