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PWB3 - Financial Integrity: How To Be on the Right Side of an Audit

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The NACHC Mission

America’s Voice for Community Health Care

The National Association of Community Health Centers (NACHC) was founded in 1971 to promote efficient, high quality, comprehensive health care that is accessible, culturally and linguistically competent, community directed, and patient centered for all.

Disclaimer

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- Well known for his expertise in federal grants, government reimbursement, payment and administrative issues, and his strategic handling of organizations facing crises, Ted has been selected as a “Super Lawyer” for Health Care in Washington, D.C. again in 2021.
- Ted has been counsel to numerous health centers and other recipients of federal funds in the past 25+ years as well as many other entities such as managed care organizations and federal contractors, and has represented clients in front of federal and state courts, administrative tribunals, Offices of Inspector General and federal agencies. Of particular note, Ted has been lead counsel representing Health Centers and PCAs in various legal challenges to implementation of Medicaid PPS requirements.
- Ted has been Managing Partner of Feldesman Tucker since 2003 and has taught the first law school class in the country on federal grant programs at the George Washington University School of Law for the past several years.

PRESENTER: Jeff Allen, CPA, Partner – BKD CPAs & Advisors

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- Jeff is a member of BKD National Health Care Group and leader of the firmwide Community Health Centers Center of Excellence. He manages audit and cost report preparation services and provides consulting services in the areas of Medicare and Medicaid reimbursement, federal grant reporting and operational issues. Jeff also serves as a firmwide resource regarding federal audit guidelines and their application to community health centers.

- His expertise is routinely called upon by the National Association of Community Health Centers (NACHC), state primary care associations and the Bureau of Primary Health Care for financial analysis of issues important to community health centers. He serves as a resource to state primary care organizations and state Medicaid programs on Medicaid prospective payment system issues and the cost report submission and settlement process specific to state Medicaid programs. He also provides training to individual health center management teams and boards of directors on financial management issues.

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- Working as a member of the BKD National Health Care Group, Catherine provides financially focused consulting services to Community Health Centers.
- Her services include performing assessments of financial operations, clean-up work to assist in preparation for financial statement audits and assistance with monthly financial reporting and review of information. She frequently helps clients strengthen financial departments through education, mentoring and through the provision of technical assistance.
- Catherine is frequently involved with projects that assess CHC program compliance with various programs including the Health Center and 340B programs. She assists with the preparation of numerous types of federal reports and budget submissions as well as the review, analysis and audits of 340B programs and contractual relationships. In addition, she provides training to help CHCs comply with federal regulations, including the Uniform Guidance (2 CFR § 200) and Section 330 of the PHS Act.

Agenda

1. Current Environment
2. Prepare for COVID Audits/Lessons Learned from ARRA Audits
3. PRF Update
4. Planning for Life After COVID
5. Prepare for What?
6. Final Thoughts/Questions

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Current Environment

HHS OIG Workplan – A sample …

January 2022	Health Resources and Services Administration	Hospital's Compliance With the Provider Relief Fund Balance Billing Requirement for Out - of - Network Patients	Office of Audit Services	W-00-22-35878
November 2021	Health Resources and Services Administration	COVID-19 Pandemic Relief Funding and Its Effects on Nursing Homes: Case Study	Office of Evaluation and Inspections	OEI-06-22-00040
Revised	Health Resources and Services Administration	Audit of CARES Act Provider Relief Funds—Payments to Health Care Providers That Applied for General Distribution Under Phases 1, 2, and 3	Office of Audit Services	W-00-21-35873; W-00-22-35873
April 2021	Health Resources and Services Administration	Audit of Health Resources and Services Administration's COVID-19 Supplemental Grant Funding for Health Centers	Office of Audit Services	W-00-21-59456

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Using Federal Funding Effectively

Federal Funding is an Honor based system with implications for you…

- The federal grants system imposes almost all responsibility on the grantee, as in you are on your "honor" when drawing down funds that you need the money, nobody checks up on you. Similarly, you incur costs and spend that money, and nobody checks. Finally, you submit the SF 425 (the FFR) and report that you spent the money, but it says almost nothing. This system of grantee responsibility translates to, as stated by HHS Departmental Appeals Board…
  - "In addition, the Board has repeatedly held that under the applicable regulations and cost principles, a grantee bears the burden of documenting the existence and allowability of its expenditures of federal funds." S.A.G.E. Communications Services, DAB No. 2481 (2012).

