

An Overview of
**NEW AND IMPORTANT ACCOUNTING AND AUDITING
ISSUES RESULTING FROM THE PANDEMIC**

&

**FINANCIAL REPORTING DEVELOPMENTS THAT ALL
NOT-FOR-PROFIT ENTITIES SHOULD KNOW**

(Fiscal Year 2020)

Alan Duhaime, Audit Principal

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NOYES

TODAY'S PRESENTER



ALAN DUHAIME

Audit Principal

603.626.2240

aduhaime@bnn CPA.com

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TODAY'S OBJECTIVE



Provide

you with an update on federal programs and accounting and reporting changes impacting your organization for 2020, and share best practices to prepare, plan, respond, and comply.



Give

an overview of Uniform Guidance and Single Audits, Government Grant Accounting, PPP Loans, and new and upcoming accounting and reporting issues you should know.



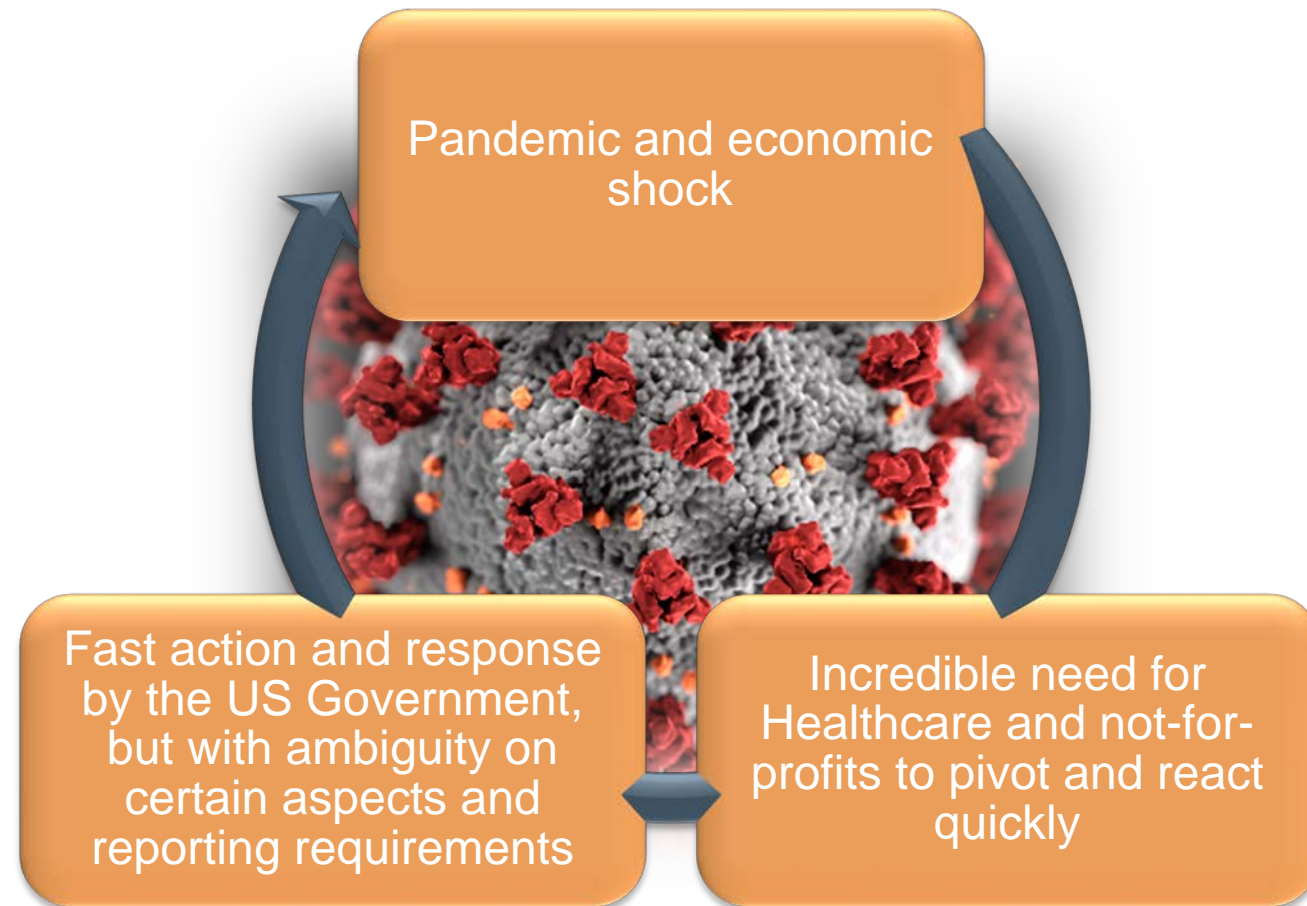
Talk

a bit about potential accounting and reporting issues you may be facing, and provide answers to your questions.

TODAY'S AGENDA

Topic	Time (minutes)
Introduction	2
UG Audit Overview and Preparation ; Certain CARES Act Issues	22
PPP Loans & Grant Accounting	9
Questions	5

UNIQUE AND CHALLENGING TIMES



SUMMARY OF SOME ASPECTS OF THE CARES ACT

(signed into Law in March 2020)

Provider Relief Funds



Qualifies as federal funding and triggered compliance audit requirements



Various distributions to health care providers starting in April 2020



Multiple CFDA's have been identified – they are summarized in a future slide in this presentation

Paycheck Protection Program Loans and Medicare Accelerated & Advanced Payment Programs

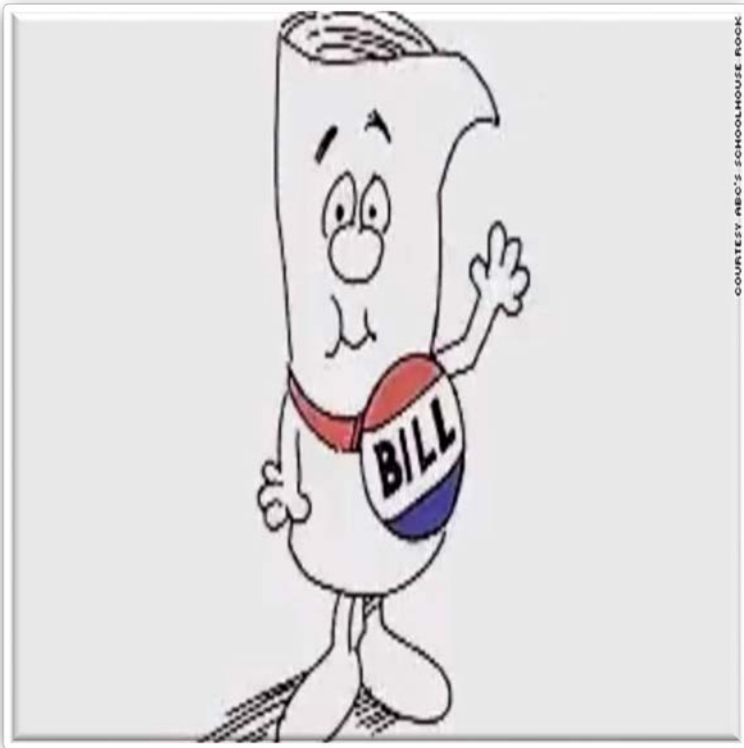


Not subject to compliance audit requirements



However, SBA may perform a separate audit over PPP loans and have indicated all loans over \$2 million will be subjected to full audit

WHAT IS A SINGLE AUDIT & UNIFORM GUIDANCE?



Act of Congress – the Single Audit Act Amendments signed into Law in 1996

Enacted to streamline and improve the effectiveness of audits of federal awards and to reduce the audit burden on states, local governments, and not-for-profit entities

Detailed implementation requirements for single audits contained in federal regulation

Uniform Guidance - Current regulation that implements the Single Audit Act

WHERE IS INFORMATION & GUIDANCE LOCATED

How to access the Uniform Guidance - Codified in Title 2 of CFR, Subtitle A, Chapter II, Part 200 (www.federalregister.gov)

How to access the Compliance Supplement - Office of Federal Financial Management (<https://www.whitehouse.gov/omb/management/office-federal-financial-management>)

Another good resource – AICPA Accounting and Auditing Guide – (<https://future.aicpa.org/cpe-learning/publication/government-auditing-standards-and-single-audits-audit-guide>)

SINGLE AUDIT REQUIREMENTS & PROGRAM SPECIFIC AUDIT OPTION



When is a single audit required?

- When a non-federal entity expends \$750,000 or more of federal awards (either direct or indirect awards) in their fiscal year
- Implications for a consolidated entity

What is a program specific audit?

A **program-specific audit** is allowed when the grantee or sub recipient expends federal awards under only one federal **program**.

Time for a polling question!

Do you anticipate being subjected to a single audit this year?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

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THANK YOU for your patience while we give everyone the opportunity to respond.

