

TITLE 6: ECONOMIC DEVELOPMENT

PART 2: Healthcare Providers PPE and Testing Reimbursement Program

PART 2 CHAPTER 1: HEALTHCARE PROVIDERS PPE AND TESTING REIMBURSEMENT PROGRAM RULES AND REGULATIONS

RULE MAKING AUTHORITY: In Section 1 of House Bill 1782, 2020 Reg. Session, as amended by Senate Bill 3063, 2020 Reg. Session (the "Healthcare Providers Act"), the Mississippi Legislature designated the Mississippi Development Authority ("MDA") to administer a comprehensive program to reimburse a number of healthcare related individuals and entities for the purchase of "personal protective equipment" and testing of employees and staff related to COVID-19, thus authorizing MDA to develop regulations, procedures, and forms to govern the administration of the program.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session

EMERGENCY RULE MAKING AUTHORITY: COVID-19 is a global pandemic that has reached the State of Mississippi, causing a major impact on the public health, safety, and welfare on the citizens of the state, placing them in imminent peril, including with regard to their economic security and wellbeing. Funding for the program is provided from the State of Mississippi's allocation of \$1.25 billion from the "Coronavirus Relief Fund" (Title VI, Sec. 601) of the "Coronavirus Aid, Relief, and Economic Security Act" (H.R. 748), signed into law by President Donald J. Trump on March 27, 2020. Mississippi's allocation is available until December 31, 2020, thus requiring funds to be expended within a limited time period. Therefore, the Healthcare Providers Act makes funding available for this comprehensive program until December 31, 2020. In accordance with Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006) of the "Mississippi Administrative Procedures Act" and the rules enacted by the Mississippi Secretary of State's Office, MDA hereby gives notice of the immediate adoption of these Program Rules due to "an imminent peril to the public health, safety or welfare" and pursuant to the authority found in State of Emergency COVID-19" Proclamation issued by Governor Tate Reeves on March 14, 2020. These Rules and Regulations shall become effective immediately upon filing with the Secretary of State's Office.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session; Miss. Code Ann. §§ 25-43-3.108 and 25-43-1.104 (Rev. 2006).

RULE 1.1 PROGRAM OBJECTIVE AND PURPOSES.

Pursuant to the Healthcare Providers Act, MDA hereby creates the "Healthcare Providers PPE and Testing Reimbursement Program," which is designed to provide funds to reimburse Eligible Recipients as limited by the Healthcare Providers Act for the purchase of "personal protective equipment" and providing for COVID-19 testing for employees and staff. This Program shall comply with all applicable federal and state laws, rules, and regulations.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.2 DEFINITIONS

- A. “Healthcare Providers Act” means House Bill 1782, 2020 Reg. Session, as amended by Senate Bill 3063, 2020 Reg. Session.
- B. “Program” means the “Healthcare Providers PPE and Testing Reimbursement Program,” which was established by the Healthcare Providers Act.
- C. “COVID-19” means the Coronavirus Disease 2019.
- D. “MDA” means the Mississippi Development Authority, as established by Miss. Code Ann. §§57-1-1, *et seq.* (Rev. 2006).
- E. “MSDH” means the Mississippi State Department of Health, as established by Miss. Code Ann. §§43-3-1, *et seq.* (Rev. 2006).
- F. “MSBDE” means the Mississippi State Board of Dental Examiner, as established by Miss. Code Ann. §73-9-7 (Rev. 2006).
- G. “MSBML” means the Mississippi State Board of Medical Licensure, as established by Miss. Code Ann. §§ 73-43-1, *et seq.* (Rev. 2006).
- H. “MBN” means the Mississippi Board of Nursing, as established by Miss. Code Ann. § 73-15-9 (Rev. 2006).
- I. “MSBO” means the Mississippi State Board of Optometry as established by Miss. Code Ann. § 73-19-7 (Rev. 2006).
- J. “Eligible Recipient” means the following specific individuals and entities set forth in Section 2 of the Healthcare Providers Act and defined below:
 - 1. “Ambulatory surgical centers” are those entities as defined by and licensed or certified by MSDH;
 - 2. “Assisted living facilities” are those entities as defined by and licensed by the MSDH;
 - 3. “Alzheimer’s/dementia care units” are those entities as defined by and licensed by MSDH;
 - 4. “Intermediate care facilities for individuals with intellectual disabilities” as defined by and licensed by MSDH;
 - 5. “Permitted ground ambulances” as defined by and licensed or permitted by MSDH;
 - 6. “Nursing home facilities” as defined by and licensed by MDHS;

