Provider Relief Fund Repayment Notices: How Providers Can Prepare and Respond

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Over the past few months, the Health Resources and Services Administration ("HRSA") has begun issuing notices to select Provider Relief Fund ("PRF") recipients demanding repayment of PRF payments within 60 days for alleged untimely PRF reports on eligibility for and use of the funds. Hooper, Lundy, & Bookman has successfully assisted several providers in responding to these notices. Below, we provide a brief overview of HRSA's reporting requirements, the criteria and process for requesting HRSA reopen its PRF Reporting Portal, and resources available for providers in this process.

A. HRSA Reporting Requirements

The PRF Terms and Conditions contain reporting requirements for fund recipients, requiring that every PRF recipient "submit reports as the Secretary determines are needed to ensure compliance with conditions that are imposed on this Payment, and such reports shall be in such form, with such content, as specified by the Secretary in future program instructions."

Per these Terms and Conditions, HRSA established reporting deadlines for all recipients of PRF funds who received more than $10,000 in PRF support to submit reports through HRSA's PRF Portal. Providers who received less than $10,000 in funds in any PRF Reporting Period *are not* required to submit these reports to HRSA. For providers who are required to report, the penalty for not submitting a timely report within the time periods provided on HRSA's website is draconian – repayment of all of the funds received.

B. Final Repayment Notices and Good Cause Submissions

HRSA has begun issuing "Final Repayment Notices" to certain providers stating that they failed to timely report and that return of their PRF funds is accordingly due within sixty days. However, and importantly, **these "Final Repayment Notices" also offer providers an opportunity to request the HRSA PRF Reporting Portal be reopened based on a showing of good cause, or "extenuating circumstances."** HRSA defines examples of extenuating circumstances justifying submitting a late report for submission of Provider Relief Funds to include the following:

- **Severe illness or death**– a severe medical condition or death of a provider or key staff member responsible for reporting hindered the organization's ability to complete the report during the Reporting Period.

- **Impacted by natural disaster** – a natural disaster occurred during or in close proximity of the end of the Reporting Period damaging the organization's records or information technology.
- **Lack of receipt of reporting communications** – an incorrect email or mailing address on file with HRSA prevented the organization from receiving instructions prior to the Reporting Period deadline.
- **Failure to click "Submit"** – the organization registered and prepared a report in the PRF Reporting Portal, but failed to take the final step to click "Submit" prior to deadline.
- **Internal miscommunication or error** – internal miscommunication or error regarding the individual who was authorized and expected to submit the report on behalf of the organization and/or the registered point of contact in the PRF Reporting Portal.
- **Incomplete Targeted Distribution payments** – the organization's parent entity completed all General Distribution payments, but a Targeted Distribution(s) was not reported on by the subsidiary.

1. **Requesting HRSA Reopen Its PRF Reporting Portal – The Process**

If a provider has received a Final Repayment Notice but meets one of the above categories of extenuating circumstances, the provider has the option to submit a Request to Report Late Due to Extenuating Circumstances to HRSA. Importantly, providers wishing to submit this request **must submit it within 60 days** of receiving the Final Repayment Notice from HRSA; otherwise, the provider's request will be disregarded as untimely.

Providers submitting this request must prepare both a clear explanation of the surrounding extenuating circumstances supporting the PRF Reporting Portal being reopened, as well as an attestation to the truthfulness and accuracy of their submission. The Reopening Request does *not* also need to include a provider's actual PRF report or details on the provider's use of the funds – this information is only necessary to include when submitting the PRF report, if the portal is reopened.

Once submitted, the amount of time the HRSA takes to review such requests has varied – from just a couple weeks to a few months. If HRSA approves the provider's request and reopens the PRF Reporting Portal, the provider will have **30 days** to submit its PRF Report for the applicable Reporting Period.

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