OBJECTIVES OF A SINGLE AUDIT

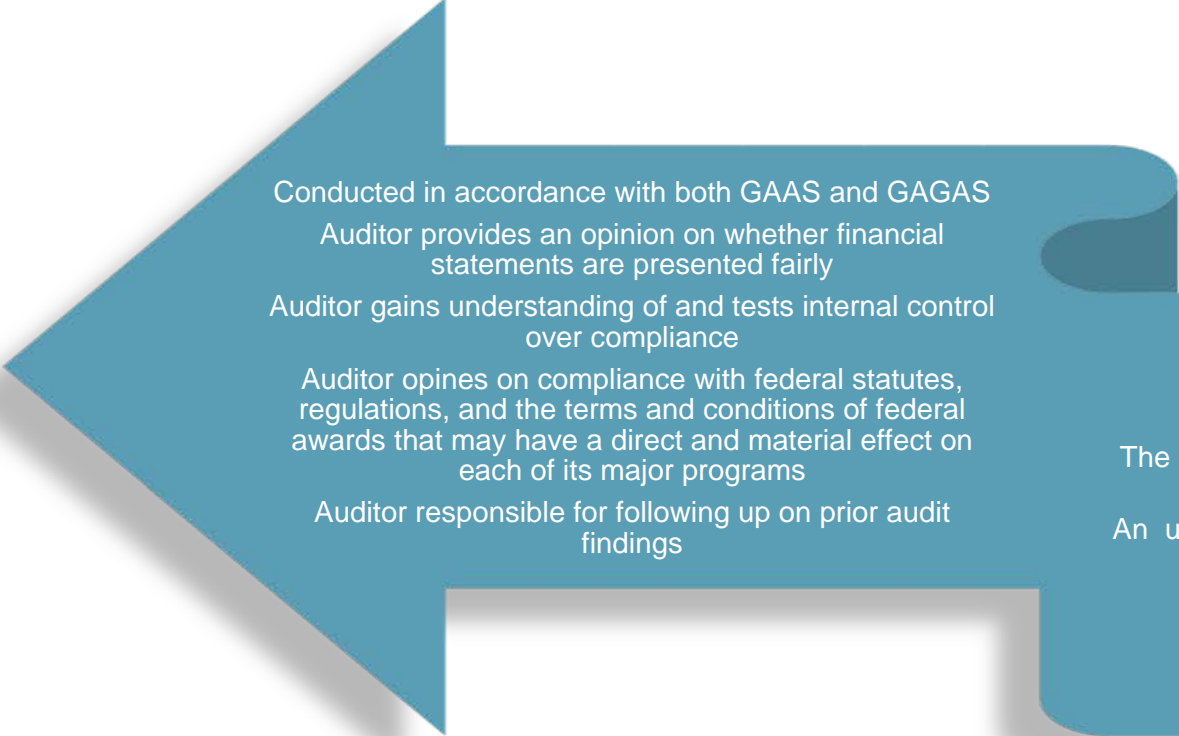
The main objective of a Single Audit is to determine if the entity has complied with direct and material compliance requirements for each major program

Are used by federal funding agencies and pass-through entities to assess organizations


Are used as a tool for federal agencies to address problems at the grantee level or to make broad changes/improvements to federal programs

Provide assurance to financial statement users regarding compliance and information about a non-federal entity's internal control over compliance

SCOPE OF A SINGLE AUDIT



Conducted in accordance with both GAAS and GAGAS
Auditor provides an opinion on whether financial statements are presented fairly
Auditor gains understanding of and tests internal control over compliance
Auditor opines on compliance with federal statutes, regulations, and the terms and conditions of federal awards that may have a direct and material effect on each of its major programs
Auditor responsible for following up on prior audit findings



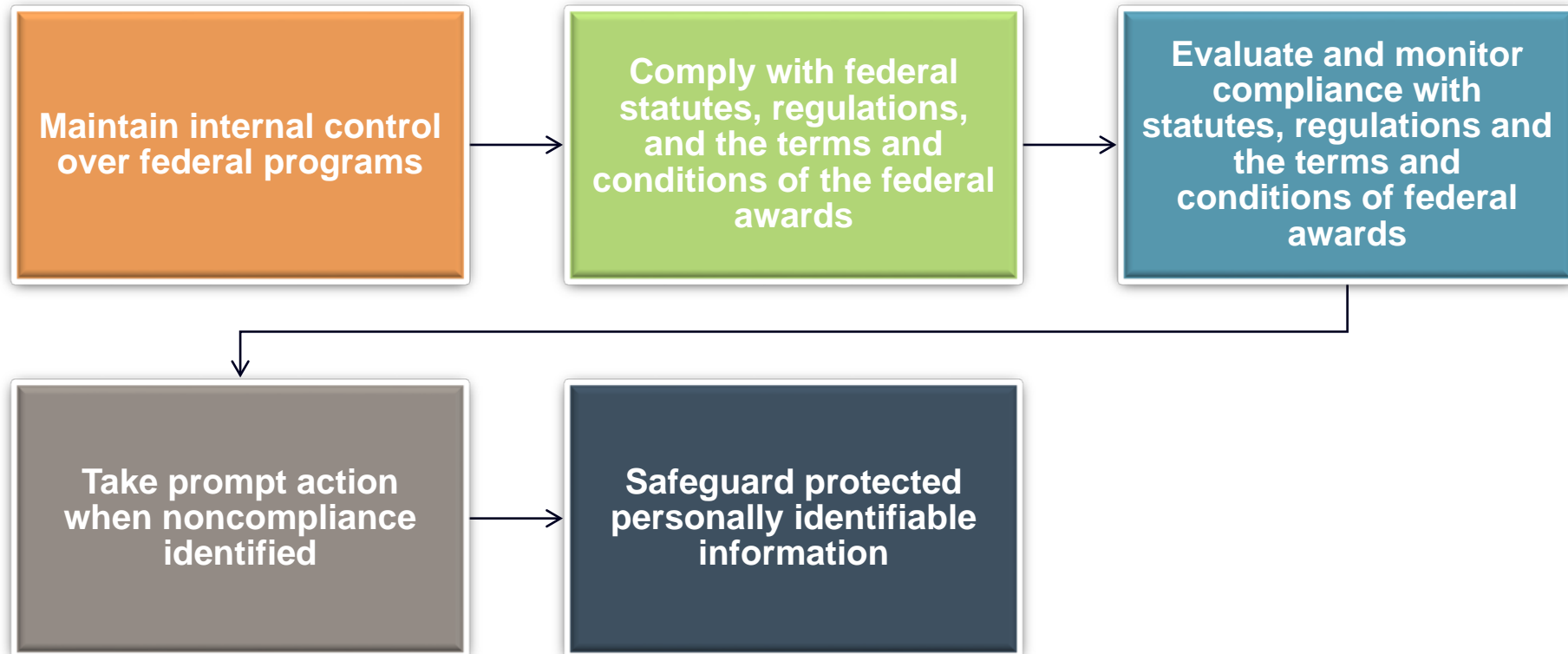
The government is still in the process of issuing the guidance for many of the new CARES act specific grants.
An updated compliance supplement with guidance is expected in the fall.

AUDITEE RESPONSIBILITIES

- Auditee responsibilities include identifying federal awards and arranging for the single audit.
- Auditee is required to ensure the single audit is performed and submitted timely
- Auditee is required to prepare the Schedule of Expenditures of Federal Awards (SEFA) accurately and timely and to follow up and take corrective action on audit findings
- Auditee is required to prepare a Corrective action plan to address findings
- Auditee is required to provide the auditor with access to the following:



AUDITEE RESPONSIBILITIES (CONTINUED)



TIMING REQUIREMENTS

Audit must be performed annually (AICPA request for extension in process)

Biennial audits allowed under limited circumstances

Must be submitted to the Federal Audit Clearing House (FAC) within the earlier of 30 days after receipt of the auditor's reports or 9 months after the end of the audit period (has been extended for some and hopefully will be extended for June 30, September 30 year ends)

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (SEFA)

SEFA Prepared by management; It should be reconciled to accounting and other records used in preparing the financial statements or the financial statements themselves

Auditor uses the schedule to base the performance of risk assessments and selection of major programs.
Completeness and accuracy are critical to avoid missed programs

Auditor issues an opinion as to whether the SEFA is fairly stated in all material respects in relation to the financial statements as a whole (referred to as in-relation-to opinion)

In-relation-to opinion not same as an “audit” opinion
Auditor is responsible for determining whether auditee includes all required SEFA elements

A large open question relative to Provider relief funds remains unanswered and needs clarification. How do forgone revenues get reported?

SEFA REQUIRED ELEMENTS

List individual federal programs by federal agency

For a cluster of programs, provide the following:

- cluster name
- individual federal programs within the cluster of awards expended must be shown either by federal award or by federal agency and
- major subdivision within the federal agency

For federal awards received as a sub recipient, provide the following:

- The name of the pass through entity and identifying number assigned by the pass through entity
- Total federal awards expended for each individual federal program and the CFDA number or other identifying number when CFDA not available
- For a cluster of programs also provide the total for the cluster
- Include the total amount provided to sub recipients from each federal program

Time for another polling question!

Do your internal systems and controls appropriately track federal funds and can you easily identify them?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

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SEFA EXAMPLES, TOOLS, & CHECKLISTS

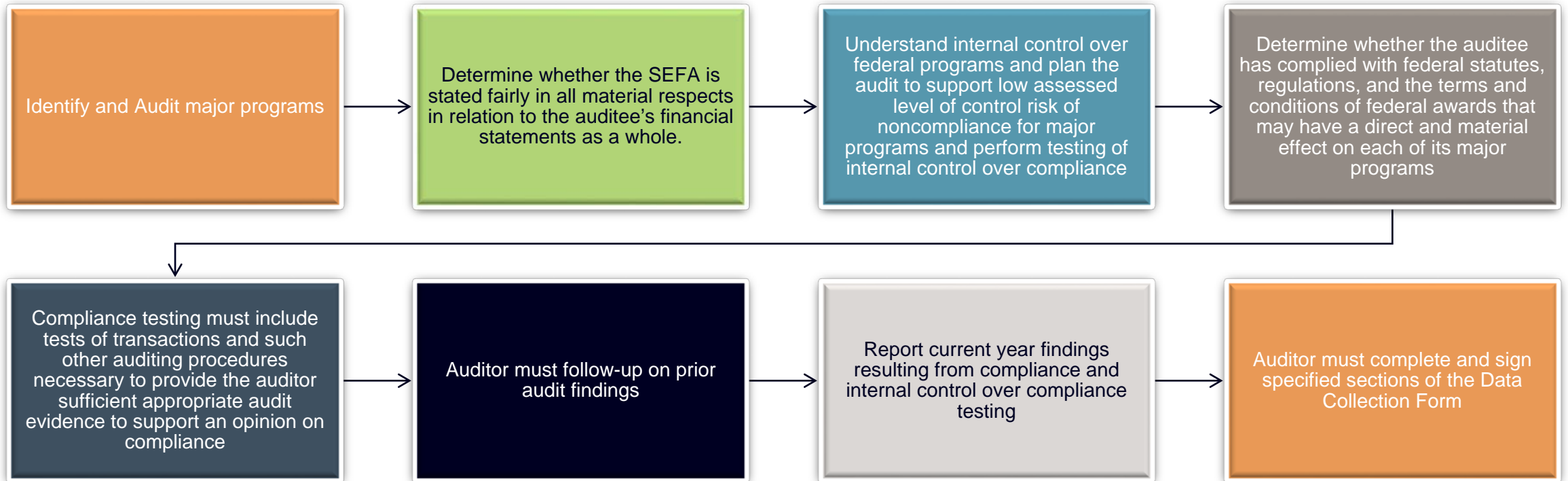
- **AICPA Auditee SEFA Practice Aid.** The GAQC Practice Aid titled, ***Auditee Practice Aids: The Schedule of Expenditures of Federal Awards***, assists auditees in their important role of preparing the SEFA and ensuring it includes all required elements and is prepared accurately and completely. The Practice Aid reflects the requirements of the Uniform Guidance and includes two different auditee tools within the document. The first assists auditees in accumulating information about their federal programs and the second is a disclosure checklist.

