



The Honorable Alex Azar
Secretary
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

Argentum is the largest national association representing assisted and other senior living providers in the country. Collectively the senior living industry cares for over two million seniors. Many of our senior living provider members have noted inconsistencies or impracticalities with guidance regarding reporting requirements with the U.S. Department of Health and Human Services (HHS) Provider Relief Fund (PRF).

Relative to the use of Provider Relief funds toward lost revenues attributable to COVID-19, we received guidance that providers should report actual patient care revenues and expenses for 2019 and 2020, to allow for a year-over-year calculation of change in revenue. However, this guidance conflicts with earlier guidance issued by the Department which endorses “any reasonable method of estimating the revenue, had COVID-19 not appeared.” Further, it states that one way to estimate lost revenue is the “difference between your budgeted and actual revenue.” Given the incongruity between these two statements, **Argentum, consistent with its members and other organizations representing the senior living sector, urges HHS to allow budgeted or other estimations for lost revenue.** This issue is especially important for senior living communities that opened in mid-to-late 2019.

We noted that HHS has defined “patient care” *as health care, services and supports, as provided in a medical setting, at home, or in the community. It should not include: 1) insurance, retail, or real estate values (except for SNFs, where that is allowable as a patient care cost), or 2) grants or tuition.* This definition omits assisted living from the real estate exception. An FAQ that was removed on October 28 clarified that assisted living resident fees would be considered patient care revenue. **We request that the definition of patient care be amended to include assisted living.**

Under Reporting Guidance on Use of Funds, *PRF payment amounts not fully expended on healthcare related expenses attributable to coronavirus are then applied to patient care lost revenues, net of the healthcare related expenses attributable to coronavirus calculated under step 1. Recipients may apply PRF payments toward lost revenue, up to the amount of the difference between their 2019 and 2020 actual patient care revenue.* Many of our members have noted the language “lost revenues, net of the healthcare related expenses”, and have stated confusion as to what this means. **We request the language “net of the healthcare related expenses” be deleted in this section.**

Argentum members are concerned with the volume of quarterly, non-financial reporting required by the Department. HHS, in addition to other federal, state and local reporting requirements are onerous to senior living providers who are trying to care for residents and remain financially stable. Some of the requirements are also not translatable to senior living and

are more applicable to more acute care settings. **We recommend the elimination of the following from reporting requirements for senior living settings:**

- a. Personnel Metrics: Total personnel by labor category (full-time, part-time, contract, other: recipient must define), total re-hires, total new hires, and total personnel separations by labor category.**
- b. Patient Metrics: Total number of patient visits (in-person or telehealth), total number of patients admitted, and total number of resident patients.**
- c. Facility Metrics: Total available staffed beds for medical/surgical, critical care, and other beds.**

The Optum Pay system continues to be a challenge to senior living providers. Some of our providers have stated that any Tax Identification Number (TIN) who is receiving more than \$100K is required to set up a separate account through Optum Pay (through United Health Care) which is handling the ACH funding. Requirements for set up don't include clarity on exactly what is needed; generally a week before you learn something is missing or needed; and with each step the actual payments are pushed out to future dates. **We have members that are well-versed with this problem that would welcome the opportunity to work with your staff to improve this and related issues with the Optum Pay system.**

Though Argentum does not represent skilled nursing facilities, some of our members operate them. Guidance stating that a "parent organization that reports on a subsidiary's General Distribution payment cannot also report on (or transfer) the subsidiary's Targeted Distribution payment." **This is problematic if a parent has one skilled nursing facility a difficult COVID situation, and one with minimal exposure. In this situation, the parent organization would desire the ability to move funding to the skilled nursing facility in need. The reporting requirement seems to conflict with the following two FAQs, which would allow for some flexibility in allocating amounts among skilled nursing facilities that otherwise qualify:**

Must a parent organization that received a Provider Relief Fund Targeted Distribution on behalf of a subsidiary in which it has a direct ownership relationship remit the payment to the subsidiary? (Modified 9/3/2020)

Yes. The parent entity must transfer a Provider Relief Fund Targeted Distribution payment to any or all subsidiaries that qualified for a Targeted Distribution payment. Control and use of the funds must be delegated to the entity that eligible for the Targeted Distribution payment if a parent entity received the Targeted Distribution payment on the behalf of an eligible subsidiary, unless the funds were received as part of the Skilled Nursing Facility Targeted Distribution or Nursing Home Infection Control Distribution, in which case parent entities may distribute funds among those subsidiaries that were eligible for payment at its discretion. The purpose of Targeted Distribution payments is to support the specific financial needs of the eligible healthcare provider.



If a parent organization received a Provider Relief Fund Targeted Distribution on behalf of a subsidiary, which organization should attest to the Terms and Conditions for the payment?
(Added 8/27/2020)

The parent entity should attest to the Terms and Conditions for the Targeted Distribution payment if it is the entity that received the payment. It may attest on behalf of any or all subsidiaries that qualified for a Targeted Distribution (i.e., Skilled Nursing Facility, Safety Net Hospital, Rural, Tribal, High Impact Area) payment. The parent entity must transfer a Provider Relief Fund Targeted Distribution payment to any or all subsidiaries that qualified for a Targeted Distribution (i.e., Skilled Nursing Facility, Safety Net Hospital, Rural, Tribal, High Impact Area) payment. Control and use of the funds must be delegated to the entity that was eligible for the Targeted Distribution payment if a parent entity received the Targeted Distribution payment on the behalf of an eligible subsidiary.

As always, we deeply appreciate all of the Department's efforts and urge your consideration of these requests. I welcome the opportunity to discuss these issues with you at your earliest possible opportunity.

Very Respectfully,

James Balda
President & CEO
Argentum