Allowable Costs – Justification of Expenditures

1. Reasonable
   a. Prudent Person
   b. FMV – Arms Length, Sound Business Judgment
   c. Ordinary and Necessary
2. Allocable
   a. Who received benefit of expenditure?
   b. Fair and Equitable; Cause and Effect
3. Consistent Treatment
   a. Like to Like as in “each item of cost incurred for the same purpose be treated consistently in like circumstances…” 2 CFR §200.412/45 CFR §75.412
4. Documentation
   a. Valid and reliable
   b. Contemporaneously collected
5. Conformance
   a. Cost limits and such

For Example, What Does this Mean?

Can health centers use H8F funds for hazard pay or a "pandemic premium"?
H8F funds may be used for hazard and premium pay if you have policies and procedures in place that cover this type of pay. Personnel who will be paid with grant funding must receive salary and benefits consistent with your health center's policies for paying salaries under unexpected or extraordinary circumstances from all funding sources, federal and non-federal. You must document that you are following your organizational policy for charging salaries during unexpected and extraordinary circumstances.
(Added: 4/12/2021)

Or This?

Can health centers use H8F funds for raises or bonuses for any health center personnel?

Yes. H8F funds can be used for raises and bonuses that align with your organization's policies and procedures consistently applied across the organization. You must document that you are following your organizational personnel policies, including those for charging salaries during unexpected and extraordinary circumstances. You must also maintain appropriate records and cost documentation as required by 45 CFR § 75.302 – Financial Management and Standards for Financial Management Systems, and 45 CFR § 75.361 – Retention Requirement for Records.

For example, you would document that you have not been able to give raises or pandemic bonuses that were approved or part of existing policy due to a shortfall of funds. You would also show evidence that you could not pay out of other funding sources, and that the staff are working on activities that are in scope and allowed uses of H8F funds.

(Added: 4/29/2021)

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Prepare for COVID-19 Supplemental Audits

Common Findings and Lessons Learned from American Recovery and Reinvestment Act (ARRA) Audits

High Risk Elements – COVID – 19 Funding

- Double dipping – Allocating an expense to more than one funding stream
- Inadequate records to support to support administrative requirements related to grant funding..
- Programmatic performance reporting related to funding…
- Future audits of COVID-19 Funding
  - HHS Office of Inspector General
  - HRSA Division of Financial Integrity
  - Financial Statement Audits
    - 2021 Compliance Supplement finally released on August 12, 2021

Lessons Learned from the ARRA Audits:

- **Policies and Procedures** – essential to consistency
- **Applications and Budgets** – advance agreement on what comes next
- **Reporting Protocols** – keeping track of where you got numbers and why
- **Allowable Costs** – T&E and Fair Allocations are Highest Risk
- **Grant Administration** – Inventory, Drawdowns, Closeout

Lesson Learned from ARRA: Supplement Rules (No Double-Dipping)

This means that a grantee may not reduce state, local, or other non-federal funds because federal funds are available (or expected to be available) to fund that same activity.

The statutory language is often: "any Federal funds received under X grant shall be used to supplement, not supplant, non-federal funds that would otherwise be available for X grant activities."

Not all grants include this requirement.

Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds.

Lesson Learned from ARRA: Quarterly Reporting

Create written policies and procedures to ensure data is available when the report is due

Systematize the collection of the required data elements that are captured by you and your subrecipient for quarterly reporting

Federal Audits have started: Select Document Requests from OIG

Requirement: Tracking Grant Funds & Budget to Actual Analysis.

