

October 13, 2020

The Honorable Alex M. Azar
Secretary
U.S. Department of Health of Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar,

On behalf of Vizient, Inc. and our hospital members throughout the country, I am writing to request the Department of Health and Human Services (HHS) revise the September 19, 2020 COVID-19 Provider Relief Fund (PRF) reporting requirement guidance¹ to align the interpretation of “lost revenue” with earlier guidance provided in June 2020.²

Vizient, Inc. provides solutions and services that improve the delivery of high-value care by aligning cost, quality and market performance for more than 50% of the nation’s acute care providers, which includes 95% of the nation’s academic medical centers, and more than 20% of ambulatory providers. Vizient provides expertise, analytics, and advisory services, as well as a contract portfolio that represents more than \$100 billion in annual purchasing volume, to improve patient outcomes and lower costs. Headquartered in Irving, Texas, Vizient has offices throughout the United States.

Under the Coronavirus Aid, Relief and Economic Security (CARES) Act³ and the Paycheck Protection Program and Health Care Enhancement Act⁴, funds were appropriated to reimburse eligible health care providers for health care related expenses or lost revenues attributable to the coronavirus. In addition, the CARES Act notes that reimbursement is available to “eligible health care providers for health care related expenses or lost revenues that are attributable to the coronavirus” and provided that certain conditions are met (e.g., submitting reports). **Subsequently, on June 19, HHS provided additional information regarding the definition of lost revenue**

¹ Department of Health and Human Services, (Sept. 19, 2020). General and Targeted Distribution, Post-Payment Notice of Reporting Requirements, available at: <https://www.hhs.gov/sites/default/files/post-payment-notice-of-reporting-requirements.pdf>, last accessed: October 13, 2020.

² Department of Health and Human Services (June 19, 2020). CARES Act Provider Relief Fund Frequently Asked Questions, available at: <https://www.hhs.gov/sites/default/files/provider-relief-fund-general-distribution-faqs.pdf>, last accessed: October 13, 2020.

³ P.L. 116-136

⁴ P.L. 116-139

where it states “The term ‘lost revenues that are attributable to coronavirus’ means any revenue that you as a health care provider lost due to coronavirus.”

More recently, on September 19, HHS drastically narrowed its interpretation of lost revenue when it provided a new formula and metrics (e.g., revenue from patient care payer mix, other assistance received, total and calendar year expenses) for hospitals to utilize when reporting lost revenue. Notably, HHS indicated lost revenues attributable to the coronavirus are “represented as a negative change in year-over-year net operating income from patient care related sources.”⁵ This unexpected change has raised significant concerns about PRF payments that have already been distributed as well as serious questions about future allocations. As a result of that confusion and additional burdens, this change may have dire financial implications for hospitals during an already trying time.

As a result of HHS’s recent, more narrow, interpretation of lost revenue, hospitals that were rightfully relying on previous information from HHS may have to pay back PRF payments despite financial need. These hospitals include rural and safety net hospitals that serve high numbers of low-income, elderly and severely ill patients and who already operate on narrow margins. In addition, this change has already caused significant disruption and confusion as hospitals scramble to determine how to ensure compliance and assess how this change impacts other aspects of their accounting practices. At the same time, hospitals are also trying to determine their eligibility for additional, recently announced funding. Vizient is extremely concerned HHS’s most recent guidance, particularly the interpretation of lost revenue, is imposing unnecessary burdens on hospitals and may result in them missing out on essential funding needed to remain viable. **For these reasons, Vizient asks HHS to immediately make clear it will rely on its June guidance for purposes of determining lost revenue.**

Notably, Congressional leaders have also expressed their concerns about the new reporting requirements, indicating that the recent guidance runs afoul of congressional intent. For example, Senate Majority Leader McConnell notes his “serious concerns these new requirements will cause great uncertainty and financial hardships...” and regarding the PRF, “the intent of this funding was to create certainty for our hospitals

⁵ Department of Health and Human Services, (Sept. 19, 2020). General and Targeted Distribution, Post-Payment Notice of Reporting Requirements, available at: <https://www.hhs.gov/sites/default/files/post-payment-notice-of-reporting-requirements.pdf>, last accessed: October 13, 2020.

during an already tumultuous time.”⁶ In addition, dozens of congressional members shared similar concerns regarding hospital stability as “providers continue to face uncertainty in terms of loss of revenue from delayed procedures and care as well as increased expenses related to COVID-19” and highlighted the need for HHS to “carefully consider any policies that disproportionately affect rural and safety net hospitals.”^{7,8} **Vizient strongly agrees with the concerns raised by Congress and urges HHS to revert back to its June guidance to provide hospitals with stability needed to continue to provide care during and after the pandemic.**

Vizient’s members range from community-based hospitals to large, integrated health care systems including academic medical centers and pediatric facilities that serve the acute and non-acute care needs of communities across the country. Individually, our members are integral partners in their local communities, and many are ranked among the nation’s top health care providers.

In closing, on behalf of Vizient, we thank HHS for considering our request. Please feel free to contact me or Jenna Stern at jenna.stern@vizientinc.com, if you have any questions or if Vizient may provide any assistance as you consider these issues.

Respectfully submitted,



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Vizient, Inc.

⁶ Senate Majority Leader Mitch McConnell (October 1, 2020). Letter to Department of Health and Human Services Secretary Azar, available at: <https://strategichealthcare.net/wp-content/uploads/2020/10/McConnell-Letter-to-Azar-10.1.20.pdf>, last accessed: October 13, 2020.

⁷ Senator Marsha Blackburn, et al., (October 9, 2020), Letter to Department of Health and Human Services Secretary Azar, available at: https://images.magnetmail.net/images/clients/AHA_MCHF/attach/2020/October/10092020_AZAR_PRF.pdf, last accessed: October 13, 2020.

⁸ See also, Senator Amy Klobuchar, et al., (October 9, 2020). Letter to Department of Health and Human Services Secretary Azar, available at: <https://www.klobuchar.senate.gov/public/cache/files/f/d/fdcdb2ff-c33d-4265-9559-375807d7ce4e/7325015C013C0DDB22F5EDF37CDCCDF4.100920hhsletterfinal.pdf>, last accessed: October 13, 2020.