**In This COVID-19 Update:**



# NHSN COVID-19 Retrospective Reporting to January 1st Optional

There has been some confusion as to whether retrospective reporting in NHSN COVID-19 module is required or not. AHCA has confirmed with CDC that it is optional to submit data back to January 1, 2020. CDC also stated that retrospective reporting was optional at the end of its pre-recorded NHSN training webinar yesterday (Tuesday, May 5). CDC is working on revisions to the NHSN guide and instructions to make this clearer. We are also expecting CMS to issue a memo this week that will answer several questions that have been raised about this requirement as well as the new resident, representative, family notification requirement.

**As a reminder, the new rule requires reporting starting last Friday, May 1, which must be done at least weekly**. This makes Friday, May 8 the end of the first reporting period.

AHCA continues to advocate for CMS to allow a grace period from enforcement due to the length of time necessary for nursing homes to gain access to NHSN as well as time needed to establish systems for reporting.

NHSN COVID-19 reporting is not required but optional for **assisted living communities**. Assisted living communities should follow specific state reporting requirements and can consult AHCA/NCAL's guidance on notifications.

AHCA has been in touch with CMS directly on behalf of our **ICF/IID providers** and whether this is optional for them. On the NHSN site, there is a category for LTC/DD, but the CMS rule itself does not list ICF/IID as a provider type. We will keep our ID/DD providers updated once we have more information to share.

Also, CDC is offering several live Q&A sessions for nursing homes between May 6-14. Details can be found on the CDC NHSN website. Scroll down to the training section.

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## DHHS Clarifies CARES Act Provider Relief Fund Questions

In the past weeks, AHCA/NCAL has submitted an array of questions on the Provider Relief Fund. Of particular importance, health care providers have expressed concern about interplay among the April 10 and 17 allocations with the second distribution that began on April 24. The primary concern has been that if a "gross receipts" methodology is applied across both tranches, providers might have to give back some of the money even if they have sufficient COVID-related expenses or lost revenues.

**Recently, the U.S Department of Health and Human Services (DHHS) staff has indicated they do not intend to recover Provider Relief Fund allocations unless:**

1. DHHS identifies an overpayment associated with revenue calculations which were incorrect based upon improper or incorrect information on the cost reports. DHHS also noted the Department is collecting tax filing information to be uploaded to verify the revenue. AHCA/NCAL recognizes the challenges associated with using tax filing information and is conveying those concerns to the Department; and
2. DHHS will pursue providers who cannot substantiate the costs/loss of revenue. AHCA/NCAL has developed a COVID-19 Loss/Cost Calculator (member login required).

## Background

DHHS based the April 10 and 17 allocations on a provider's 2019 Medicare fee-for-service claims data. Providers received approximately 6.2% of that amount with an intended total of $30 billion across the whole Medicare program. Of the $30 billion, $26 billion was distributed on April 10 and $4 billion on April 17.

On April 24, DHHS released the second tranche based on 2% of the providers "net patient revenue" for 2018. Use of the term "net patient revenue" created confusion while the attestation web portal notes "Gross Receipts or Sales." It appears, DHHS' intent is gross receipts as a tax return term which indicates revenue after deductions such as contractual allowances, which are customary in health care.

An additional concern associated with the attestation language is the term "overpayment." DHHS has indicated that "overpayment" is meant to address situations where fund distribution calculation is in error. Specifically, this portion of the requested data is intended to provide DHHS with data to account for misalignment of a Tranche 1 award with Medicare fee-for-service net revenues or Tranche 2 payments based on 2018 cost report data.

DHHS will be issuing an FAQ to clarify the Tranche 1 and 2 payment concerns and to address AHCA/NCAL questions such as Change in Ownership (CHOW) and problematic Tax Identification Number (TIN) scenarios (e.g., single TIN for multiple sources of revenue or businesses, no TIN if county owned, etc.). If they are unable to finalize the FAQ in time to have providers submit an attestation by the 30-day deadline, DHHS will extend the deadline.

## AHCA/NCAL Member Support

The Association will be developing an array of member support materials once DHHS releases the updated materials. These will include:

1. Strategies to Address DHHS Overpayment Scenarios Described in items 1 and 2, above;
2. Updated AHCA/NCAL Grant and Loan Management Guide; and
3. Provider Relief Fund Reporting Template.

Additionally, the Association will continue to pursue questions and concerns associated with using data such as tax filings.

Please email COVID19@ahca.org for additional questions, or visit ahcancal.org/coronavirus for more information.