1. A detailed list of expenditures claimed for each COVID-19 supplemental grant, including a summary by showing total amount charged to each of these grants: H8C, H8D, and H8E

Note:

- H8C refers to the grants provided as a result of the $100 million allocated under the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020
- H8D refers to the grants provided as a result of the $1.32 billion allocated under the Coronavirus Aid, Relief, and Economic Security (CARES) Act
- H8E refers to the grants provided as a result of the $584 million allocated under the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA)

Federal Audits have started: Select Document Requests from OIG

Requirement: Tracking/ Procurement/Allowable Costs

2. Please provide a schedule of all purchases that were allocated to COVID-19 supplemental grants, including a brief description of use. For each purchase, please provide all relevant copies of supporting documents such as purchase order invoice, and proof of payment (i.e. cancelled check, bank statement showing payment amount or other documents that clearly show a payment was made for said purchase and the payment date). Also, if applicable please provide the following:

1. Bidding documents
2. A copy of the fully executed contact with detailed terms and conditions
3. For tangible items costing more than $5,000 or more, please provide a photograph of the item in service.

Lessons Learned from ARRA Audits: Maintaining an Adequate Financial System

Common Findings re: Financial Management of Grants during the HHS OIG ARRA Audits
Financial System did not separate Federal from non-Federal Funds
Financial System did not track and account for Recovery Act expenditures separately from other operating expenses
Unallowable costs
Draw-Downs did not match Financial System Information
Ability to spend funds timely
Effective Internal Controls
Problems fully expending the funds

Next Sample from OIG: Document Request List

3. A comparison schedule for HRSA-approved budget, actual expenditures incurred, and COVID-19 supplemental funds drawn down.

Lessons Learned from ARRA Audits: What You Said In Your Application Matters

Is the expense supporting an activity or cost approved in the application?

- **Professional and Contracted Services - It is important to appropriately distinguish between a professional service relationship (consultant/vendor) and a sub-recipient agreement as there are budget implications related to the applicable indirect costs and differing monitoring requirements.**
- **Capital Outlay - Check the applicable federal contract or grant to verify that property (equipment) is included in the budget.**
- **Budget Amendments - Be aware of budget changes that require prior approval and amendments.**

Next Sample from OIG: Document Request List

4. Health center’s policy on paying salaries under unexpected or extraordinary circumstances, if applicable.

Lessons Learned from ARRA Audits: Policies & Procedures

"Policies and procedures did not adequately describe the processes, authorizations, records and other internal controls required to maintain effective control and accountability for all grant cash, real and personal property, other assets and to adequately safeguard all such property and assure that it was used solely for authorized purposes."

Sample of Inadequate Policies and Procedures found during the HHS OIG ARRA Audits related to:
Maintaining Federal funds in insured accounts
Protecting whistleblowers
Accounting for property
Federal Deposit Insurance Corporation (FDIC) deposit limits
Equipment inventory records
Federal grant reporting

Next Sample from OIG: Document Request List

5. For all employees/contractors, whose salaries were charged to COVID-19 supplemental grants, please provide the following:

   a. Professional licenses, if applicable
   b. For contractors, please provide a copy of the executed contract with detailed terms and conditions, including invoices/billing records and proof of payment
   c. Time and attendance records, if maintained
   d. Documentation showing time spent working on COVID-19 supplemental grants, including supervisor's approval, if applicable
   e. Payroll register/summary (please provide this in excel format showing all the relevant data elements such as employee name, payroll ID, gross pay amount, pay-period, payroll date etc.)

Lessons Learned from ARRA Audits: Time & Effort

Personnel related findings:

- Overstatements the number of jobs created
- Improperly charging payroll costs based on estimates
- Inadequate time and effort and labor distribution systems
- Lack of other types of required personnel documentation

Activity related findings:

- Funds used for services at unauthorized service sites
- Draw-downs not matching financial system information
- Inadequate segregation of Recovery Act funds in the accounting system
- Failure to fully comply with quarterly Recovery Act reporting requirements

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Provider Relief Fund Update

What's New with PRF?

