



Center for Clinical Standards and Quality

Admin Info: 21-02-ALL

DATE: December 23, 2020
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Fiscal Year 2021 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 separately tracked, executed and reported. CMS intends to implement these functions in a manner similar to existing to the MDS and HHA reporting process. Cost sharing will continue according to existing State practice.
- **Medicaid Budget, Execution and Reporting:** COVID-19 expenditures will continue to 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

President Trump signed the CARES Act (P.L. 116-136) into law on March 27, 2020. This legislation provides no less than \$100,000,000 in supplemental Medicare funding for Survey and Certification activities related to COVID-19 response through September 30, 2023. Of this amount, we expect to provide State Survey Agencies (SAs) approximately \$81 million over the CARES Act’s period of availability.

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

For Medicare expenditures, CMS Headquarters (HQ) will continue to implement a reporting process similar to the MDS and HHA reporting processes to ensure that CARES Act funds are both appropriately justified and readily available to the State Agencies (SAs). CMS has detailed the process to request CARES Act funds in section B. Cost sharing will continue according to existing State practice.

For Medicaid expenditures, COVID-19 expenditures will continue to 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 (AllStates)

1. Request COVID-only budget requirements from SAs.

SAs who will need funding above their regular S&C funding, will need to submit a documented budget request to their CMS Location budget contacts by December 31, 2020 detailing the basis behind the request including but not limited to the following information:

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

The annual SA request shall be based upon the level of COVID-19 related work expected to be performed in fiscal year 2021, over and above the SA's standard S&C workload. Additionally, the SA request shall clearly delineate that portion of COVID-19 related work that can be absorbed within the standard S&C annual allocation, as needed.

To ensure that adequate funding is available for all States, CMS will maintain an allocation method based on the percentage of nursing homes in the State, adjusted for actual awards to date, to inform the overall distribution of remaining CARES Act funding.

2. CMS Location budget review (Within approximately 2 weeks).

Once the CMS Location offices have received the FY 2021 SA requests, the expectation is for an expedited review. We expect all CMS reviews to be completed within a 2-week period, including CMS HQ approval (on or about January 15th). In the event of outlier requests or other difficulties, CMS HQ will work with individual CMS Locations on a case-by-case basis. Once the review by the CMS Location staff is complete, CMS HQ will hold discussions on final fiscal year funding recommendations.

3. CMS HQ budget approval and award notification (Locations and SAs).

After completion of the discussions with the CMS Location offices, CMS HQ will process all COVID-19 budget awards into Payment Management System (PMS) subaccount 2105XX50C3 ("XX" represents SA abbreviation), and a corresponding Title 18 CMS 640t budget document will be distributed. The Medicaid portion of COVID-19 costs will continue to be awarded per standard Medicaid award processes and will be deposited in the regular Medicaid Subaccount.

4. SAs 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 is required 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 is required, utilizing standard state cost allocation methodologies. This form is due to CMS along with the other routine CMS-435 quarterly submissions. Please note, the Medicare portion of the COVID-19 costs should be included on the main CMS-435 form, similar to existing MDS and HHA reporting processes. COVID-19 related costs should be shown on a single miscellaneous line entitled COVID-19 on the main CMS-435.

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 CARES Act funds are available through the end of FY2023, funding amounts are awarded on an annual basis and thus must be closed out annually similar to regular program management S&C funds. CARES Act funds will first be reconciled based on the amount of additional funding required above the annual appropriated S&C funding. If the SA exceeds their available CARES Act funding after also expending all of the annual appropriated S&C funding, CMS **may** make additional CARES Act funding available to cover the shortfall. If the SA has an unexpended balance of CARES Act funds at fiscal year end, the unexpended balance shall be de-obligated and returned to the CARES Act COVID-19 account for redistribution in future years. Regardless of actual CARES Act expenditure levels, SAs are guaranteed funding up to their overall allocation through FY 2023, unless the SA indicates that the full allocation is not needed.

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 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 and other related work, over and above the annual appropriated S&C funding, due to the need for increased oversight to ensure nursing homes and other providers/suppliers are able to meet community health care needs during the pandemic, 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.
- Augmenting SA staffing for oversight of infection control and prevention processes, prioritizing nursing home facilities in localities with community transmission of COVID-19.
- Performing reopening surveys of facilities with previous COVID-19 outbreaks to ensure they have the Infection Control systems in place.
- Initiating data-driven surveys of specific nursing homes based on their weekly reported trends of COVID-19 residents and staff to the CDC.

- Annually targeting a broad sample of 20 percent of nursing homes for a Focused Infection Control survey based on State and Federal data that identifies facility and community risks.
- Initiating State-specific interventions (such as Strike Teams, enhanced surveillance, or monitoring of nursing homes).

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. Further, the CARES Act funding amounts should 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 Office.