7. "The Mississippi Organ Recovery Agency" ("MORA"), which is a non-profit organized under the laws of the State of Mississippi with a Business Identification Number of 590754 with the Mississippi Secretary of State's Office and which is the federally designated organ procurement organization for most of the State of Mississippi;
 8. "Independent dentists" are those individuals as defined by and licensed by MBDE who are actively providing care to patients, own a share of his or her dental practice, have key decision-making rights for his or her practice, and are not employed by a hospital or an organization associated with a hospital;
 9. "Independent physicians" are those individuals as defined by and licensed by MBML, including allopaths, osteopaths, and podiatrists, who are actively providing care to patients, own a share of his or her medical practice, have key decision-making rights for his or her practice, and are not employed by a hospital or an organization associated with a hospital;
 10. "Nurse practitioners" are those individuals as defined by and licensed by MBN who are not employed by a hospital and have an "independent practice," that is one where the nurse practitioner is not employed by a Practice Group and/or is not operating within a Practice Group; and
 11. "Independent optometrists" are those individuals as defined by and licensed by MSBO and who are actively providing care to patients, own a share of his or her optometrist practice, have key decision-making rights for his or her practice, and are not employed by a hospital or an organization associated with a hospital.
- K. "Practice Group" means an organization involving two or more independent dentists or independent physicians, who all provide dental or medical care within the same facility, utilize the same personnel, divide the income in a manner previously agreed upon by the group. A Practice Group may consist of providers from a single specialty or multiple specialties.
- L. "Grant Agreement" means the instrument by which an Eligible Recipient indicates his/her/its desire to participate in the Program, provides essential information from the Eligible Recipient for the Program, and binds the Eligible Recipient to all terms and conditions of the Program. The Grant Agreement must be completed online and submitted to MDA in order for the Eligible Recipient to participate in the Program.
- M. "Reimbursement Request" means the form that each Eligible Recipient must complete online and submit to MDA, along with required supporting documentation for Eligible Expenses, including, but not limited to, invoices, purchase orders, or receipts.
- N. "Eligible Expense" means the following:
1. For all Eligible Recipients/Applicants except permitted ground ambulances, a cost incurred beginning on March 1, 2020, and ending on December 31, 2020, for the following items only:

- a. “Personal Protective Equipment” (“PPE”) means those items identified by the U.S. Centers for Disease Control and Prevention (“CDC”) in its “Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic Infection Control Guidance” (Updated July 15, 2020) which include the following:
 - i. Respirators (N95 or higher);
 - ii. Facemasks;
 - iii. Goggles;
 - iv. Face shields;
 - v. Protective eyewear without gaps between glasses and face;
 - vi. Gloves; and
 - vii. Gowns.
 - b. “COVID-19 testing” means those medical tests administered for staff and employees of the Eligible Recipient which are recommended by the CDC in its guidance entitled “Testing for COVID-19” (Updated June 24, 2020) which include the following:
 - c. Viral tests which inform an individual that he/she is currently infected with the COVID-19 virus, and
 - d. Antibody tests which may inform an individual that he/she has had a past infection of COVID-19.
 - e. “COVID-19 screenings” means those tests of individuals who are attempting to enter the facilities, clinics, or vehicles of Eligible Recipients which are designed to detect possible COVID-19 infection and protect the Eligible Recipient and his/her/its staff and employees from exposure to COVID-19.
2. In addition to those expenses provided for in Rules 1.2 N.1., permitted ground ambulances may also submit, per the CARES Act and the guidelines issued by the U.S. Department of the Treasury, any eligible cost necessarily incurred due to COVID-19 and during the period that begins on March 1, 2020, and ends on December 30, 2020. The Eligible Recipient must submit documentation as to how a submitted expense meets both the necessary connection to the pandemic and the time period requirement. Eligible Expenses shall include, but not be limited to, the following:
 - a. Expenses to create social distancing measures;