(<https://www.aicpa.org/content/dam/aicpa/interestareas/governmentalauditquality/resources/singleaudit/uniformguidanceforfederalrewards/downloadabledocuments/auditee-practice-aids-sefa-uniform-guidance.pdf>).

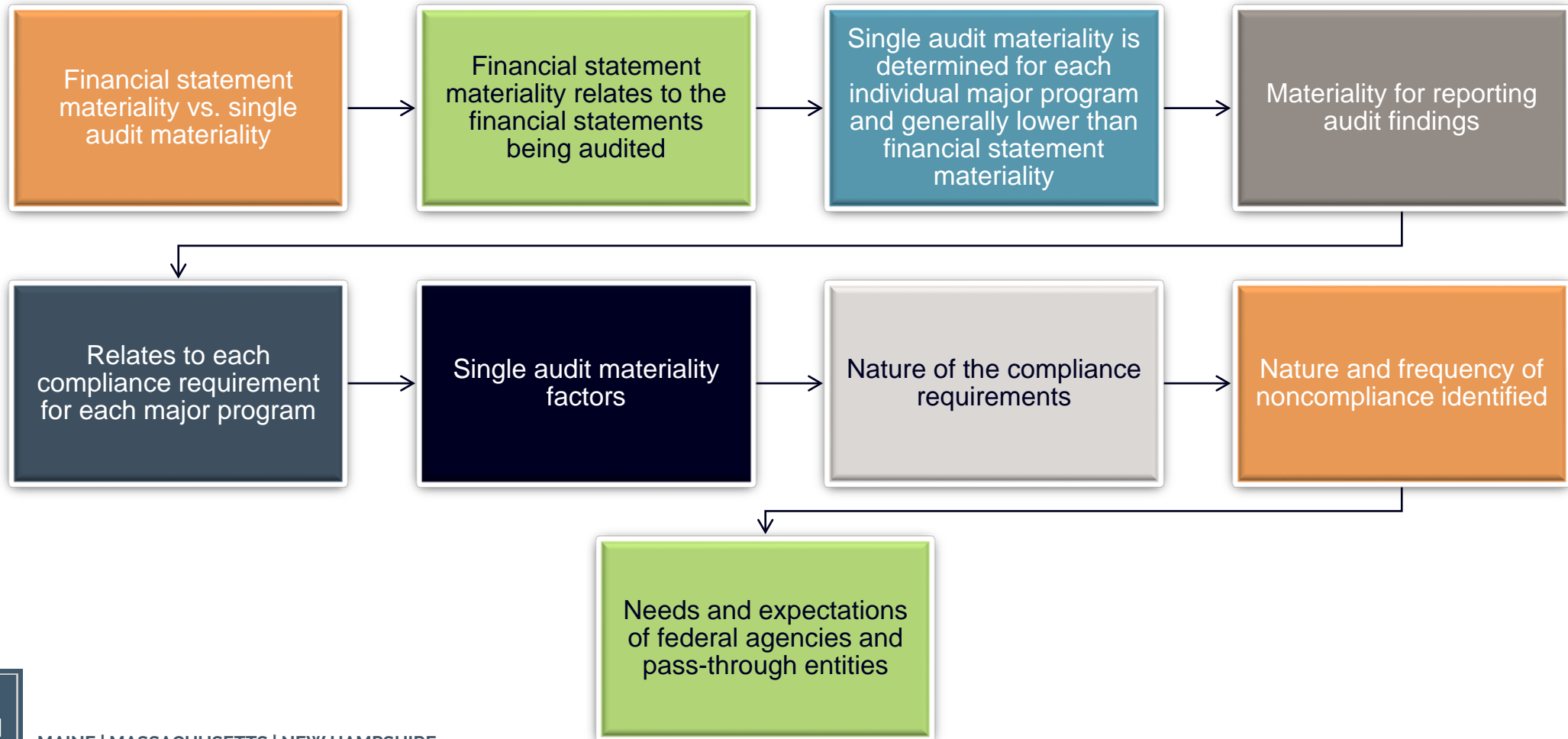
- See also the Government Audit Quality Resource Center (<https://www.aicpa.org/interestareas/governmentalauditquality/resources/auditeeresourcecenter.html>) for additional auditee information.



AUDITOR RESPONSIBILITIES



MATERIALITY IN A SINGLE AUDIT



SUBMISSION PROCESS AND REQUIREMENTS

Auditor's report on the financial statements of the organization

Auditor's in-relation-to reporting on the SEFA

Organization's financial statements

Organization's SEFA

Auditor's report(s) on internal control over financial reporting and on compliance and other matters to meet GAGAS requirements

Auditor's report on compliance and internal control over compliance

Major programs

Auditor's schedule of findings and questioned costs

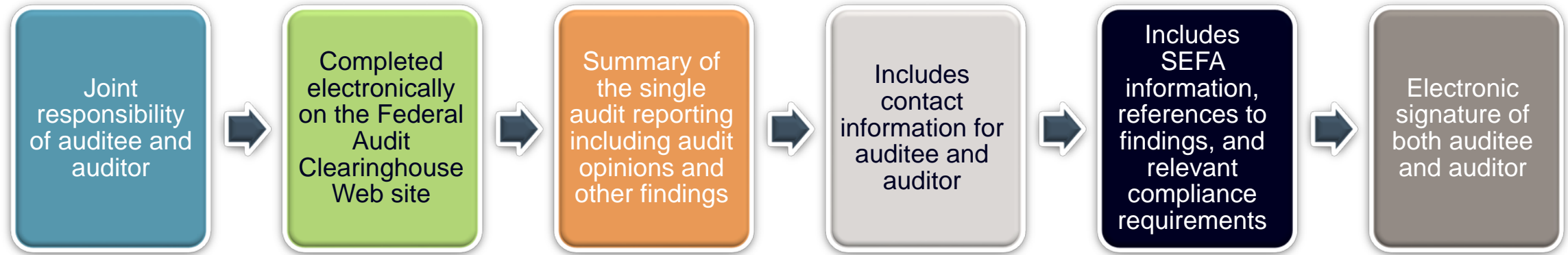
Includes summary of auditor results and findings

Entity's summary schedule of prior audit findings

Entity's corrective action plan

The reporting package and a form summarizing the audit (DCF – see next slide) are submitted electronically to the FAC

DATA COLLECTION FORM (DCF)



CARES ACT PROGRAMS

Assistance Listing number (also referred to as CFDA#) and federal agency name	Assistance Listing title or description and link to https://beta.sam.gov/ section	Does the Assistance listing indicate that UG applies?
59.073 (Small Business Administration (SBA))	Payment Protection Program (PPP)	No
93.498 (Health and Human Services (HHS))	Provider Relief Fund	Yes
21.019 (Treasury)	Coronavirus Relief Fund (CRF)	Yes
84.425 (Education)	Education Stabilization Fund which is comprised of Education Stabilization Fund	Yes
10.130 (Agriculture)	Coronavirus Food Assistance Program (CFAP)	No
16.034 (Justice)	Coronavirus Emergency Supplemental Funding Program	Yes
21.018 (Treasury)	Coronavirus Relief - Pandemic Relief for Aviation Workers	No
32.006 (Federal Communications Commission or FCC)	COVID-19 Telehealth Program	Yes
59.072 (SBA)	Economic Injury Disaster Loan Emergency Advance	No

CARES ACT PROGRAMS (CONTINUED)

Assistance Listing number (also referred to as CFDA#) and federal agency name	Assistance Listing title or description and link to https://beta.sam.gov/ section	Does the Assistance listing indicate that UG applies?
59.008 (SBA)	Disaster Assistance Loans (Economic Injury Disaster Loans)	Yes
59.074 (SBA)	Office of Entrepreneurial Development (OED) Resource Partners Training Portal (RPTP)	No
84.184C (Education)	NEW 7/21/20: CARES Act Project SERV	Yes
93.461 (HHS)	Uninsured COVID Testing and Treatment	Yes
93.527 (HHS)	Grants for New and Expanded Services under the Health Center Program	Yes
93.665 (HHS)	Emergency Grants to Address Mental and Substance Use Disorders During COVID-19	Yes
93.697 (HHS)	Rural Health Clinic Testing	Yes

PROVIDER RELIEF FUNDS

- Advanced Payments – liability reporting
- HHS September 19th rule changes
 - Lost revenues to lost margins
 - Calendar year measurements
- HHS October 22nd rule changes
 - Voices heard! Reverts back to lost revenues
 - issues that need further clarity remain



AICPA COMMENT LETTER AND KEY ISSUES THAT NEED TO BE ADDRESSED

Provider Relief Fund (PRF) Section Not Workable in Current Form. If this program section remains as is, without addressing the concept of lost revenue in enough detail so that it can be audited, our members reviewing this program section believe they would not be able to express an opinion on the program. Lost revenue is a critical aspect of the PRF program and is a concept that is also new to recipients and auditors in the single audit realm. On September 19, 2020, the U.S. Department of Health and Human Services (HHS) issued reporting guidance to clarify how lost revenue will be reported to HHS that is directly contradictory to Frequently Asked Questions (FAQs) that HHS previously issued on this topic. The draft Supplement section is completely silent on the new reporting guidance and lost revenue in general. Stated simply, the new HHS guidance bases the calculation of lost revenue on a year-over-year calendar year change in net operating income. Based on this new guidance, we are very unclear what a recipient with a year-end prior to December 31, 2020 (and there are many recipients in this situation) would report for lost revenue on its schedule of expenditures of federal awards (SEFA). HHS needs to address this directly, so auditors understand whether recipients have appropriately calculated total expenditures/lost revenue subject to audit. This is also critical for purposes of determining whether the threshold for a single audit has been met by a recipient, and for determining the type A/B thresholds and the array of major programs to be audited. Finally, this section should also be revised to include an “other information” section clarifying how lost revenues should be reported on the SEFA. For example, should it be broken out separately from expenditures? Since lost revenue is a new concept, this is also important information for recipients and auditors.