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/

Karen L. Tritz
Director, Survey & Operations Group

David R. Wright
Director, Quality, Safety & Oversight Group

Attachment: FY 21 CARES ACT Funding Allocations

CARES ACT Funding Allocations

December 9, 2020

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State	Nursing Home 1/		Total Allocation	FY 2020 Awards	FY 2021 - 2023 Remaining
	Count	Percentage			
Alabama	228	1.48%	\$1,196,649	\$0	\$1,196,649
Alaska	19	0.12%	\$99,721	\$0	\$99,721
Arizona	146	0.95%	\$766,275	\$0	\$766,275
Arkansas	226	1.46%	\$1,186,152	\$5,928	\$1,180,224
California	1,193	7.73%	\$6,261,414	\$1,313,962	\$4,947,452
Colorado	227	1.47%	\$1,191,401	\$812,492	\$378,909
Connecticut	215	1.39%	\$1,128,419	\$1,128,419	\$0
Delaware	46	0.30%	\$241,429	\$49,918	\$191,511
District of Columbia	18	0.12%	\$94,472	\$0	\$94,472
Florida	701	4.54%	\$3,679,171	\$1,972,000	\$1,707,171
Georgia	358	2.32%	\$1,878,949	\$395,996	\$1,482,953
Hawaii	44	0.29%	\$230,932	\$130,932	\$100,000
Idaho	82	0.53%	\$430,374	\$90,314	\$340,060
Illinois	722	4.68%	\$3,789,389	\$795,206	\$2,994,183
Indiana	534	3.46%	\$2,802,678	\$375,000	\$2,427,678
Iowa	434	2.81%	\$2,277,832	\$0	\$2,277,832
Kansas	331	2.14%	\$1,737,242	\$0	\$1,737,242
Kentucky	285	1.85%	\$1,495,811	\$313,897	\$1,181,914
Louisiana	278	1.80%	\$1,459,072	\$304,207	\$1,154,865
Maine	93	0.60%	\$488,107	\$102,430	\$385,677
Maryland	226	1.46%	\$1,186,152	\$248,915	\$937,237
Massachusetts	376	2.44%	\$1,973,421	\$414,124	\$1,559,297
Michigan	442	2.86%	\$2,319,820	\$486,816	\$1,833,004
Minnesota	368	2.38%	\$1,931,434	\$0	\$1,931,434
Mississippi	204	1.32%	\$1,070,686	\$0	\$1,070,686
Missouri	522	3.38%	\$2,739,697	\$1,150,604	\$1,589,093
Montana	71	0.46%	\$372,641	\$78,199	\$294,442
Nebraska	201	1.30%	\$1,054,941	\$427,880	\$627,061
Nevada	66	0.43%	\$346,398	\$72,692	\$273,706
New Hampshire	74	0.48%	\$388,386	\$0	\$388,386
New Jersey	363	2.35%	\$1,905,191	\$1,905,191	\$0
New Mexico	71	0.46%	\$372,641	\$0	\$372,641
New York	619	4.01%	\$3,248,798	\$681,762	\$2,567,036
North Carolina	428	2.77%	\$2,246,341	\$0	\$2,246,341
North Dakota	80	0.52%	\$419,877	\$88,111	\$331,766
Ohio	957	6.20%	\$5,022,777	\$1,053,642	\$3,969,135
Oklahoma	298	1.93%	\$1,564,041	\$0	\$1,564,041
Oregon	130	0.84%	\$682,301	\$625,000	\$57,301
Pennsylvania	695	4.50%	\$3,647,681	\$765,468	\$2,882,213
Puerto Rico	6	0.04%	\$31,491	\$0	\$31,491
Rhode Island	80	0.52%	\$419,877	\$0	\$419,877
South Carolina	191	1.24%	\$1,002,456	\$800,000	\$202,456
South Dakota	105	0.68%	\$551,088	\$107,861	\$443,227
Tennessee	316	2.05%	\$1,658,514	\$0	\$1,658,514
Texas	1,219	7.90%	\$6,397,874	\$987,849	\$5,410,025
Utah	99	0.64%	\$519,598	\$0	\$519,598
Vermont	36	0.23%	\$188,945	\$0	\$188,945
Virginia	287	1.86%	\$1,506,308	\$316,100	\$1,190,208
Washington	206	1.33%	\$1,081,184	\$226,887	\$854,297
West Virginia	123	0.80%	\$645,561	\$135,471	\$510,090
Wisconsin	359	2.33%	\$1,884,198	\$395,400	\$1,488,798
Wyoming	37	0.24%	\$194,193	\$0	\$194,193
Total	15,435	100.00%	\$81,010,000	\$18,758,673	\$62,251,327

1/ Nursing Home counts as of 5-9-2020; source: CMS.