- New FAQ's published January 27, 2022
  - Period 2 reporting changes

- ARP Rural and Phase 4
  - ARP – Awarded in November 2020
  - Phase 4 – 80% of applications processed and HRSA hoped to have all applications reviewed by January 31st
    - Applications continue to be reviewed
    - Applicants will receive a notice if approved or denied regarding their Phase 4 and / or ARP Rural payment determination as soon as HRSA processes application

PRF Reporting Periods

Reporting Period	Payment Received Period (Payments Exceeding $10,000 in Aggregate Received)	Period of Availability	Reporting Time Period
Period 1	April 10, 2020 – June 30, 2020	January 1, 2020 – June 30, 2021	July 1, 2021 – September 30, 2021 **
Period 2	July 1, 2020 – December 31, 2020	January 1, 2020 – December 31, 2021	January 1, 2022 – March 31, 2022
Period 3	January 1, 2021 – June 30, 2021	January 1, 2020 – June 30, 2022	July 1, 2022 – September 30, 2022
Period 4	July 1, 2021 – December 31, 2021	January 1, 2020 – December 31, 2022	January 1, 2023 – March 31, 2023

**60-day grace period was granted for Period 1

Period 2 Reporting Portal Open

- Phase 2 of Provider Relief Fund Distributions
  - Distributions to providers not in Phase 1 – Few Health Center's included in this distribution

- Phase 3 of Provider Relief Fund Distributions
  - Health Center's had to apply for this phase

- Reporting changes for Health Center's to consider in future periods
  - Expenses: Can report additional expenses but can not revise expenses submitted previously
  - Lost Revenue: Providers have an ability to change lost revenue methodology or previously reported financial information
    - Methodology: New methodology must be used moving forward
    - Previously Reported Information: Will be required to provide justification
    - Period 1 Reporters: If no change, previously unused lost revenue should carry forward to current report

Phase 4 and ARP Rural Provider Relief Funds

- Using Phase 4 and ARP Rural Funds
  - Expenses: Related to COVID – see next Slide
  - Lost Revenue: Three Options

- PRF Overarching Principles
  - Recipient certifies that it will not use payments to reimburse expenses … that have been reimbursed from other sources or that other sources are obligated to reimburse.
  - Provider Relief Fund payments may be used to cover those quarters where patient care revenue losses occurred as long as those losses were attributable to coronavirus.

Phase 4 and ARP Rural Provider Relief Funds

- Identifying COVID Related Expenses (several approaches)
  - List of specific COVID related expenses
  - Increase in direct marginal COVID related costs
  - Fully allocated costs less payments
    - Fully allocated Medicare COVID patient costs less Medicare payments (including the 20% add-on).
    - Fully allocated uninsured COVID patient costs less HRSA uninsured payments
- Lost revenues (three options) – Option III update – any rejected??

Lost Revenues Reimbursement

PRF payment amounts (excluding SNF and Nursing Home Infection Control Distribution payments) not fully expended on health care-related expenses attributable to coronavirus may then be applied to patient care lost revenues, if applicable.[4] Documentation requirements for lost revenues calculations are further defined within the Data Elements section below. Recipients may choose to apply PRF payments toward lost revenues using one of three options, up to the amount:

Option i: of the difference between actual patient care revenues;

Option ii: of the difference between budgeted (prior to March 27, 2020) and actual patient care revenues.

Option iii: calculated by any reasonable method of estimating revenues.

Phase 4 and ARP Rural PRF Strategies

- Phase 4 and ARP Rural Funds
  - Expenses or Lost Revenues from January 1, 2020 – December 31, 2022
    - Confusion related to information submitted on application vs. reporting time frame

- Strategies for using Phase 4 and ARP Rural Funds
  - Expenses: See previous slide
    - Direct COVID Expenses (plan and execute) – Remember construction restrictions
    - Align PRF usage with grant strategy (next slide)
  - Lost Revenue: Carry-forward lost revenue from previous periods
    - Lost revenue current period (continue to calculate)