AICPA COMMENT LETTER AND KEY ISSUES THAT NEED TO BE ADDRESSED

Treatment of Donated Personal Protective Equipment (PPE) Needs to be Addressed. We understand from discussions with Federal Emergency Management Agency (FEMA) staff that donated PPE from a federal source is to be considered a federal program that is subject to single audit. However, we believe this fact has not been communicated broadly to recipients and auditors in any formal way. It is also not clear how recipients would find this information as there is no Assistance Listing number that we are aware of, nor any detailed information in beta.sam.gov. FEMA should be required to include a section in the addendum that, at a minimum, discusses donated PPE and states that it is subject to single audit. Our members were also unsure about the types of procedures an auditor would do to test and opine on donated PPE so FEMA staff should be encouraged to address that in some detail as well. However, at this late stage, even including something at a fairly high level would be better than not addressing it at all. The consideration of donated PPE as a federal program will also affect what is included on the SEFA, which is important for purposes of determining whether the threshold for a single audit has been met by a recipient, and for determining the type A/B thresholds and the array of major programs to be audited.



PROVIDER RELIEF FUNDS

- For entities that have both Provider Relief Funds and PPP Loans (and other Federal Programs)– the Inter-relation between multiple awards needs clarity
- The important thing is to work with your BNN advisor during this period of ambiguity. Things change and evolve quickly!



Time for another polling question!

If you have received provider relief funds, do the rule changes as you preliminarily evaluate require any repayment?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

PPP OVERVIEW AND REMINDERS

Paycheck Protection Program

As part of the CARES Act, the Small Business Administration (SBA) received funding and authority to establish a new loan program to assist small businesses impacted by COVID-19



These loans are 100% guaranteed by the SBA



The full amount of principal and interest may qualify for loan forgiveness

PPP OVERVIEW AND REMINDER

(continued)

What payments are covered during the covered period?

- Payroll costs
- Interest on a mortgage on real or personal property incurred before February 15, 2020 (does not include any prepayment or payment of principal)
- Rent for a lease in force before February 15, 2020
- Certain utilities (electricity, gas, water, transportation, telephone, or internet access) for which service started before February 15, 2020

GOVERNMENT GRANT & PROGRAM ACCOUNTING

The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided an estimated \$2.2 trillion to fight the COVID-19 pandemic and stimulate the US economy



Accounting for PPP proceeds



Because the legal form of a PPP loan is debt, it will always be appropriate for an entity that receives such a loan to account for it as debt under Accounting Standards Codification (ASC) 470, regardless of whether the entity expects the loan to be forgiven.

However, an entity that expects to meet the PPP's eligibility and loan forgiveness criteria may elect to account for the proceeds as akin to a government grant (we don't recommend this).

An entity that does not expect to meet the PPP eligibility and loan forgiveness criteria must account for the proceeds as debt.

PPP LOAN ACCOUNTING POLICY ELECTIONS

Potential Events	For-profit entities	Not-for-profit entities
When the entity determines it did not qualify for the loan	ASC 470, <i>Debt</i>	
When the entity does not expect to meet the conditions for forgiveness of some or all of the loan	Debt accounting for the portion of the loan for which you do not expect to meet the forgiveness conditions (see applicable accounting models below for the portion for which you expect to meet the forgiveness conditions)	
When the entity determines that it does qualify for the loan and expects to meet the conditions for forgiveness of the loan	ASC 470 or any of the following by analogy: <ul style="list-style-type: none"> • IAS 20, <i>Accounting for Government Grants and Disclosure of Government Assistance</i> • ASC 958-605, <i>Not-for-Profit Entities – Revenue</i> • ASC 450-30, <i>Gain Contingencies</i> 	ASC 470 or ASC 958-605

PPP LOAN ACCOUNTING POLICY ELECTIONS (continued)

There is no US GAAP guidance for for-profit business entities that receive government grants that are not in the form of a tax credit or revenue from a contract with a customer. As such, business entities will need to determine the appropriate accounting treatment by analogy to other guidance. However, an entity that accounts for PPP proceeds or other government awards as a government grant will need to continually reassess its ability to meet the forgiveness conditions, and *it may have to reverse income if it can no longer support a conclusion that it expects to meet the conditions.*

PPP ACCOUNTING – CASH FLOWS

- **Question:** How are PPP loans presented on the statement of cash flows?
- **Answer:** When applying the debt model, the initial proceeds are cash flows from financing activities and forgiveness of the loan is a *noncash financing activity*. When applying the conditional contribution model, the initial proceeds and recognition should be reflected in cash flows from operations through a change in the refundable advance liability.



PPP ACCOUNTING – STATEMENT OF ACTIVITIES

- **Question:** In the statement of activities, where would NFPs present PPP contribution revenue (other acceptable terms include PPP grant, PPP loan forgiveness income, PPP loan income, among others)?
- **Answer:** FASB ASC 958-205, *Not-for-Profit Entities: Presentation of Financial Statements*, specifically FASB ASC 958-205-55-11, provides guidance on the sequencing of items in the statement of activities. That guidance provides a degree of flexibility in arranging items of revenue, expenses, gains and losses, and reclassification of net assets.

PPP COVERED PERIOD

Initially an 8 week period from date of receipt of funds, extended to a 24 week period

Or somewhere in between when you see full forgiveness

LOAN FORGIVENESS APPLICATION PROCESS & TIMELINES

- To receive loan forgiveness, a borrower must complete and submit the Loan Forgiveness Application to its lender.
- As a general matter, the lender will review the application and make a decision regarding loan forgiveness.
- The lender has 60 days from receipt of a complete application to issue a decision to SBA.
- If the lender determines that the borrower is entitled to forgiveness of some or all of the amount applied for under the statute and applicable regulations, the lender must request payment from SBA at the time the lender issues its decision to SBA.
- SBA will, subject to any SBA review of the loan or loan application, remit the appropriate forgiveness amount to the lender, plus any interest accrued through the date of payment, not later than 90 days after the lender issues its decision.



LOAN FORGIVENESS APPLICATION PROCESS & TIMELINES (continued)

The lender is responsible for notifying the borrower of the forgiveness amount. If only a portion of the loan is forgiven, or if the forgiveness request is denied, any remaining balance due on the loan must be repaid by the borrower on or before the two-year maturity of the loan.

If the amount remitted by SBA to the lender exceeds the remaining principal balance of the PPP loan (because the borrower made scheduled payments on the loan after the initial deferment period), the lender must remit the excess amount, including accrued interest, to the borrower.

As of last Friday, 11% of recipients have started the forgiveness application process. Of those, 28% have been submitted. Of those, 29% have been approved and 71% pending.

It's Expected 40% of loans will seek forgiveness by the end of the year, with the rest coming in 2021.



PPP STEPS FOR APPLYING FOR FORGIVENESS

Applications for forgiveness must be submitted to the lender and will need to include all of the appropriate supporting documentation

Forgiveness is ultimately subject to the lender's approval based on certifications and documentation provided

The rules allow for the lender to request any documentation that is deemed necessary in making their determination

Lender must determine forgiveness within 60 days of receiving the application

PPP FORGIVENESS DOCUMENTATION REQUIREMENTS

- Streamlined process for loans <\$50k.
- Bills in congress for streamlining loans of \$150,000 or less if the borrower submits a simple, one-page attestation form to the lender. (The approximately 4.2 million PPP loans of \$150,000 or less account for 85% of all PPP approved loans)
- Borrowers are strongly encouraged to record and track all funds expended under the program separately.
- Borrowers should expect to provide the following to their lenders:

Documents verifying the FTE employee headcount and individual pay rates during the covered period. Examples include-

- 3rd party payroll reports
- Payroll tax reported to IRS
- Unemployment insurance filings
- Canceled checks, etc.

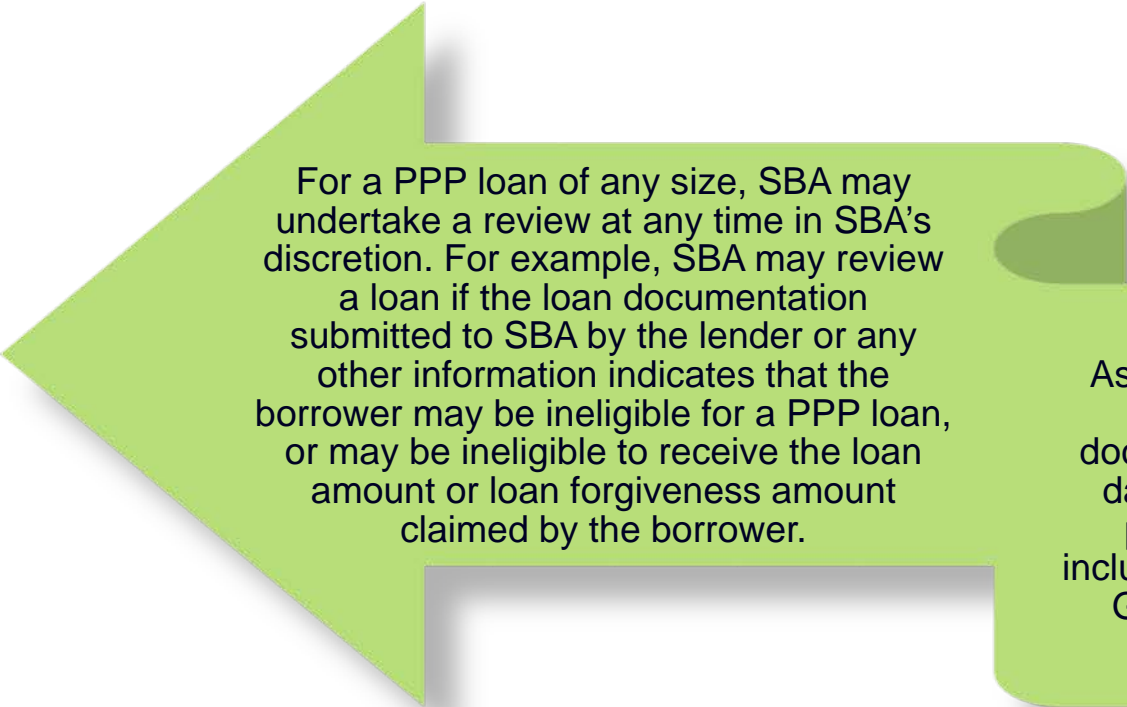
Payments made during the covered period for non-payroll costs (interest, rent, utilities, etc.). Examples include-

