

CAPH COVID-19 Federal Financial Recovery FAQs

General

When the Federal emergency is determined to be “over” (Presidential action) at what point do the costs become ineligible for claiming? For example, if on July 1st the emergency order is lifted, yet PHS members are still doing Contact Tracing related to the Emergency, will the cost incurred after July 1st be reimbursable?

Historically, the period of performance for Category B Emergency Protective Measures is 6 months after the declaration date. All work completed during that time must tie back to the incident period. Time extensions can be submitted to allow for additional time outside of the 6 months.

According to Cal OES, FEMA has a 60-day timeline to identify and report damage for COVID-19 Streamlined Public Applications. The timeframe for reporting damage/activities for COVID-19 Streamlined Public Applications is either within 60 days of the declared end of the Public Health Emergency or 60 days from the approval of the applicant’s Public Assistance, **whichever is later**. These Streamlined Project Applications can contain estimates, so all the work does not have to necessarily be done within 60 days of the end of the emergency. It is important to note that we do not know when the emergency will end and start this 60-day clock.

Ultimately, given the nature of the event and uncertainty surrounding the emergency timeline, it is still to be determined how submission timelines and periods of performance will be affected.

Since other funding must be used first before FEMA reimburses costs - and some of this funding (Medicare cost reports) will take 2-3 years before they are closed, will FEMA still be available?

For insurance and patient payments, it will take considerable amount of time to receive payments. However, FEMA will look at actual OR anticipated insurance when reviewing your claim. At close out, the anticipated insurance estimates will be updated with actual insurance numbers and reconciled for the final project claim. This could result in an obligation of additional funds or a de-obligation in adjusting for final insurance funds.

Can the county public hospital submit an RPA independently from the county or should there be just one submission from the county on behalf of the county hospital and other operating units?

This can vary from county to county and will be based on the structure of the hospital within the County. Some of the considerations would be if the Hospital has a separate governing body (i.e. board), a separate taxing entity, or the governing body is the Board of Supervisors. If the Board of supervisors is the governing body, then one RPA would be submitted, which would include the county and the public hospital. (Note: Eligibility is the same regardless if the public hospital is under the County or a separate entity)

PHS members have had internal discussions about signatures on documents - especially the ICS 213RR and 214. As many people are working off site (home) is electronic signatures allowed?

Yes, electronic signatures are allowed.

Does FEMA cover the cost of HR6201 the Emergency Paid Sick Leave Act?

Private employers are entitled to refundable tax credits related to the Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave. To date, public employers are not eligible for the credit; however, there are lobbying efforts for further legislation that may change this. In addition, legislation is in the works for emergency funds for public entities to apply for reimbursement of COVID-19 spending, such as through FEMA or other state or federal programs.

Do you have any guidance on how to interpret the "last payor" language for FEMA, relative to other payors? Do we need to bill Medicaid / Medicare, etc. first, then bill the rest to FEMA? FEMA guidance isn't particularly clear in this area.

Yes, you must file with your insurance carrier first, including Medicare and Medicaid. FEMA is a provider of last resort and cannot duplicate benefits. PHS members must seek reimbursement from insurance first, or else FEMA will disallow these funds. The oversight and compliance happens at multiple levels – and can happen well after the fact. The counties or county hospital will have to certify the medical care insurance received. This certification will be subject to audit and compliance review.

It is understood that FEMA expects a provider to bill insurance for the test, if the provider knew the patient had insurance. But what about testing sites that are not asking/verifying insurance status, will FEMA match those costs?

If there are no insurance reimbursements and the applicant can certify they did not receive medical payments – it appears that the out of pockets cost should be reimbursed since there is no duplication. As always, these projects are subject to audit.

Would FEMA deny payment because a testing site chose not to ask individuals about their insurance status?

If the applicant did not ask individuals about their insurance status, then the applicant should submit these costs because there is no duplication of benefits. As always, these projects are subject to audit.

Would FEMA deny payment because a testing site did not verify if a patient had insurance?