Notable FAQ's

Must HRSA Health Center Program-funded health centers & look-alikes fully draw down Health Center Program COVID-19 Supplemental grant funding received from HRSA before using Provider Relief Fund payments for eligible expenses & lost revenues attributable to coronavirus? (Modified 8/30/2021)

Yes, Health Center Program COVID-19 Grants awarded to FQHCs & FQHC Look-Alikes for costs for expenses or losses that are potentially eligible for payments under PRF needs to be fully drawn down before PRF payments could be. The PRF requires that payments not be used to reimburse expenses or lost revenues that have been reimbursed from other sources or that other sources are obligated to reimburse. If FQHCs or FQHC Look-alikes have incurred expenses or lost revenues attributable to coronavirus that these grant awards do not cover, they may use PRF payments towards those expenses or losses. Grant funding may be awarded to support either broad or specific allowable uses, depending on the terms & conditions of the award. *Recipients must use grant funding awarded by HRSA for the purposes (as budgeted) approved by HRSA. Should those costs also be eligible for payment under the PRF, a Health Center Program-funded health center or look-alike must use their grant funds before utilizing PRF payments used during the applicable period of availability*

Financial Statement Audit Reminders

- Financial Statement Audits
  - Period 1 Report – Tested with audit of FYE's 6/30/2021 and after
  - Expense Considerations
    - Differences between support required when spending grant funds?
      - Time and effort
      - Contract labor and salary cap
      - Construction completion
    - Lost Revenue considerations
      - What will auditors be testing?
    - Special Tests and provisions (next slide)

Financial Statement Audit Reminders

N. Special Tests and Provisions

1. Out-of-Network Patient Out-of-Pocket Expenses

Compliance Requirements Under the terms and conditions of the award, the recipient certifies that it will not seek to collect from the patient out-of-pocket expenses in an amount greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider, for patients with presumptive or actual case of COVID-19 from January 31, 2020 through the end of the Public Health Emergency.

Audit Objectives Determine whether provider billed out-of-network patients with a presumptive or actual case of COVID-19, for out-of-pocket expenses in an amount greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.

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Planning for Life After COVID

Planning for the Future

- ➢ In times of crisis, thinking only about surviving the day can cause a loss of focus on strategically thinking about the future
- ➢ Now is the time to start thinking life after COVID
  - Stimulus funding didn't fix operational problems, provider productivity, revenue cycle breakdowns, non-sustainable sites, etc.
  - Many have made the statement "We are fine now" and have not made substantive changes – merely the existence of cash changes the mindset
  - Stimulus dollars will eventually be gone;
  - ASK: What sustains Health Centers?
    - Medicaid
    - Federal grants
    - 340B (maybe)
    - What else is out there? Medicare? Commercial? Incentive Payments? Competing with Others Successfully?

Planning for the Future

As CHC leaders, it is important to always be thinking about tomorrow and not lose focus based on today's fires

Every decision made in the health center has a financial consequence to that decision – sometimes those consequences are not fully seen for years

What can be done today to make sure the health center is stronger after the pandemic than it was before the pandemic?

What Can be Done?

- ➢Using funds to strengthen grants management programs
- ➢Adding bench strength to the finance department
- ➢Updating IT & data capabilities
    - Chief Information Officer?
    - Cybersecurity upgrade
    - Updating systems where needed
- ➢Cost analysis, revenue cycle improvements, provider compensation review, etc.

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Prepare for What?

Challenges & Opportunities Ahead

Typical challenges facing CHCs of Tomorrow

Upstream Competition

Regulatory Compliance

Staffing & Productivity

Accounting Standards

Payment Reform

Revenue Recognition | Information Technology Concerns | Managed Care | Aging Population | 340b Reform Protected Health Information | Medicaid PPS Changes | Benchmarking Population Health | Advanced Payment Models

Prepare for What

- Upstream competition
- Wal-Mart, Walgreens, etc. dynamic
- Aging population (having a Medicare strategy)
  - Are you prepared for increased demand?
  - Do you have adequate facilities?
  - Do you have enough providers?
- Value-based reimbursement

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Final Thoughts & Questions?