- Canceled checks
- Utility receipts
- Lease payment receipts
- Bank account statements

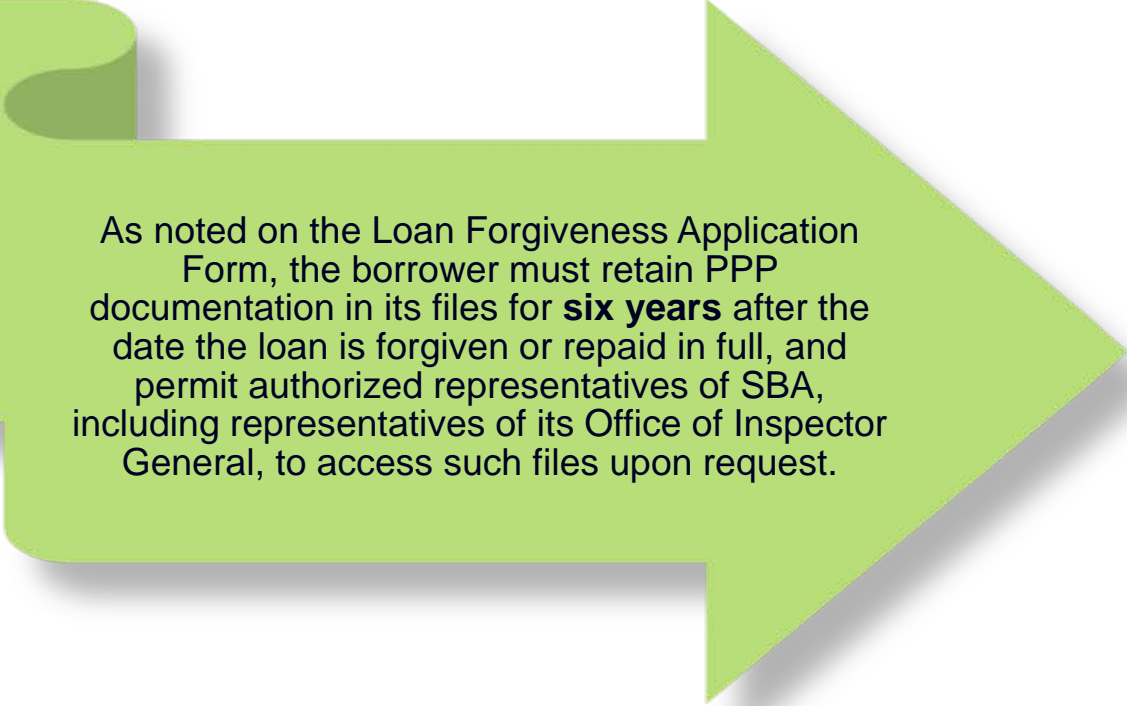
A certification that the documents and evidence provided are true and correct, and that the amount which is to be forgiven is used for the allowed expenses

PPP FORGIVENESS DOCUMENTATION REQUIREMENTS (continued)

When will the SBA review?



For a PPP loan of any size, SBA may undertake a review at any time in SBA's discretion. For example, SBA may review a loan if the loan documentation submitted to SBA by the lender or any other information indicates that the borrower may be ineligible for a PPP loan, or may be ineligible to receive the loan amount or loan forgiveness amount claimed by the borrower.



As noted on the Loan Forgiveness Application Form, the borrower must retain PPP documentation in its files for **six years** after the date the loan is forgiven or repaid in full, and permit authorized representatives of SBA, including representatives of its Office of Inspector General, to access such files upon request.

PPP FORGIVENESS DOCUMENTATION REQUIREMENTS (continued)

SBA Review

If the SBA reviews the loan and determines during the course of its review that the borrower was ineligible for the PPP loan, the loan will not be eligible for forgiveness. A borrower may appeal this determination.

Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed to have made the required certification concerning the necessity of the loan request in good faith.

All loans in excess of \$2 million will be subject to review.

If the SBA determines that the borrower lacked an adequate basis for the required certification concerning the necessity of the loan request, the SBA will seek repayment of the outstanding PPP loan balance and will inform the lender that the borrower is not eligible for forgiveness.

If the borrower repays the loan after receiving notification from the SBA, the SBA will not pursue administrative enforcement or referrals to other agencies.



THE LOAN ADMINISTRATOR IS AUTHORIZED TO REVIEW THE FOLLOWING

- Whether a borrower is eligible for the PPP loan based on the provisions of the CARES Act, the rules and guidance available at the time of the borrower's PPP loan application, and the terms of the borrower's loan application. These include the information, certifications, and representations on the Borrower Application and Loan Forgiveness Application Form.
- Whether a borrower calculated the loan amount correctly and used loan proceeds for the allowable uses specified in the CARES Act.
- Whether a borrower is entitled to loan forgiveness in the amount claimed on the borrower's Loan Forgiveness Application.



PPP FORGIVENESS TOOLS

Complete a PPP Loan Forgiveness Application — Faster, for Free and with Less Paperwork

<https://www.pppforgivenessstool.com/>

There are areas where additional guidance from the Treasury and SBA is needed to calculate PPP forgiveness. Borrowers can still get their applications started while waiting on additional guidance. Once additional guidance is released, PPPForgivenessTool.com will be updated to reflect the new rules and we will contact borrowers who have started applications on the tool. We recommend borrowers begin an application and wait for additional guidance before generating the final signed SBA Form 3508.

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Here's our last polling question!

Have you applied for PPP loan forgiveness yet if you received a loan?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

FINAL REMINDER - WHAT SHOULD YOU BE DOING NOW



Review award agreements and applicable information to ensure policies and procedures are adopted and are in compliance with federal guidelines



Understand the terms, conditions, and requirements of the grants as well as the FAQ's issued by government agencies such as HHS



Ensure transaction cycle controls are documented, in place and can be verified



Ensure any reports that are submitted have auditable documentation



Track expenses, lost revenues and any other applicable information

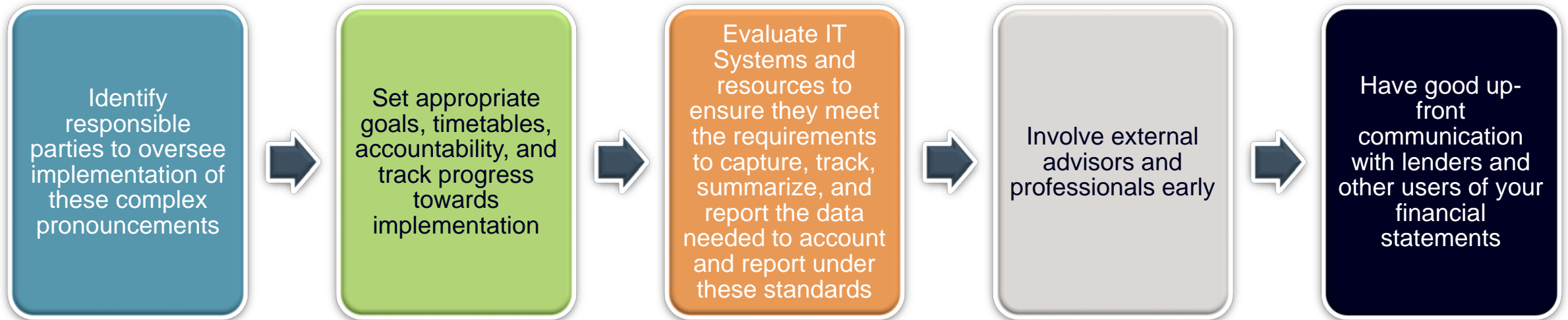


Stay on top of published clarifications (for example changing rules and periods for provider relief funds published in September and new calendar year measurements)



Start planning for an audit of the applicable award(s)

MORE STEPS TO TAKE IN THIS CHANGING ENVIRONMENT



OTHER AUDITING AND REPORTING

Look for New Reporting Requirements by Auditors of Critical Audit Matters(CAMs) or Key Audit Matters (KAMs)



New Auditor Reporting Standards and Opinion

THOUGHT LEADERSHIP



We publish a variety of service and industry-related newsletters and blogs, including our BNN Briefing, which includes audit, tax and general business updates. For more information, visit www.bnn CPA.com/resources.



Questions?

Thank you for your time

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CARES Act Funding

*Denis Houle, Senior Manager
Healthcare Advisory Group*

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Today's Presenter



Denis Houle

Healthcare Advisory Senior Manager
dhoule@bnn CPA.com

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

- Paycheck Protection Program
- Economic Injury Disaster Loans
- Pandemic Unemployment Insurance
- Tax Changes and Credits
- Borrowing From Retirement Plans
- **Health Care**
- Economic Stabilization
- State and Local Government Relief Fund
- Earmarked Spending



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

- **Health Care**

- **Managed by Health and Human Services (HHS)**

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



Medicare Advance Payments

- Intended to provide necessary funds when there is a disruption in claims submission and/or claims processing.
 - CMS can also offer these payments in circumstances such as national emergencies, or natural disasters in order to accelerate cash flow to the impacted health care providers and suppliers.
 - On March 28 2020, CMS expanded the existing program to a broader group of Medicare Part A providers and Part B suppliers.
 - The CARES Act amended the existing program to provide additional benefits and flexibilities, including extended repayment timeframes.
-
- <https://www.cms.gov/files/document/Accelerated-and-Advanced-Payments-Fact-Sheet.pdf>
 - <https://www.cms.gov/files/document/covid-advance-accelerated-payment-faqs.pdf>



Medicare Advance Payments

- Eligibility: To qualify for advance/accelerated payments the provider/supplier must:
- Have billed Medicare for claims within 180 days immediately prior to the date of signature on the provider's/supplier's request form,
- Not be in bankruptcy,
- Not be under active medical review or program integrity investigation, and
- Not have any outstanding delinquent Medicare overpayments.

