

HHS EXTENDS DEADLINE FOR SUBMITTING RELIEF FUND ATTESTATIONS (AGAIN)

In a press release posted after 6:00 P.M. EDT on May 22, 2020, the Department of Health and Human Services (“HHS”) announced that it is AGAIN extending the deadline for providers and suppliers (collectively “Providers”) to attest to receipt of payments from the CARES Act Provider Relief Fund and accepting the related Terms and Conditions. Providers now have 90 days from the date they received a payment to accept HHS Terms and Conditions or return the applicable funds. The original deadline was 30 days, but HHS later extended the deadline to 45 days or May 25, although HHS statements said May 24.

The announcement that Providers now have 90 days to submit attestations comes on the Friday of a holiday weekend and just two days before the deadline many Providers were facing for submitting attestations for payments from the first tranche of the Relief Fund. As a result, many Providers have already submitted the required attestation for those first tranche payments. For those receiving funds on the earliest date of April 10, the deadline would now be July 9. Not surprisingly for this type of 11th hour change, the Attestation Portal instructions, as of this writing, still refer to a 45 day deadline. The HHS Press Release is available [here](#), and the Attestation Portal is available [here](#).

There is no mention in the Press Release about whether Providers who already attested to payments can reconsider and withdraw a submitted attestation. Though it seems likely that HHS would allow a Provider who wanted to return a payment to do so, even if the Provider has already completed the attestation process and given reports that even those few recipients that have returned payments must nonetheless accept the Terms and Conditions to initiate that process.

The wording of the Press Release does suggest that the 90-day deadline will apply to all payments, not just the first tranche. However, the extension is only for submitting the required Terms and Conditions attestations and does not, at this writing, appear to impact the upcoming June 3 deadline for submitting required revenue information via the HHS General Distribution Portal discussed in our May 21 alert available [here](#). Because Providers cannot actually complete the revenue submissions without first having completed a Terms and Conditions attestation, the additional extension is effectively only until that date, at least for attestations tied to payments from the first and second tranches of Relief Fund payments.

If you have questions or would like additional information about this topic, please contact:

- **David Snow** at (303) 801-3536 or dsnow@hallrender.com;
- **Lori Wink** at (414) 721-0456 or lwink@hallrender.com;
- **Joseph Krause** at (414) 721-0906 or jkrause@hallrender.com;
- **Elizabeth Elias** at (317) 977-1468 or eelias@hallrender.com;
- **Benjamin Fee** at (720) 282-2030 or bfee@hallrender.com; or
- Your regular Hall Render attorney.

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