



Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

Admin Info: 20-07-ALL

DATE: April 30, 2020
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Fiscal Year 2020 CARES Act Information

Memorandum Summary

- **CARES Act Funding:** Congress appropriated no less than \$100 million in supplemental funds to offset the costs associated with COVID-19 survey activities. This memorandum provides guidance to State Survey Agencies and Centers for Medicare & Medicaid Services (CMS) personnel in requesting, executing and reporting the supplemental funding.
- **Medicare Budget, Execution and Reporting:** Per DHHS guidance, COVID-19 funding and expenditures must be tracked, executed and reported separately. CMS intends to implement these functions in a manner similar to existing IMPACT Act hospice funding. Cost sharing will continue according to existing State practice.
- **Medicaid Budget, Execution and Reporting:** COVID-19 expenditures will be tracked and reported separately; however, funding will continue to be provided via traditional means in accordance with Medicaid rules. Cost sharing will continue according to existing State practice.

A. Overview – CARES Act Survey & Certification Requirements

The CARES Act (P.L. 116-136) was signed into law by President Trump on March 27, 2020. The legislation provided supplemental Medicare funding in the amount of \$100,000,000 to fund Survey and Certification activities related to COVID-19 response. Of this amount, we expect to provide State Survey Agencies (SAs) approximately \$81 million. This funding is available through September 30, 2023.

CMS will follow an annual budget and award process lasting each year through FY 2023. SA funding awards will be reconciled at the end of each year to ensure effective use of funds through its entire period of availability and will allow for fully justified, reasonable supplements, if needed.

For Medicare expenditures, CMS Headquarters (HQ) is implementing a process similar to the Hospice IMPACT budget processes to ensure that the CARES Act funds are able to be justified easily to allow for appropriate tracking while making the funds available to the State Agencies (SAs) as soon as possible. The process to receive these funds is detailed in section B. Cost sharing will continue according to existing State practice.

For Medicaid expenditures, COVID-19 expenditures will be tracked and reported separately; however, funding will continue to be provided via traditional means in accordance with Medicaid rules. Cost sharing will continue according to existing State practice.

B. Steps/Actions to obtain CARES Act funds for COVID-19 Survey Activities (All States)

1. *Request COVID-only budget requirements from SA's.*

SAs will need to submit a documented budget request to their CMS Location budget contacts detailing the basis behind the request including but not limited to the following information:

- The number of COVID-19 surveys;
- Cost per survey
- Personnel costs;
- Equipment costs;
- Fringe benefits and indirect costs;
- Other COVID-19 related costs.

These requests should be based upon a reasonable level of COVID-19 related work expected to be performed in each fiscal year, beginning with the last two quarters of FY 2020.

2. *CMS Location budget review (Within 1 week).*

Once these requests have been received by the CMS Location offices, the expectation is for an initial expedited review. We expect all CMS reviews to be completed within 1 week, including CMS HQ approval. In the event of outlier requests or other difficulties, CMS HQ will work with individual Locations on a case-by-case basis. Once the review by the CMS Location staff is complete, final recommendation and discussions will be held with HQ.

3. *CMS HQ budget approval and award notification (Locations and SA's).*

After completion of the discussions with the Location offices, COVID-19 budget awards will be processed into the SA Payment Management System (PMS) subaccount 2005XX50C3 ("XX" represents SA abbreviation) and a corresponding Title 18 CMS 640t budget document will be distributed. The Medicaid portion of COVID-19 costs will be awarded as per the standard Medicaid award process and Medicaid funds will be deposited in the regular Medicaid Subaccount.

4. *SA's input approved budget CMS 435 form into S&C/CLIA budget system.*

States should submit a mini CMS 435 – COVID-19 budget request into the S&C/CLIA budget system upon funding approval and 640t distribution. This submission needs to contain both the Medicare and Medicaid budgeted amounts for COVID-19 activities. This form will be needed to be able to input a CMS 435 –COVID-19 Cumulative form at the end of the FY as part of the annual reconciliation process.

5. *SA quarterly expenditure reporting, execution and Location monitoring.*

A quarterly mini CMS-435 COVID-19 report will need to be submitted, using the normal state cost allocation methodologies, along with the other standard CMS-435 quarterly submissions. Please note that the Medicare portion of the COVID-19 costs should **not be** included on the main CMS-435 form similar to the process of IMPACT funds, as these costs are from a separate funding source. CMS Locations will monitor, track and approve the SA submission of the mini CMS-435 COVID-19 report, as part of the other CMS-435 quarterly reports analysis.

6. *Supplemental COVID funding and expenditures reconciled at end of fiscal year.*

While these funds are available through the end of FY2023, the CARES Act funding amounts are awarded on an annual basis and thus must be closed out annually similar to the regular program management S&C funds and IMPACT funding. If a SA has a shortfall of CARES Act COVID-19 funding, then additional supplements from the available CARES Act funds will be awarded to cover the shortfall. However, if a SA has funds that were unexpended in the annual appropriated CARES Act funding amount, then the difference will be de-obligated and returned to the CARES Act COVID-19 account for redistribution in future years up to the end of FY2023.

The Medicaid portion of the annual reconciliation of any COVID-19 work will be reconciled as part of the traditional Medicaid award process.

C. Final Notes

The CARES Act provided funding for Survey & Certification to supplement the SAs in the effort to offset the costs associated with increased survey workload due to the COVID-19 pandemic. The funds are to be used for COVID-19 survey work and other costs incurred due to the need for increased protection from the virus, including:

- Prioritization of immediate jeopardy and focused infection control surveys.
- Completion of the backlog of pending recertification surveys created during this public health emergency.
- Complaint surveys related to infection control violations and associated sanctions, which are expected to increase considerably as a result of the Coronavirus outbreak.
- Increased volume of revisit surveys to provide greater oversight outside of compliant activity.

Please remember that all CARES Act funds need to be reported separately on the mini CMS 435 - COVID-19 form utilizing the standard cost allocation methodologies. However, these Medicare CARES Act funding amounts **should not** be included on the main CMS 435. If a State has any significant issues with its allocation, or has questions about the cost accounting, please communicate those promptly to your CMS Location Offices.

Contact: For general questions, please contact Bary Slovikosky at Bary.Slovikosky@cms.hhs.gov

Effective Date: Immediately. This information should be communicated to all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/

David R. Wright