MEDICARE



Medicare Advance Payments

Amount of Payment: Qualified providers/suppliers will be asked to request a specific amount using an Accelerated Payment Request form provided on each MAC's website.

Most providers and suppliers will be able to request up to 100% of the Medicare payment amount for a three-month period.

Inpatient acute care hospitals, children's hospitals, and certain cancer hospitals are able to request up to 100% of the Medicare payment amount for a six-month period.

Critical access hospitals (CAH) can request up to 125% of their payment amount for a six-month period.



Medicare Advance Payments

Repayment and Reconciliation:

Continuing Appropriations Act, 2021 and Other Extensions Act, enacted on October 1, 2020 amended the repayment terms for **all** providers and suppliers as follows:

- Providers and suppliers are not required to repay advanced payments until one year after the payment was issued.
- For the first eleven months after repayment begins, repayment will occur through an automatic recoupment of 25%.
- At the end of the eleventh month period, recoupment increases to 50% for six months.
- At the end of the six months (29 months from payment date), the MAC will issue a letter for full repayment of any remaining balance.



Medicare Advance Payments

Repayment and Reconciliation continued:

- If payment is not received within 30 days, interest will accrue at the rate of 4% from the date the letter was issued.
- Extended repayment schedule can be requested for balance

PIP Providers:

- Same process & timeline now applies to PIP providers.
- Once the repayment process begins, the bi-weekly payments and any other payments made to PIP providers will be offset.
- Payments will not be included in the reconciliation and settlement of final cost reports.



Medicare Advance Payments

Repayment and Reconciliation continued:

Example



April 1, 2020 – date of Medicare Advance Payment

- 12 months – no payment required
- 11 months – April 1, 2021 automatic withholdings at 25%
- 6 months – March 1, 2022 automatic withholdings increase to 50%
- 29 months total – September 1, 2022 MAC issues repayment letter

Time for a polling question!

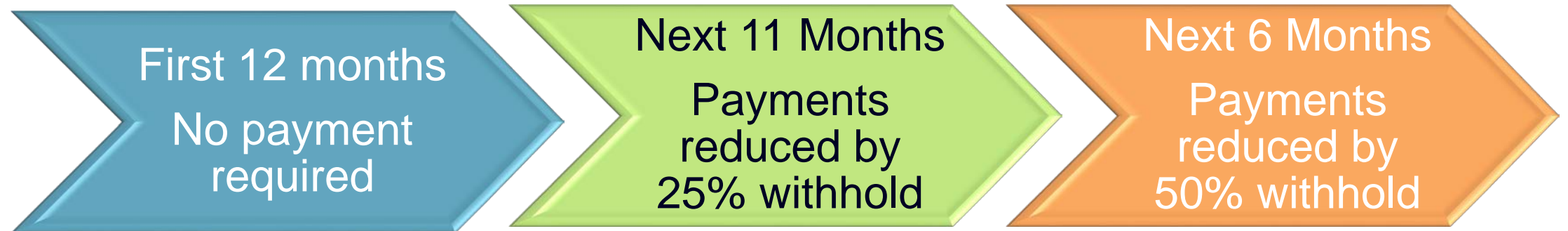
How long do providers have to repay CMS before interest begins?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

Medicare Advance Payments



Timeline

April

- April 10 - April 17 (General Distribution: First Round)
- April 24 (General Distribution: Second Round)

May

- May 6 (Rural Distribution)
- May 7 (High-Impact Distribution: First Round)
- May 22 (Allocation for Skilled Nursing Facilities)
- May 29 (Allocation for Tribal Hospitals, Clinics, and Urban Health Centers)

June

- June 3 (Phase 1 General Distribution)
- June 9 (Phase 2 General Distribution & Safety Net Hospitals Distribution)
- June 15 (Second Round High-Impact Distribution)

Timeline (continued)

July

- July 10 (Safety Net Hospital Distribution & Specialty Rural Providers)
- July 17 (Second Round of High-Impact Distribution)

August

- August 7 (Allocation for Nursing Homes)
- August 14 (Children's Hospital Distribution)
- August 27 (Nursing Home Distribution)

September

- Sept 1 (Phase 2 General Distribution for Assisted Living Facilities)
- Sept 3 (Nursing Home Incentive Payment Plans)

October

- October 1 (Phase 3 General Distribution Announcement)

Phase 1 General Distribution

\$50 billion is allocated proportional to providers' share of 2018 net patient revenue. The allocation methodology is designed to provide relief to providers, who bill Medicare fee-for-service, with at least 2% of that provider's net patient revenue regardless of the provider's payer mix.

Payments are determined based on the lesser of 2% of a provider's 2018 (or most recent complete tax year) net patient revenue or the sum of incurred losses for March and April.

Total Amount	Recipients
Initial \$30 billion	Nearly 320,000 providers who bill for Medicare fee-for-service
Additional \$20 billion	Nearly 15,000 providers who bill for Medicare fee-for-service

Phase 1 General Distribution

- All facilities and providers that received Medicare fee-for-service (FFS) reimbursements in 2019 are eligible for this initial rapid distribution.
- All relief payments are made to the billing organization according to its Taxpayer Identification Number (TIN).
- Payments to practices that are part of larger medical groups will be sent to the group's central billing office.
- If you ceased operation as a result of the COVID-19 pandemic, you are still eligible to receive funds so long as you provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19. Care does not have to be specific to treating COVID-19.
- HHS broadly views every patient as a possible case of COVID-19.

\$50 Billion General Distribution	
Distribution & Eligibility	Formulas to Determine Allocation
Initial \$30 billion Automatic based on provider's share of Medicare fee-for-service reimbursements in 2019	Payment Allocation per Provider = (Provider's 2019 Medicare Fee-For-Service Payments / \$453 Billion) x \$30 Billion
Additional \$20 billion Based on CMS cost reports or incurred losses	Payment Allocation per Provider = ((Most Recent Tax Year Annual Gross Receipts x \$50 Billion) / \$2.5 Trillion) – Initial General Distribution Payment to Provider

Phase 2 General Distribution

\$18 Billion General Distribution	
Distribution & Eligibility	Formulas to Determine Allocation
<p>\$18 billion</p> <p>Providers who participate in state Medicaid/CHIP programs, Medicaid managed care plans, or provide dental care, as well as certain Medicare providers, including those who missed Phase 1 General Distribution payment equal to 2% of their total patient care revenue or had a change in ownership in 2019 or 2020</p>	<p>Payment Allocation per Provider = 2% (Revenues x Percent of Revenues from Patient Care)*</p> <p>*Most recent tax filings (CY2017, 2018 or 2019)</p>

Medicaid and CHIP Distribution

- Must not have received payment from the \$50 billion General Distribution; and
- Must have directly billed Medicaid/CHIP programs or Medicaid managed care plans for healthcare-related services during the period of January 1, 2018, to December 31, 2019, or (ii) own (on the application date) an included subsidiary that has billed Medicaid for healthcare-related services during the period of January 1, 2018, to December 31, 2019; and
- Must have either (i) filed a federal income tax return for fiscal years 2017, 2018 or 2019 or (ii) be an entity exempt from the requirement to file a federal income tax return and have no beneficial owner that is required to file a federal income tax return. (e.g. a state-owned hospital or healthcare clinic); and
- Must have provided patient care after January 31, 2020; and
- Must not have permanently ceased providing patient care directly, or indirectly through included subsidiaries; and
- If the applicant is an individual, have gross receipts or sales from providing patient care reported on Form 1040, Schedule C, Line 1, excluding income reported on a W-2 as a (statutory) employee.

MEDICAID



Targeted Allocations

“HHS is allocating targeted distribution funding to providers in areas particularly impacted by the COVID-19 outbreak, rural providers, providers of services with lower shares of Medicare reimbursement or who predominantly serve the Medicaid population, and providers requesting reimbursement for the treatment of uninsured Americans. The fast and transparent dispersal of funds gives relief to those providers who are struggling to keep their doors open.

A portion of the funds are also distributed to providers who serve uninsured individuals based on COVID-19-related testing and treatment provided on or after February 4, 2020.”



Targeted Allocations

Targeted Distribution	Total Amount	Recipients
High-Impact Distribution – 1 st round	\$12 billion	395 hospitals in high-impact areas
High-Impact Distribution – 2 nd round	\$10 billion	1,000 hospitals in high-impact areas
Rural Distribution	\$10 billion	Almost 4,000 rural health care providers
Allocation for Skilled Nursing Facilities (SNFs)	\$4.9 billion	Over 13,000 skilled nursing facilities
Allocation for Tribal Hospitals, Clinics, and Urban Health Centers	\$500 million	Around 300 Tribal Hospitals, Clinics, and Urban Health Centers
Medicaid and CHIP Distribution	~\$15 billion	Providers who bill for Medicaid and CHIP and did not receive General Distribution funds
Allocation for Safety Net Hospitals	\$10 billion	Eligible safety net hospitals

High-Impact Distribution – Round 1

Distribution & Eligibility	Formulas to Determine Allocation
High-Impact Distribution (first round) Hospitals with 100 or more COVID-19 admissions between January 1 and April 10	\$10 Billion to 395 High-Impact Hospitals Payment Allocation per Hospital = Number of COVID-19 Admissions* x \$76,975 \$2 Billion to 395 High-Impact Hospitals with Medicare Disproportionate Share Additional Payment Allocation per Hospital = \$2 Billion x (Hospital Medicare Funding / Sum of Medicare Funding for 395 Hospitals)

HHS is making COVID-19 High-Impact Area payments to hospitals that have a high number of confirmed COVID-19 positive inpatient admissions. Payments are made at the billing TIN level. Billing TINs that include one or more hospitals should enter the total count for all confirmed COVID-19 positive inpatient admissions across all of the billing TIN's hospital facilities (four walls).

High-Impact Distribution – Round 2

Distribution & Eligibility	Formulas to Determine Allocation
High-Impact Distribution (second round) Hospitals with 160 or more COVID-19 admissions between January 1 and June 10 or the facility experienced an above average intensity of COVID admission per bed (at least .54864)	\$10 Billion to more than 1,000 High-Impact Hospitals Payment Allocation per Hospital = Number of COVID-19 Admissions x \$50,000 (HHS also took into account previous High Impact Area payments for those hospitals that received initial payments from this Targeted Distribution)

Time for another polling question!