CARES ACT Funding Allocations

December 9, 2020

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Alabama	\$0	\$538,492	\$418,827	\$239,330	\$1,196,649
Alaska	\$0	\$44,874	\$34,902	\$19,944	\$99,721
Arizona	\$0	\$344,824	\$268,196	\$153,255	\$766,275
Arkansas	\$5,928	\$531,101	\$413,078	\$236,045	\$1,186,152
California	\$1,313,963	\$2,226,354	\$1,731,608	\$989,491	\$6,261,415
Colorado	\$812,492	\$170,509	\$132,618	\$75,782	\$1,191,401
Connecticut	\$1,128,419	\$0	\$0	\$0	\$1,128,419
Delaware	\$49,918	\$86,180	\$67,029	\$38,302	\$241,429
District of Columbia	\$0	\$42,513	\$33,065	\$18,894	\$94,472
Florida	\$1,972,000	\$768,227	\$597,510	\$341,434	\$3,679,171
Georgia	\$395,996	\$667,329	\$519,034	\$296,591	\$1,878,949
Hawaii	\$130,932	\$45,000	\$35,000	\$20,000	\$230,932
Idaho	\$90,314	\$153,027	\$119,021	\$68,012	\$430,374
Illinois	\$795,206	\$1,347,383	\$1,047,964	\$598,837	\$3,789,389
Indiana	\$375,000	\$1,092,455	\$849,687	\$485,536	\$2,802,678
Iowa	\$0	\$1,025,024	\$797,241	\$455,566	\$2,277,832
Kansas	\$0	\$781,758	\$608,034	\$347,448	\$1,737,241
Kentucky	\$313,897	\$531,862	\$413,670	\$236,383	\$1,495,811
Louisiana	\$304,207	\$519,689	\$404,203	\$230,973	\$1,459,072
Maine	\$102,430	\$173,555	\$134,987	\$77,135	\$488,107
Maryland	\$248,915	\$421,757	\$328,033	\$187,447	\$1,186,152
Massachusetts	\$414,124	\$701,684	\$545,754	\$311,860	\$1,973,421
Michigan	\$486,816	\$824,852	\$641,551	\$366,601	\$2,319,820
Minnesota	\$0	\$869,145	\$676,002	\$386,287	\$1,931,434
Mississippi	\$0	\$481,809	\$374,740	\$214,137	\$1,070,686
Missouri	\$1,150,604	\$715,092	\$556,182	\$317,819	\$2,739,697
Montana	\$78,199	\$132,499	\$103,055	\$58,888	\$372,641
Nebraska	\$427,880	\$282,177	\$219,471	\$125,412	\$1,054,941
Nevada	\$72,692	\$123,168	\$95,797	\$54,741	\$346,398
New Hampshire	\$0	\$174,774	\$135,935	\$77,677	\$388,386
New Jersey	\$1,905,191	\$0	\$0	\$0	\$1,905,191
New Mexico	\$0	\$167,688	\$130,424	\$74,528	\$372,641
New York	\$681,762	\$1,155,166	\$898,462	\$513,407	\$3,248,798
North Carolina	\$0	\$1,010,854	\$786,220	\$449,268	\$2,246,341
North Dakota	\$88,111	\$149,294	\$116,118	\$66,353	\$419,877
Ohio	\$1,053,642	\$1,786,111	\$1,389,197	\$793,827	\$5,022,777
Oklahoma	\$0	\$703,819	\$547,415	\$312,808	\$1,564,041
Oregon	\$625,000	\$25,785	\$20,055	\$11,460	\$682,300
Pennsylvania	\$765,468	\$1,296,996	\$1,008,774	\$576,443	\$3,647,681
Puerto Rico	\$0	\$14,171	\$11,022	\$6,298	\$31,491
Rhode Island	\$0	\$188,945	\$146,957	\$83,975	\$419,877
South Carolina	\$800,000	\$91,105	\$70,860	\$40,491	\$1,002,456
South Dakota	\$107,861	\$199,452	\$155,130	\$88,645	\$551,088
Tennessee	\$0	\$746,331	\$580,480	\$331,703	\$1,658,514
Texas	\$987,849	\$2,434,466	\$1,893,474	\$1,082,085	\$6,397,874
Utah	\$0	\$233,819	\$181,859	\$103,920	\$519,598
Vermont	\$0	\$85,025	\$66,131	\$37,789	\$188,945
Virginia	\$316,100	\$535,594	\$416,573	\$238,042	\$1,506,308
Washington	\$226,887	\$384,433	\$299,004	\$170,859	\$1,081,182
West Virginia	\$135,471	\$229,540	\$178,531	\$102,018	\$645,561
Wisconsin	\$395,400	\$669,959	\$521,079	\$297,760	\$1,884,198
Wyoming	\$0	\$87,387	\$67,968	\$38,839	\$194,193
State Survey Agency Awards	\$18,758,673	\$28,013,053	\$21,787,930	\$12,450,346	\$81,010,000