If there is an insurance claim, then the FEMA claim amount would be reduced by the insurance proceeds. If the applicant had patient insurance information, and COVID-19 testing is a covered medical cost under the individual's insurance, then the applicant should submit costs through the insurance company and reduce the amount of the FEMA claim.

Do providers have any obligation to bill the new HRSA Uninsured Claims Program before FEMA will match costs for uninsured testing/treatment?

If the applicant received HRSA Uninsured Claims Program funding, then they should use those funds until they are exhausted before pursuing FEMA reimbursement. HRSA Uninsured Claims funds are 100% funding as opposed to the FEMA 75% cost share, so it is worth using these funds first.

What if PHS members prefer to not submit claims to HRSA? Some providers have raised concerns about the use of the patient-level information submitted to HRSA potentially being used by the federal government for immigration purposes.

From a CARES Act perspective this is a potential concern, but there is little guidance on this topic. From a FEMA perspective, this personal data is not shared and therefore is not used for immigration purposes. Under the FEMA PA program, all the data is stripped of personal identification information (PII) in order to keep PII out of the claim.

Given that some individuals' testing/treatment will be covered by their health insurance, we are seeking additional clarity about FEMA's status as a payer of last resort. What verification and/or documentation will FEMA be seeking to ensure compliance?

FEMA cannot provide PA funding for clinical care costs funded by another source, including private insurance, Medicare, Medicaid/CHIP, other public insurance, a preexisting private payment agreement, or the COVID-19 Uninsured Program for uninsured patients. The Applicant will need to certify that it has not received and does not anticipate receiving assistance from these sources or any other source for the same work or costs. FEMA will de-obligate any PA funding that has been provided if another source provides funds to the Applicant for the same clinical care costs.

All sub applications are subject to review at close out in addition to being audited through the Office of Inspector General.

At what point will the FEMA disaster relief fund need to be replenished by Congress? Has Congress ever failed to replenish?

The CARES act re-appropriated 45 billion for the disaster relief fund. The balance of the disaster relief fund is closely tracked, and potential future appropriations coordinated with the Federal government.

Community-Based Testing Sites

With respect to community-based testing sites - is there any obligation to attempt to bring these operations within the scope of traditional health reimbursement? How do you demonstrate that the testing site is appropriately reimbursable under FEMA?

It is dependent on the specific situation. Several key questions are: How were you asked to become a community-based testing site? Who is funding the CBTS? Entities should track all labor, regular time and overtime, materials, mobilization and demobilization costs.

As a follow-up to the earlier question about testing sites, are PHS members required to attempt to bill insurance prior to FEMA claiming? One concern performing coverage screening at testing sites.

Follow your normal policy on community-based testing and check the MOU about how you are handling insurance.

Under circumstances surrounding community-based testing sites, would materials suitable for reimbursement include free tests that you're giving to the public and collecting on-site?

Yes, track all these costs. Costs related to testing are included as an eligible activity for COVID-19.

Labor

If permanent budgeted employees are doing functions outside of normal work activities, can PHS members claim those?

Only overtime is eligible.

If budgeted employees are moved to an emergency operations center, are both regular time and overtime pay FEMA reimbursable?

If the employee is a budgeted employee, then just the overtime is eligible.

Is FEMA reimbursement for emergency activities based on whether staff are activated by the agency's emergency operations center?

Eligibility is tied to treatment of COVID-19, staff do not need to be activated specifically by the EOC to treat COVID 19 patients.

Is there any precedent or possibility of FEMA reimbursing for Regular Salaries, considering the nature and severity of the COVID emergency?

Exempt employees' salaries are covered under normal operations and they do not receive overtime pay. As a result, their costs would not be covered.

In general, if we execute a new Nurse Registry contract for COVID-related work, we can include 100% of the expense in B1. But if we use an Existing Nurse Registry contract, is this also claimable under B1, or will FEMA consider this to be "Budgeted Salaries" and not allow us to include Regular Salaries as a B1 expense?

If the nurses are budgeted, then it is most likely only the overtime that is reimbursable.