How much was the total of the high impact distributions?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

Rural Distribution

Distribution & Eligibility	Formulas to Determine Allocation
Rural Distribution Based on operating expenses and type of facility	Rural Acute Care Hospitals and Critical Access Hospitals Payment Allocation per Hospital = Graduated Base Payment* + 1.97% of the Hospital's Operating Expenses <i>*Base payments ranged between \$1 million to \$3 million.</i>
	Independent Rural Health Clinics (RHC) Payment Allocation per Independent RHC = \$100,000 per clinic site + 3.6% of the RHC's Operating Expenses
	Community Health Centers (CHC) Payment Allocation per CHC = \$100,000 per rural clinic site

Rural Distribution Continued

Distribution & Eligibility	Formulas to Determine Allocation
Rural Distribution Based on operating expenses and type of facility	Sole Community Hospitals (SCH), Medicare Dependent Hospitals (MDH), & Rural Referral Center (RRC) Hospital in Small Metro Areas Payment Allocation per Hospital = 1% of operating expenses* <i>* Minimum payment of \$100,000, a supplement of \$50 for each rural inpatient day, and a maximum payment of \$4.5 million.</i> HHS also provided a supplemental payment of \$1,000,000 for 10 isolated urban hospitals that are 40 or more miles away from another hospital open to the public.

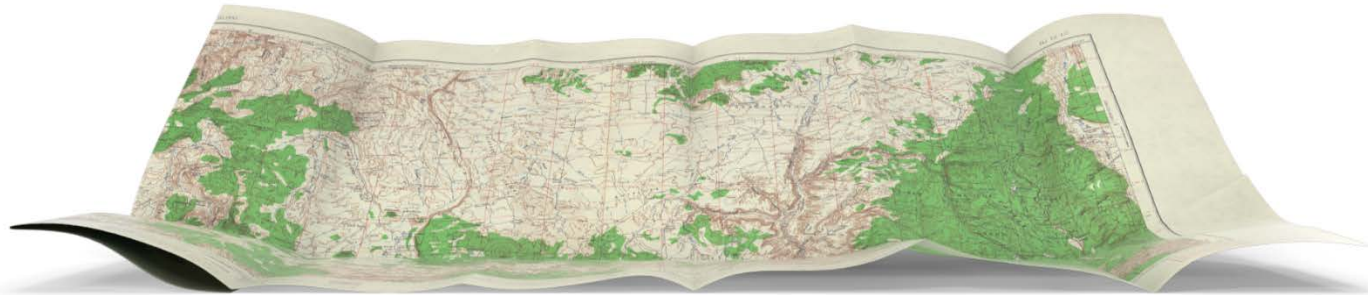
Rural Distribution Continued

Distribution & Eligibility	Formulas to Determine Allocation
Rural Distribution Based on operating expenses and type of facility	Small Metro Area Hospitals without a special Medicare designation Payment allocation per Hospital = 1% of operating expenses* <i>* Minimum payment of \$100,000 and a maximum of \$2 million each.</i> Rural Specialty Hospitals Payment Allocation per Hospital = Graduated Base Payment* + 1.97% of the Hospital's Operating Expenses* <i>*Minimum payment of \$100,000 and a maximum of \$4.5 million.</i>

Rural Distribution

Providers eligible for the targeted Rural Health Relief Fund distribution must be located in a geography that meets the following rural definition:

1. All non-Metro counties.
2. All Census Tracts 1 within a Metropolitan county that have a Rural-Urban Commuting Area (RUCA) code of 4-10. The RUCA codes allow the identification of rural Census Tracts in Metropolitan counties.
3. 132 large area census tracts with RUCA codes 2 or 3. These tracts are at least 400 square miles in area with a population density of no more than 35 people per square mile.
4. For independent Rural Health Clinics: the authorizing statute applies the Census Bureau definition, which defines a Rural Health Clinic as being located outside of an Urbanized Area as defined by the U.S. Census Bureau.
5. For Critical Access Hospitals: CAHs have a unique safety net role and statutory charge per Section 1820 of the Social Security Act. That statute initially gave state governors the authority to designate necessary provider CAHs, a number of which did not make a distinction between rural and urban designations.



Allocation for Skilled Nursing Facilities (SNFs) Distribution

Distribution & Eligibility	Formulas to Determine Allocation
Allocation for Skilled Nursing Facilities (SNFs) Certified SNFs with six or more certified beds	<p>\$4.9 billion distribution. Payment Allocation per Facility = Fixed Payment of \$50,000 + \$2,500 per Certified Bed</p> <p>\$2.5 billion distribution. Payment Allocation per Facility = Fixed payment of \$10,000 + \$1,450 per bed.</p>

Allocation for Indian Health Service (IHS) Distribution

Distribution & Eligibility	Formulas to Determine Allocation
Allocation for Indian Health Service (IHS) Based on operating expenses	IHS and Tribal Hospitals
	Payment Allocation per Hospital = \$2.81 Million + 3% of Total Operating Expenses
	IHS and Tribal Clinics and Programs
	Payment Allocation per Clinic/Program = \$187,000 + 5% (Estimated Service Population x Average Cost per User)
	IHS Urban Programs
	Payment Allocation per Program = \$181,000 + 6% (Estimated Service Population x Average Cost per User)

Allocation for Safety Net Hospitals

Allocation for Safety Net Hospitals	
Distribution & Eligibility	Formulas to Determine Allocation
Acute Care Facilities A Medicare Disproportionate Payment Percentage (DPP) of 20.2% or greater, annual uncompensated care per bed of \$25,000 or more, and profitability of 3% or less	Acute Care Facilities & Children's Hospitals 1 Payment Allocation per Hospital = (Hospital's Facility Score* / Cumulative Facility Scores across All Safety Net Hospitals) x \$10 Billion
Children's Hospitals 1 A Medicaid-only ratio of 20.2% or greater and a profit margin of 3% or less	<i>*Facility Score = Number of facility beds x DPP for acute care facility or number of facility beds x Medicaid-only ratio for a children's hospital</i>
Children's Hospitals 2 Qualifying free-standing children's hospital must either be an exempt hospital under the Centers for Medicare and Medicaid Services (CMS) inpatient prospective payment system (IPPS) or be a HRSA defined Children's Hospital Graduate Medical Education facility.	Children's Hospitals 2 Payment Allocation per Hospital = 2.5% of Net Revenue from Patient Care

Phase 3 General Distribution

\$20 Billion General Distribution	
Distribution & Eligibility	Formulas to Determine Allocation
<p>Apply for Phase 3 if you experienced a decrease in operating income attributable to COVID-19.</p> <p>All providers eligible for a previous PRF distribution plus new 2020 providers and behavioral health providers may apply.</p> <p>Providers are eligible to apply regardless of whether they were eligible for, applied for, received, accepted, or rejected payment from prior PRF distributions.</p>	<p>Payment is based on:</p> <ul style="list-style-type: none">• Assessed revenue losses and expenses attributable to COVID-19• 2% of annual patient care revenue (if not previously received)• Prior Provider Relief Fund distributions

Phase 3 General Distribution

The Provider Relief Fund is currently allocating Phase 3 General Distribution funding.

- November 6, 2020 at 11:59 pm ET is the deadline to submit both Tax Identification Number and all financial information.
- Phase 3 supports providers who have experienced expenses and/or lost revenues attributable to COVID-19 that have not been reimbursed by other sources.
- HHS has allocated up to \$20 billion.



Phase 3 General Distribution

- It appears that this distribution will first “top-off” any provider that has not received 2% of its net patient care revenue.
- HRSA will then allocate any remaining balance by calculating an equitable add-on payment that considers the following:
 - Provider’s change in operating revenues from patient care
 - Provider’s change in operating expenses from patient care, including expenses incurred relating to coronavirus
 - Payments already received through prior Provider Relief Fund distributions

<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/for-providers/index.html#how-to-apply>



Phase 3 General Distribution Continued

6 Actions for providers interested

Pre-payment process

1. Determine eligibility
2. Validated tax id number
3. Apply for funding

Post-payment process

4. Receive payment
5. Attest to payment
6. Report use of funds

BAKER
NEWMAN
NOYES

MAINE | MASSACHUSETTS | NEW HAMPSHIRE



Time for another polling question!

What is the deadline to apply?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

Reporting Requirements and Auditing

Providers that received PRF payments exceeding \$10,000 in aggregate are required to report their use of funds, as per the program Terms and Conditions

- Key dates and actions required
- Guidelines for use of PRF funds
- Required reporting data elements



Reporting Requirements and Auditing

Key dates and actions required:

- Jan. 15, 2021: reporting portal opens for providers
- Feb. 15, 2021: first reporting deadline for all providers on use of PRF funds
- July 31, 2021: final reporting deadline for providers who did not fully expend PRF funds prior to December 31, 2020



Reporting Requirements and Auditing

Guidelines for use of PRF funds

- PRF funds can be used in the following manner and order:
 - Expenses attributable to coronavirus that are not reimbursed or obligated to be reimbursed from other sources
 - Patient care lost revenues, net of the expenses attributable to coronavirus calculated under step 1 up to the amount of the difference between 2019 and 2020 actual patient care revenue.



Reporting Requirements and Auditing

Lost Revenues

- HHS initially defined lost revenues as “any revenue that... a health care provider lost due to coronavirus.”
- HHS originally stated that providers could “use any reasonable method of estimating revenue during March and April 2020 compared to the same period had COVID-19 not appeared.... It would be reasonable to compare the revenues to the same period last year”
- The September 19, 2020 definition of lost revenue was “represented as a negative change in year-over-year net patient care operating income”
- This guidance also said that after covering the cost of COVID-19 related expenses, providers generally will be able to apply PRF payments toward lost revenue only up to the amount of their 2019 net patient operating income



Reporting Requirements and Auditing

Lost Revenues Continued

- Providers, associations and Members of Congress reached out and urged HHS to allow providers to apply PRF payments against all lost revenues without limitation.
- HHS revised the Post-Payment Notice of Reporting Requirements on October 22, 2020.
- HHS reverted back to the June 19th FAQs which based the amount of PRF a provider is entitled to based on lost revenue (as opposed to lost margin in the September 19th guidance).