- b. Expenses to clean or disinfect areas due to COVID-19, including, but not limited to, sanitizing products and cleansers;
- c. Expenses for technical assistance concerning mitigation of COVID-19 related threats to public health and safety;
- d. Contactless equipment;
- e. Equipment or items designed to track employees or customers who have tested positive for COVID-19;
- f. Expenses for quarantining individuals;
- g. Necessary re-opening expenses specifically to address COVID-19 issues;
- h. Expenses to facilitate teleworking to enable compliance with COVID-19 public health precautions;
- i. Expenses to facilitate distance learning, including technological improvements, in connection with closings to enable compliance with COVID-19 precautions;
- j. Expenses for additional food delivery costs and expenses, including the purchase of food, to individuals and households, such as to senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions;
- k. Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions;
- l. Individual grants to prevent evictions or foreclosure and to otherwise assist in preventing homelessness which are necessary expenses incurred due to the COVID-19 public health emergency;
- m. Individual assistance to individuals and households who have been directly impacted by a loss of income due to the COVID-19 public health emergency for necessary expenses;
- n. Expenses for employment and training programs for individuals who have lost employment or have been furloughed due to the COVID-19 public health emergency;
- o. Expenses incurred directly due to the interruption of the permitted ground ambulances' business due to COVID-19, including:
 - i. Mortgage interest;

- ii. Rent;
- iii. Payroll; or
- iv. Utilities;

p. Eligible Expenses shall not include the following:

- i. Damages that have been or will be covered by insurance;
- ii. Costs that have been or will be reimbursed by any other federal or state program;
- iii. Reimbursement to donors for donated items or services;
- iv. Workforce bonuses other than Hazard Pay or overtime;
- v. Severance pay;
- vi. Legal settlements;
- vii. Payments to cover or reimburse individuals and entities for property taxes; and

q. Other expenses deemed ineligible under the guidelines, guidance, rules, regulations and/or other criteria, as may be amended from time to time, of the United States Department of the Treasury regarding the use of monies from the “Coronavirus Relief Fund.”

O. “Rules” means these rules as authorized by the Healthcare Providers Act.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session. Miss. Code Ann. § § 43-3-1, et seq.; 73-9-7; 73-15-9; 73-19-7; and 73-43-1, et seq. Centers for Disease Control “Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic Infection Control Guidance” and “Testing for COVID-19.”

RULE 1.3 CERTIFICATION OF ELIGIBLE RECIPIENTS.

MDA will obtain from MSDH, MSBDE, MSBML, MBN, and MSBO the regularly recorded lists, as authorized by Mississippi law, of all those individuals and entities which meet the definition of Rule 1.2 J., which will form the pool of Eligible Recipients for the Program. No other individuals or entities will be considered by MDA.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.4 GRANT AGREEMENT.

All Eligible Recipients who desire to participate in the Program will be required to execute a Grant Agreement, which will contractually bind that individual or entity to the legal requirements and terms of the Program.

- A. The Grant Agreement will contain the following information to be provided by the Eligible Recipient:
 - 1. The name of the Eligible Recipient:
 - a.If an individual, the full name of that person;
 - b.If an entity, the full registered name of the entity, along with any DBAs or tradenames.
 - 2. The type of Eligible Recipient per Rule 1.2 J.;
 - 3. The name of the Practice Group in which the Eligible Recipient participates;
 - 4. The name of the Practice Group representative with legal authority to bind the entity;
 - 5. The Eligible Recipient's address;
 - 6. The Eligible Recipient's phone number;
 - 7. The Eligible Recipient's email address
 - 8. Primary contact for the Eligible Recipient;
 - 9. The appropriate Mississippi license number of the Eligible Recipient and the state agency issuing the license;
 - 10. The types and amounts of funds received from any other federal, state, or other programs covering the cost of PPE and/or COVID19 testing.
 - 11. Whether or not the Eligible Recipient has ongoing Eligible Expenses not covered by funds received to date.
- B. A Practice Group will be required to enter into one Grant Agreement for all members of the group. In such cases, all Eligible Recipients who are members of the Practice Group will be listed in the Grant Agreement, along with all other required information as listed above. The Grant Agreement will be binding upon each Eligible Recipient who is a member of the Practice Group, and all of its terms, conditions, and guarantees will be enforceable against each Eligible Recipient.
- C. In addition to providing the above information, the Eligible Recipient will be required to certify that he/she/it understands and agrees to certain required provisions, including the following statements:

1. The Eligible Recipient understands and agrees to follow and comply with all provisions of the Program, including but not limited to, the Healthcare Providers Act and the Rules;
 2. That, if the Eligible Recipient is found to be fully or partially noncompliant with any Program requirements, the Eligible Recipient will be required to return all or a portion of the monies received from the Program, as well as being subject to additional civil and criminal penalties;
 3. That the Eligible Recipient certifies and acknowledges that by accepting reimbursement for Eligible Expenses under the Program, he/she/it may be subject to additional monitoring, oversight, and/or auditing by the U.S. Department of Treasury's Office of the Inspector General, the Mississippi Office of the State Auditor, the Mississippi Development Authority, or such other federal or state agencies with authority to conduct such reviews;
 4. That the Eligible Recipient has not received any funding from other federal, state, or other programs which cover the Eligible Expenses which will be submitted by him/her/it;
 5. If applicable, that the Eligible Recipient actively provides care to patients;
 6. If applicable, that the Eligible Recipient owns a share of his or her practice and has key decision-making rights for his or her practice; and
 7. If applicable, that the Eligible Recipient is not employed by a hospital or an organization owned by or is a subsidiary of a hospital.
- B. The Grant Agreement must be signed under penalty of perjury certifying that all responses and statements are true and correct and are not false, fraudulent, or materially misleading.
- C. All supporting information requested in the Grant Agreement must be provided. The failure to enter into this Grant Agreement and agree to the required certifications and representations will result in the Eligible Recipient being disqualified from the Program.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.5 REIMBURSEMENT REQUESTS.

Upon entering into the Grant Agreement, Eligible Recipients will be required to submit their Eligible Expenses through the proscribed Reimbursement Request form. A Practice Group must submit one joint Reimbursement Request for all those Eligible Recipients within the group, with Eligible Expenses being distributed evenly among the members of the Practice Group. All Eligible Expenses must be itemized on the form, and the Eligible Recipient must certify that he/she/it has not received any other funds from any other source to cover these items. The Reimbursement Request form must be signed under penalty of perjury by the Eligible Recipient

or its designated representative with authority to do so. Furthermore, the Eligible Recipient must submit supporting documentation for all Eligible Expenses, including, but not limited to invoices, purchase orders, receipts, bills, charges, or other financial statements. Failure to submit supporting documentation will result in those expenses being denied as ineligible.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.6 PROCESSING AND TIMING OF REIMBURSEMENTS.

Reimbursement Requests will be processed in the order by which they are received. At any point during the process, MDA may contact the Eligible Recipient for further information or supplemental documentation. MDA reserves the right to independently verify any information or documentation submitted, including reviewing the records of the Eligible Recipient. Eligible Recipients may submit a Reimbursement Request one time every thirty (30) days.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.7 REIMURSEMENT CAPS.

Pursuant to the Healthcare Providers Act, Eligible Expenses will continue to be reimbursed to the Eligible Recipient until the Program expires at the end of 2020 or Program funds are exhausted per the following appropriation limitations:

A. Funding limits per each category of Eligible Recipients as follows:

1. Ambulatory surgical centers -- \$300,000.00.
2. Assisted living facilities -- \$452,000.00.
3. Alzheimer's/dementia care units -- \$88,000.00.
4. Intermediate care facilities for individuals with intellectual disabilities -- \$140,000.00.
5. Permitted ground ambulances -- \$3,110,000.00.
6. Nursing home facilities -- \$2,110,000.00.
7. MORA -- \$100,000.00.
8. Independent dentists -- \$5,632,000.00
9. Independent physicians, nurse practitioners, and optometrists -- \$7,125,000.00.

B. Funding limits on the maximum total amount each Eligible Recipient can receive within each category as follows:

1. \$2,500.00 total amount per independent physician, nurse practitioner, and independent optometrist. In addition, a Practice Group under this category shall be limited by the number of Eligible Recipients who are members of the group, with a maximum limit of \$25,000 in total reimbursement for the Practice Group. Finally, no more than 2,850 individuals qualifying under this category may receive Program funds.
2. \$4,000.00 total amount per ambulatory surgical center, assisted living facility, Alzheimer's/dementia care unit, and independent dentist. In addition, a Practice Group of independent dentists shall be limited by the number of Eligible Recipients who are members of the group, with a maximum limit of \$40,000 in total reimbursement for the Practice Group of independent dentists.
3. \$5,000.00 total amount per permitted ground ambulance.
4. \$10,000 total amount per intermediate care facility for individuals with intellectual disabilities and nursing home facility. In addition, no more than fourteen (14) intermediate care facilities for individuals with intellectual disabilities may receive Program funds.

