Proskauer

**A Guide to Compliance Considerations for Health Care Providers**

**July 20, 2020**

# CARES Act, Payroll Protection, and Medicare Advance Payment Programs

*This document was last updated on July 20, 2020 to reflect changes made by the Department of Health and Human Services to its existing guidance.*

In response to widespread cash flow issues resulting from the COVID-19 public health emergency, Congress enacted two key pieces of legislation: the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act ("PPPHCEA"). This guide details the compliance and oversight implications stemming from health care providers' receipt of COVID-19-related grants and loans through the various CARES Act and PPPHCEA funding programs.

The terms and conditions, attestations, and other requirements attached to the receipt of such funds are rife with ambiguity and impose substantial burdens on providers to ensure the proper application for funds, as well as compliant receipt, distribution, and use-tracking of such funds.

These requirements present potentially significant financial and reputational risk to recipients whose resources are already stretched thin in responding to COVID-19.

We dissect key avenues through which COVID-19-related funds dispersed under the aforementioned statutes could be recouped from recipients, or serve as the basis for other government enforcement actions, mainly under the False Claims Act.

We elaborate on the most significant areas of potential recipient liability, with a focus on detailed compliance tips that providers can employ to minimize the risk of such liability for the three main programs under which providers will receive funds:

1. the Provider Relief Fund;
2. the Paycheck Protection Program; and
3. the Medicare Accelerated and Advance Payment Program.

The in-depth guide concludes with a list of concrete best practices for CARES Act and PPPHCEA related funding compliance.

**Related Professionals**

- **Edward S. Kornreich**
- **David Manko**
  Partner
- **Jason S. Madden**
  Partner