Contracts and Procurement

If PHS members buy \$50M in PPE and have \$10M leftover after the Emergency Declaration ends, how difficult is it to pledge to use this PPE on other Federally funded programs so that PHS members don't have to repay some portion of the \$10m in unused PPE?

In FEMA policy there is a mechanism for medical providers to support these costs. Keep track of how and why you purchased PPE. There will then be a process to submit this justification to FEMA in order to potentially keep this funding.

Do PHS members need a procurement justification for every Vendor we use, or is it specific to the type of material we are purchasing?

Each procurement needs a procurement memo. For example, if you have 5 purchases from a single vendor. You would need to document that 5 times. The justification memo will look similar for all five.

Are existing contracts that have been repurposed for COVID19 claimable? Would we need to establish new contracts with exiting contractors explicitly for COVID19? i.e. Repurposing a behavioral health contract to provide services at a shelter in place hotel.

If you had existing contracts prior to January 20. Unless the procurement of services/materials is done using Federal procurement standards, a justification memo would have to justify the procurement process given the exigent and emergency circumstances.

Is the Detailed Cost / Price Analysis required for individual procurements that are less than \$250k, but that, in the aggregate, are over \$250k?

Yes, if you are aggregating multiple purchases then you should do a detailed cost / price analysis.

FEMA and CARES Act Interaction

Is there a final determination if CARES Act can be used as the 25% FEMA match?

No, that determination has not been formalized. FEMA and the department of treasury are working out what this guidance will look like. Clarification around this co-share is expected in the future.

According to Treasury FAQs (released on 6/24), payments from the Coronavirus Relief Fund may be used to meet the non-federal matching requirements for Stafford Act assistance to the extent such matching requirements entail COVID-19-related costs that otherwise satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act.

Can salaries and benefits of budgeted employees who have been diverted to substantially different functions due to COVID-19 emergency be claimed for FEMA reimbursement? CARES Act reimbursement?

For FEMA, overtime for employees pulled in to do a different function in response to the medical emergency is eligible. However, straight time depends on an employer's pay policies. If the employer's pay policy has a provision that furloughs employees due to low census, but the employee is reassigned in response to the medical emergency, then both regular time and overtime are eligible.

For CARES Act, there is a much broader definition of what labor amounts are covered. CARES Act states that providers can use funds to maintain healthcare delivery capacity, and this includes employee or contract payroll.

Unlike CARES Act, FEMA is payer of last resort. Does this mean that we should claim reimbursement under CARES Act before we claim FEMA reimbursement?

In looking to maximize resources and funding, CARES act funding should be used first because it is 100% funding whereas FEMA reimburses only 75% of eligible costs.

Please discuss briefly the pros and cons of claiming reimbursements under FEMA and CARES Act in terms of documentation required.

From a CARES act perspective, there is wider definition of expenses that are covered. From a documentation standpoint there is little to no detail that has been supplied about how providers are to report to HHS, and further guidance is expected to be provided in the future.

For the FEMA PA program there is no cap to the funding. The funding comes out of the disaster relief fund which is replenished often from Congress. Being an uncapped resource, it is a rules-based program that has specific guidelines for the types of documentation that must be provided. For example, the documentation required for PPE includes invoice, PO, payment support, and usage. Due to the amount of detail required by FEMA, the tracking and documentation of costs may be much more efficient through CARES Act.

Is there any guidance on how to calculate lost revenue? Will it be possible to use gross revenue to claim lost revenue?

According to the recently released HHS FAQs, you may use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared. For example, if you have a budget prepared without considering the impact of COVID-19, the estimated lost revenue could be the difference between your budgeted revenue and actual revenue. It would also be reasonable to compare the revenues to the same period last year. 8 All providers receiving Provider Relief Fund payments will be required to comply with the reporting requirements described in the Terms and Conditions and specified in future directions issued by the Secretary. HHS will provide guidance in the future about the type of documentation we expect recipients to submit. (<https://www.hhs.gov/sites/default/files/provider-relief-fund-general-distribution-faqs.pdf>)