These caps shall be strictly enforced by MDA. If any caps are exceeded, regardless of the reason, MDA will seek to recapture any Program funds issued in excess to any Eligible Recipient.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.8 REPAYMENT OF FUNDS.

By seeking reimbursement and participating in the Program, the Eligible Recipient must acknowledge and agree under penalty of perjury that the submission of any false, fraudulent, or materially misleading information in the Application or the Reimbursement Request will result in immediate disqualification and will subject the Eligible Recipient to all penalties and liabilities, both civil and criminal, under state and federal law. If such information is discovered following an award of Program funds, the Eligible Recipient and anyone acting with him or her will be prosecuted to the fullest extent of the law and shall repay all Program funds received.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.9 DISBURSEMENT OF FUNDS.

All Program funds will be disbursed by written check in the name of the Eligible Recipient or the Practice Group and mailed to the physical address provided by the Eligible Recipient.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.10 APPEALS PROCESS.

- A. An Eligible Recipient may appeal any award or disqualification notice received from MDA by giving written notice within twenty (20) calendar days of the date of the MDA notice of award decision. The appeal must be received by MDA at the address below by the 20th day. If an appeal is not made within the twenty (20) calendar day timeframe, the Eligible Recipient will have waived its right to appeal the decision and the original decision shall be deemed final.
- B. Appeals must be written and state with specificity the basis for the Eligible Recipient's disagreement with the decision. Appeals are determined solely on the written record. The appeal must address the grounds provided for the award or the MDA's disqualification notice. Furthermore, the appeal must provide copies of all documents, records, papers or other information to support the appeal. In addition, all appeals must be dated and contain the Eligible Recipient's name and the name of any authorized representative.
- C. To be accepted, the written appeal must be delivered by one of two methods:

By United States Mail to the following address:
Mississippi Development Authority
Healthcare Providers PPE and Testing Reimbursement
Program: Appeals
P.O. Box 849
Jackson, Mississippi 39205

Or by courier mail or hand delivery to the following:
Mississippi Development Authority
Healthcare Providers PPE and Testing Reimbursement
Program: Appeals
501 North West Street
Jackson, Mississippi 39201

- D. MDA will review the appeal and all supporting material to determine if the appeal can be resolved based upon the Eligible Recipient's submission and Program requirements. If so, a final written determination of the appeal will be issued by MDA.
- E. If the appeal cannot be resolved after the initial review, MDA will forward the appeal for review by an Independent Hearing Officer ("IHO"), to be designated by the Attorney General of Mississippi. MDA will provide the IHO the Eligible Recipient's file, the appeal and all supporting material provided by the Eligible Recipient on appeal, all program requirements and policies, an MDA explanation of the case, and MDA's recommendation (if any). The IHO will review all the written materials and issue a written decision to MDA. MDA will review and make a final written determination which will be issued by MDA to the Eligible Recipient within ten (10) days of the receipt of the IHO's decision.

- F. All appeal determinations made by MDA are final with no further administrative review and are not subject to judicial review.
- G. An Eligible Recipient can withdraw the appeal at any time by providing written notice to MDA. Such written notice must be delivered to MDA at the addresses set forth above.
- H. Program requirements established by MDA as dictated by federal and state law may not be waived or abrogated.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.11 FRAUD REFERRALS.

In cases in which fraud is suspected or where false or materially misleading information or documentation has been provided by an Eligible Recipient, a written referral will be made to the Mississippi State Auditor's Office, the Office of the United States Attorney, or other appropriate federal or state agencies. MDA will cooperate fully in such investigations and provide all information and documentation which it has received or gathered on the Eligible Recipient.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.12 WAIVER.

The Rules may be amended by MDA at any time and are further subject to amendment pursuant to any change in the federal law providing for the grant funds and the regulations and guidance implemented related thereto. MDA, in its sole discretion, may temporarily waive any requirement of the Rules to the extent that the result of such waiver promotes the public purpose of the Healthcare Providers Act and is not prohibited by state or federal law.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

RULE 1.13 AVAILABILITY OF FUNDS.

This program is contingent upon the availability of funds as appropriated by the Legislature and provided by the Federal government.

Source: Senate Bill 3063, 2020 Regular Legislative Session; House Bill 1782, 2020 Regular Legislative Session.

Adopted October 16, 2020.