Reporting Requirements and Auditing

Required reporting data elements

- Lost revenues:
 - Revenue/net charges from patient care
 - Revenue by patient care payor mix
- Expenses attributable to coronavirus:
 - General and administrative expenses
 - Health-care related expenses
 - Recipients of over \$500,000 must also provide further expense breakdown including:
 - Mortgage/rent
 - Personnel
 - Utilities, supplies, equipment, and other high level expense categories



Reporting Requirements and Auditing

Required reporting data elements continued

- Basic organization information:
 - Tax identification number
 - National provider number (optional)
 - Fiscal year end date
 - Federal tax classification
- Other assistance received in 2020:
 - Paycheck protection program
 - FEMA CARES Act
 - CARES Act Testing
 - Local / State / Tribal Government Assistance
 - Business Insurance
 - Other Assistance



Reporting Requirements and Auditing

Required reporting data elements continued

- Non-financial information:
 - Employees (i.e. total, re-hires)
 - Patients (i.e. visits, admissions)
 - Facility (i.e. staffed beds)



HHS Site

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

Reporting Requirements and Auditing FAQs

<https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/faqs/provider-relief-fund-general-info/index.html#auditing-reporting-requirements>

Here's our last polling question!

What is the first reporting deadline for all providers on use of PRF funds?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

Cost Report Considerations

- Provider Relief Funds
 - Expense offset not required
 - Report on Worksheet G-3, Line 24.50
- Paycheck Protection Program – loan forgiveness
 - Expense offset not required
 - Report on Worksheet G-3, Line 24.50
- Uninsured Testing and Treatment Reimbursement Program
 - Do not report reimbursed charges on Worksheet S-10



Cost Report Considerations

- Employer Social Security Tax Deferral
 - May expense in current year if paid within one year of fiscal year end
- Medical Education
 - Beds added during the pandemic will not impact IME payments
 - Residents temporarily placed at other hospitals may still be counted at home hospital
- Volume Concerns
 - Medicare DSH
 - Uncompensated Care



Cost Report Considerations

- Wage Index
- Sequestration
- Cost to charge ratios
- Outliers



Questions or comments?



Not-for-Profit Tax Update

Nicholas Porto – Tax Principal

BAKER
NEWMAN
NOYES

Today's Presenter



Nicholas Porto, CPA, MSA

Tax Principal
nporto@bnn CPA.com

AGENDA

- IRS Issues Proposed Regulations for 512(a)(6)
- Congress Repeals the Parking Tax!
- Congress Changes the Excise Tax Rate for Private Foundations
- Mandatory Electronic Filing is Here!
- IRS Issues Proposed Regulations for Section 4960
- Quick View on the IRS



Section 512(a)(6) –Unrelated Business Income Silos

- IRS released proposed regulations (IR-2020-78) to outline the application of Section 512(a)(6)
- Expands or Clarifies IRS Notice 2018-67 to provide a more clear framework for how the Silo Rules will be implemented



NAICS Codes

- NAICS codes to group similar unrelated business activities together
- There are over 1,000 of these codes and they are changed frequently
- Proposed Regs instead use the 2-digit codes
 - There are 20 of these which are rarely changed
 - 990-T for 2020 will be re-designed for filer to indicate the NAICS code
 - Cannot change code without reasonable cause



Pass-through UBI

- Can group together all “qualified partnership interest” QPI
- All QPI is investment income and can be grouped together with UBI from interest, dividends, rents, etc.



Qualified Partnership Interest

- Two tests – de minimis and control test
- Similar rules in the IRS Notice 2018-67 for being able to group multiple K-1s together



Time for a polling question!

How many years have you been working in the nonprofit sector?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

De Minimis Test

- Owns less than 2% of profits or capital interest
- Average during the year



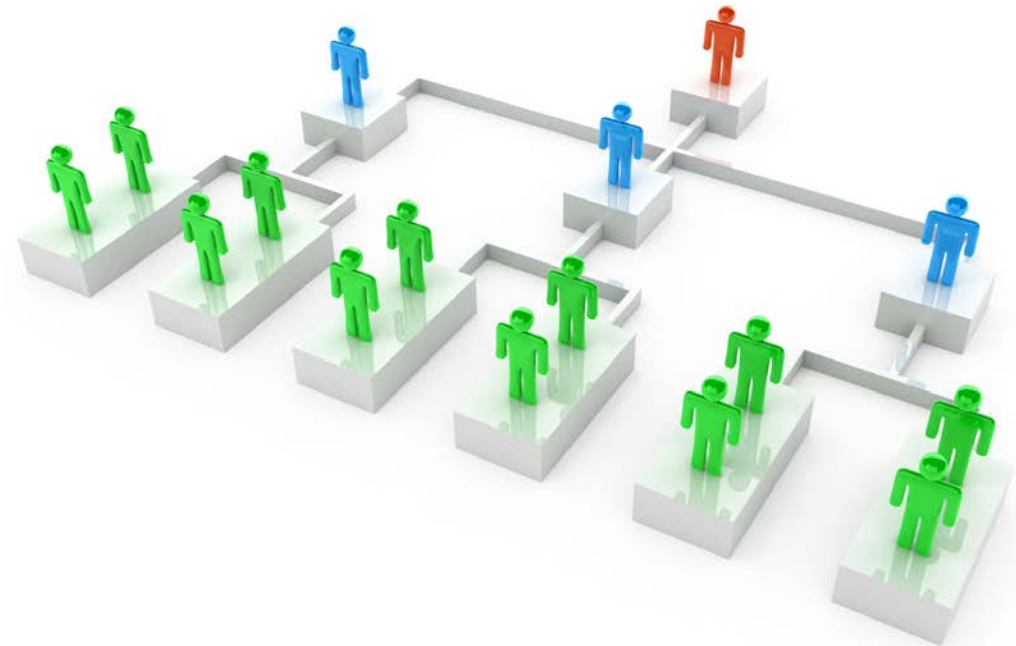
Control Test

- If exceed either 2% test, can look to 20% control test
- Own less than 20% capital interest and
- Did not have significant control or influence over partnership



Significant Control

- If the organization by itself can require the partnership to perform or prevent from performing any significant act
- If the organization does not have the power to appoint or remove the partnership's officers or a majority of its directors



Aggregation

- 2% test removed requirement to combine disqualified persons ownership
- 20% test does not have to combine disqualified persons but does have to combine with related organizations



Miscellaneous 512(a)(6)

- All interest, dividend, rent, etc. income is considered investment income
- Can combine with QPI
- Debt-financed income is considered investment income
- NOL ordering



Section 512(a)(7) Parking Tax...

- Repealed!!!!



Section 512(a)(7)

- In December 2019, Congress repealed Section 512(a)(7) implemented in the tax cuts and jobs act
 - Repeal is retroactive
 - Can file an amended return



Time for another polling question!

What is an area of tax you'd like more insight on?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

Excise Tax on PFs

- In December 2019, Congress changed the excise tax on a private foundation's net investment income to 1.39%
- Previously was a 1% or 2% tax depending on a payout calculation
- Form 990-PF for 2020 likely will have to be revised for this



Mandatory E-File

- All Forms 990, 990-EZ, 990-PF, and 990-T will be required to be filed electronically after the effective date



Effective Date is for All Tax Years Beginning On or After July 2, 2019

- July 30, 2020 fiscal year ended organizations (due December 15, 2020)
- September 30, 2020 returns for organizations with such year ends (due February 15, 2021)
- Calendar year 2020 returns for December 31, 2020 year end (due May 15, 2021)
- June 30, 2021 returns for organizations with such year ends (due November 15, 2021)



Here's our last polling question!

What is your favorite New England season?

Please take a moment to check in by answering our polling question. This helps us track engagement for CPE.

*The polling question will show on the screen for **one minute** and then we will resume the slides.*

THANK YOU for your patience while we give everyone the opportunity to respond.

4960 Regulations

- Tax on Excess Compensation and Parachute Payments to Highest Compensated Employees



IRS Released Proposed Regulations (June of 2020)

- Largely the same as IRS Notice 2019-09
- Some new clarifications and definitions:
 - What is not a covered employee when there are related organizations
 - Limited hours exception
 - Employee is not paid by tax-exempt organization
 - Less than 10% of the employee's time is devoted to the non-profit.
 - Non-exempt funds limitation
 - Similar to limited hours exception but can spend more time at the tax-exempt org.
 - Up to (but not more than) 50% of employees time can be devoted to the tax-exempt org
 - The tax-exempt does not pay the for-profit for any reason
 - Limited services exception
 - Tax-exempt did not pay more than 10% of employee's compensation AND
 - Tax-exempt had a related tax-exempt org that paid at least 10% of compensation OR
 - No related tax-exempt paid more than 10%
 - Year of vesting is important, not necessarily when paid



What is Compensation?

- Total compensation for the purposes of the \$1M threshold is all taxable wages and amounts vested (such as under a 457(f) non-qualified deferred compensation arrangement)
 - Excludes Roth contributions
 - Excludes qualified retirement benefits from 403(b), 401(k), or qualified pension plans
 - Exclusion for medical or veterinary services



Total Compensation

- Total compensation paid to the highly compensated includes compensation paid by “related organizations”
 - Organizations that control or are controlled by applicable tax-exempt organization employer
 - Supporting organizations of the applicable tax-exempt organization



Highly Compensated Employees ("covered employee")

- Any current or former employee of an applicable tax-exempt organization who is one of the top 5 highest paid employees for the taxable year
- Once a person is determined to be a highest compensated employee, they remain so for all future periods
- No minimum threshold for being treated as covered employee, so an organization needs to identify their highest compensated employees even if paid less than \$1M



Certain “Excess Parachute Payments”

- Payments made as a result of a covered employee’s involuntary separation from employment are also subject to 21% excise tax even if below \$1M threshold
- Payment is considered excess if it exceeds three times the present value of the covered employee’s base amount
- Base amount is the average taxable compensation of the covered employee over the past 5 years of employment



IRS TIDBITS

- IRS, like everyone, sent non-essential people home
- Mail has been backed up
- What to do if you get a notice
- DAF Scrutiny?
- Hospital scrutiny



Questions or comments?

