Medicare Loan Conversion Legislation

Overview
Hospitals, health systems and other providers continue to struggle to meet the health care needs of the communities they serve as Covid-19 continues to rage across the United States. The goal of this legislation is to provide more resources to thousands of providers without appropriating additional funds.

Hospital, health systems and other providers received just over $100 billion in Medicare Accelerated and Advanced Payment loans during 2020 to help them fight Covid. Congress moved these loans from the Medicare Trust Fund to the General Fund in previously passed legislation.

Most providers have resisted using these loans because of their concerns about being able to pay them back. Congress changed the terms of these loans, giving providers more time to pay them back and lowering the interest rate. However, given that the pandemic has not abated, providers remain very concerned about their ability to pay back the loans, even under more favorable terms.

This legislation is designed to:

- Allow health care providers to use their loan funds as grants – not requiring repayment – as long as the funds are used for Covid losses and expenses not otherwise paid for by any other government program, just like the funds in the Provider Relief Fund (PRF).
- Provide full accountability and transparency of the use of the funds by mandating the same requirements and terms for these funds as those given through the Provider Relief Fund.
- Requiring repayment to the federal government of all funds NOT used for Covid expenses and losses.

Converting these loans to grants will likely give providers the resources they need to meet Covid challenges through 2021.

The $178 billion Congress appropriated for all providers through the Provider Relief Fund falls short of the $300 billion in losses and expenses hospitals alone incurred during 2020. And those losses and expenses are continuing into 2021. Hospitals that have sufficient funds and don't have losses or Covid expenses beyond what they have received through the PRF will be required to return these loan-to-grant funds to the Treasury.

Hospitals and other providers that did not receive Medicare loans in 2020 could be given funding remaining in the PRF (there is approximately $38 billion remaining) as necessary and by application.

These loan-to-grant funds cannot be used for compensation or benefits of officers or senior executives of the benefitting organization as required in the CARES Act. At least 60 percent of the funds must be used for employee compensation (other than for executives as described in the CARES Act) from January 1, 2020 and December 31, 2021.

This legislation is an updated version of HR 7292, which was introduced June 22, 2020 and had 85 bipartisan cosponsors.

A BILL (DRAFT)

To amend title XVIII of the Social Security Act to provide for the conversion to federal grants of certain accelerated and advance payments under parts A and B of the Medicare program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The COVID-19 Hospital and Health Provider Loan Conversion Act of 2021".

SEC. 2. PROVIDING FOR THE CONVERSION TO FEDERAL GRANTS OF CERTAIN ACCELERATED AND ADVANCE PAYMENTS UNDER PARTS A AND B OF THE MEDICARE PROGRAM.

(a) CONVERSION OF PAYMENTS.—

(1) PART A.—Section 1815(f) of the Social Security Act (42 U.S.C. 1395g(f)) is amended—

(A) in paragraph (2), by adding at the end the following new subparagraph:

"(D) In the case of an accelerated payment made to a hospital under such program on or after the date of the enactment of the CARES Act and so made during the emergency period described in section 1135(g)(1)(B), the Secretary shall waive the requirement that such payment be repaid (or recouped) if the hospital meets the requirements described in paragraph (5), except that such waiver shall not apply with respect to any amounts from such payment that were not used for COVID–19 losses or expenses of the hospital as provided for in Title III of the Consolidated Appropriations Act, 2021 (Public Law 116-260) as of December 31, 2021 based on the attestation of the hospital. The hospital shall repay any such amounts to the Secretary not later than July 1, 2023. The interest rate for any such amount not so repaid as of such date shall be 2 percent if the hospital demonstrates hardship.";

(B) in paragraph (3), by inserting "and paragraph (2)(D)" after "paragraph (2)(C)"; and

(C) by adding at the end the following new paragraph:

"(5) For purposes of paragraph (2)(D), the requirements described in this paragraph are the following:

"(A) The hospital did not use any portion of a payment described in such paragraph for compensation or benefits, including salary, bonuses, awards of stock, or other financial benefits, for an officer or employee described in section 4004(a)(2) of the CARES Act (Public Law 116–136).

"(B) The hospital used at least 60 percent of such payment for employee compensation (other than an officer or employee described in subparagraph (A)) during the period beginning on January 1, 2020 and ending on December 31, 2021.

(2) PART B.—

(A) IN GENERAL.—In carrying out the program described in section 421.214 of title 42, Code of Federal Regulations (or a successor regulation), in the case of a payment made under such program to an entity on or after the date of the enactment of the CARES Act (Public Law 116–136) and so made during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 US.C. 1320b–5(g)(1)(B)), the Secretary of Health and Human shall waive the requirement that such payment be repaid (or recouped) if the entity meets the requirements described in subparagraph (B) except that such waiver shall not apply with respect to any amounts from such payment that were not used for COVID–19 losses or expenses of the entity as provided for in Title III of the Consolidated Appropriations Act, 2021 (Public Law 116-260) as of December 31, 2021, based on the attestation of the entity. The entity shall repay any such amounts to the Secretary not later than July 1, 2023. The interest rate for any such amount not so repaid as of such date shall be 2 percent if the entity demonstrates hardship.

(B) REQUIREMENTS.—For purposes of subparagraph (A), the requirements described in this subparagraph are the following:

(i) The entity did not use any portion of a payment described in such subparagraph for compensation or benefits, including salary, bonuses, awards of stock, or other financial benefits, for an officer or employee described in section 4004(a)(2) of the CARES Act (Public Law 116–136).

(ii) The entity used at least 60 percent of such payment for employee compensation (other than an officer or employee described in clause (i)) during the period beginning on January 1, 2020, and ending on December 31, 2021.

(d) PUBLICATION.—The Secretary of Health and Human Services shall publish on a public website the following:

(1) A specification of each hospital receiving federal grant payments under section 1815(e)(3) of the Social Security Act (42 U.S.C. 1395g(e)(3)) and each entity receiving federal grant payments under the program described in section 421.214 of title 42, Code of Federal Regulations (or a successor regulation).

(2) The amount of such grants with respect to each such hospital and entity.