

Eli's Hospice Insider

COVID-19: Hospices Don't Have To Worry About Accelerated Payment Takebacks For A While

If you've been waiting for the other shoe to drop, you can stop.

With heavy burdens ranging from COVID-19 to the newly required hospice election addendums on their plates, hospices need any break they can get. And one has come their way regarding recoupment of COVID-19- sparked accelerated and advance payments.

In lightning-fast time by Medicare standards, Congress enacted relaxed rules for taking back COVID-related accelerated payments on Oct. 1, and the Centers for Medicare & Medicaid Services put the mandate into public action on Oct. 8.

"In the throes of an unprecedented pandemic, providers and suppliers on the frontlines needed a lifeline to help keep them afloat," said CMS Administrator **Seema Verma** in announcing the change. "CMS' advanced payments were loans given to providers and suppliers to avoid having to close their doors and potentially causing a disruption in service for seniors. While we are seeing patients return ... we are not yet back to normal."

Medicare distributed \$106 billion in accelerated and advanced payments from March 28 to April 26, CMS reveals in a fact sheet about the new repayment rules - \$98 billion to about 22,000 Part A providers and \$8.5 billion to about 28,000 Part B providers.

After April 26, CMS shut down its COVID-related AAPs because other relief fund sources, including the CARES Act Provider Relief Fund and Paycheck Protection Program kicked in, notes finance expert **Dave Macke** with VonLehman & Co. in Fort Mitchell, Kentucky.

Accelerated payments provided "much-needed relief for AAP recipients," point out attorneys **Brian Lee, Michael Park,** and **Emily Shaw** with law firm Alston & Bird in online analysis.



"These AAP Loans provided quick access to funds at time when many ... health care providers were facing an unexpected and unprecedented disruption in cash flow," says attorney **Jennifer Russano Koltse** with law firm Chapman & Cutler in Chicago.

In August, Medicare Administrative Contractors started making noises about recouping the AAP funds as they hit the 120-day mark, as announced when they were disbursed. But then the MACs held off, and Verma eventually made a statement in September that CMS was waiting to see how legislation on the matter turned out.

After passing the House of Representatives on Sept. 22, the legislation relaxing recoupment of AAPs passed the Senate on Sept. 30 and was signed into law by President **Trump** on Oct. 1, becoming Public Law No. 116-159.

"CMS's quick action to implement the recent congressional enactment of standards for recovering advance and accelerate payments in Medicare is a welcome action," National Association for Home Care & Hospice President **William Dombi** says in a release. "Postponing the collection for a full year and phasing in offsets against Medicare claims will very much help bring financial stability."

The new standards help providers avoid 100 percent immediate recoupment and a 10 percent interest rate if they couldn't repay the funds, notes Russano Koltse in online analysis.

For providers that are still struggling, CMS has made clear they can use one alternate funding source to help pay back AAPs. "To allow even more flexibility ... the \$175 billion issued in Provider Relief Funds can be used towards repayment of these Medicare loans," CMS says in the release.

Unfair? This clarification is "interesting," judges consulting firm The Health Group in Morgantown, West Virginia. "Providers that did not request or accept an advance payment would not be eligible for using Provider Relief Funds for payments of debt," The Health Group points out in its online newsletter. In contrast, "it appears those providers which requested and accepted advance payments could have debt essentially forgiven, or a portion forgiven," the firm highlights.

Your AAP Details To Go Public Soon

Keep in mind this may not be the last word in how CMS will handle recoupment of AAPs, especially with the takebacks scheduled five to six months away - and after the elections next month. "With the uncertainty of the future of the pandemic, we will continue to advocate that Congress consider forgiving repayment on these Medicare loans," Dombi notes.

CMS will also soon issue more information about the AAP loans. "Continuing the pattern of payment transparency adopted in connection with COVID-19 related federal funding, CMS is required to publish certain AAP data on its website by October 15, 2020, including payment amounts broken down by borrower type and by Medicare certification number," note attorneys **Mark Cunningham, Doug Griswold, and Jed Roebuck** with law firm Chambliss, Bahner in Stophel in Chattanooga, Tennessee, in online analysis.

At press time, CMS had not yet released that data as required by law.

Note: The four-page AAP repayment terms fact sheet is at www.cms.gov/files/document/accelerated-and-advanced-payments-fact-sheet.pdf.