

**Nursing Facility Filing Procedure For Applying For Coronavirus Relief Funds  
Non-Testing  
UPDATED 9-10-2020**

The Alabama Department of Finance (DOF) has entered into a Second Memorandum of Understanding (2nd-MOU) with the Alabama Nursing Home Association Education Foundation (Foundation) under which the Foundation will administer up to \$50 million dollars in Coronavirus Relief Funds (CRF) made available to the State of Alabama under the CARES Act to use to meet the public health emergency related to the COVID-19 pandemic. This 2nd-MOU is in addition to the Memorandum of Understanding by and between the Foundation and DOF related to the administration of \$18.12 million dollars of CRF to be used for COVID-19 testing (the "Testing-MOU").

Under the 2nd-MOU Alabama nursing facilities may apply for CRF to use (i) for qualifying direct COVID-19 expenditures incurred in responding to or mitigating the COVID-19 Public Health Emergency ("Direct COVID-19 Items"), and (ii) to make-up for insufficient revenue related to the COVID-19 Public Health Emergency ("Insufficient Monthly Revenue").

To be qualified to make a request, the facility must first complete, execute (with a notary attestation), and submit an UPDATED Agreement and Attestation, in the form attached hereto as Exhibit A (the "Agreement"), under which the nursing facility is attesting among, other things, that **(i) the submitted request is for the purpose of the nursing home's responding to or mitigating the COVID-19 Public Health Emergency; (ii) the received CRF funds will be applied solely for the stated purpose; (iii) the requested funds will not duplicate other emergency funds available to that nursing facility, (iv) the nursing facility will maintain auditable records and is subject to state and federal audit; and (v) if the funds are used improperly or not used they are subject to recoupment.** A facility will be deemed to have met this requirement if it previously executed and delivered an UPDATED Attestation Agreement in respect to the Testing MOU.

This memorandum is to describe the program related to the 2nd-MOU and the 2nd MOU Worksheet to be completed when requesting reimbursement (the form of 2nd MOU Worksheet is attached hereto as Exhibit B):

A. The requests will fall into one of two groupings, each subject to below described mitigation, and may be filed for months beginning on or after April 1, 2020 (each a "Qualified Month"):

i) **Schedule A - Reimbursement for Actual Direct COVID-19 Items:** Requests related to expenditures for the cost of Direct COVID-19 Items incurred during a Qualified Month. Direct COVID-19 Items include, without limit, the following: a) COVID-19 related additional labor costs; b) personal protective equipment (PPE), no-touch thermometers; sanitizing equipment and supplies; c) COVID lab tests (that are neither covered by Part A Medicare nor qualified as a baseline or surveillance test that can be filed under the Testing MOU); d) building modifications such as installing separation doors and the attendant other modifications to establish a COVID only section; e) air scrubbers and air filtration systems; f) Plexiglas separation panels; or room sealing materials; g) commercially sanitizing all or part of the building; h) medical waste disposal; and i) other related costs (collectively, "Direct COVID-19 Items"). For the purpose of this paragraph A(i) COVID-19 related additional labor costs shall be limited to wages (including employer taxes, and employer portion of benefits) paid in respect to: quarantined staff due to a COVID-19 diagnosis or suspected COVID-19 diagnosis; wage increases and bonuses paid to

staff specifically related to incentivizing staff to work during this COVID-19 crisis; and staff added to meet the COVID-19 crisis (collectively, “Additional Labor Costs”).

Each request must be summarized on the appropriate line of Schedule A of the 2nd MOU Worksheet and accompanied with documentation supporting such request in the form of (x) invoices, (y) purchase orders, and (z) summary payroll records for COVID-19 related Additional Labor Costs.

**THE NAMES, ADDRESSES, SOCIAL SECURITY NUMBERS, AND MEDICARE, MEDICAID INSURANCE NUMBERS AND OTHER IDENTIFYING INFORMATION OF ANY PERSONS (PATIENTS OR STAFF) CONTAINED IN ANY DOCUMENTATION MUST BE REMOVED FROM THE DOCUMENTATION PRIOR TO SUBMISSION OR THE CLAIM WILL NOT BE PROCESSED. THE FACILITY MUST, HOWEVER, RETAIN DOCUMENTATION SHOWING ALL SUCH NAMES TO PERMIT STATE AND FEDERAL AUDITS.**

**Direct COVID Cost Item Mitigates:**

To be reimbursable, Additional Labor Costs must exceed sixty percent (60%) of any Paycheck Protection Program funds (PPP Mitigate) received by the facility. Any PPP Mitigate in excess of labor costs for any month will be carried over to subsequent months until fully applied.

To be reimbursed for any Direct COVID-19 Items (including any labor costs in excess of the PPP Mitigate) incurred on or after August 1, 2020, the cost the Direct COVID-19 Items related to infection control must be in excess of the Infection Control Funds received by the Facility. Infection Control Funds in excess of the cost the Direct COVID-19 Items related to infection control will be carried over to subsequent months until fully applied. Direct COVID-19 Items unrelated to infection control (such as cost related to advertising for staff or employee meals to reduce the amount of in and out of facility migration) shall not be subject to the application of the Infection Control Fund mitigate.

ii) **Schedule B - Insufficient Monthly Revenue:** A facility may apply for funds to apply towards “Insufficient Monthly Revenue” related to a Qualified Month. Insufficient Monthly Revenue shall be calculated in accordance with the formula set-forth in Schedule B of the 2nd MOU Worksheet.

**B. Final Mitigates:**

After applying the Direct Cost item Mitigates, the sum of reimbursable Direct Cost Items and Insufficient Revenue for any Qualifying Month (the “Qualifying Amount”) must exceed the sum of the Final Mitigates as set forth in C of 2nd MOU Worksheet. The Final Mitigates include the \$20 per day Medicaid Funding and Provider Relief Funds and Targeted Funds under the CARES Act received by the facility. The scope of the Final Mitigates may be adjusted if future COVID related funding becomes available to the facility. If the amount of Final Mitigates exceeds the total of the Qualifying Amount, then the facility is ineligible to draw CRF for that Qualifying Month, and the excess of the Final Mitigates over the Qualifying Amount will be carried forward to future months until fully applied.

C. **Holdbacks:** Under the 2nd MOU, the Foundation must return any unused CRF to the Department of Finance on December 15, 2020. To ensure fairness in application of the CRF provided to the Foundation under the 2nd-MOU, the Foundation will hold-back twenty-five percent (25%) of Qualifying Amounts (the “Holdback”). This will allow funds to be available for those facilities suffering COVID outbreaks in the later months. Some or all of the Holdback will be restored subject to availability of funds.

An analysis will be made in late November 2020 (or sooner if appropriate) to determine if there is a surplus of remaining funds (the "Surplus") over an estimate of funds needed to meet the Foundation's mission through December 15, 2020. The Surplus will be determined based on historical claims and other information then available. To the extent it is determined that a Surplus exists and the Surplus exceeds the aggregate amount of Holdback, then facilities would receive 100% of its respective Holdback. If the Surplus does not exceed the aggregate amount of Holdbacks, then the Foundation will remit to each facility from which Qualifying Funds were subject to a Holdback, a pro rata amount of that facility's Holdback. The pro rata share for each facility subject to a Holdback will be calculated on a percentage basis by dividing that facility's total Holdbacks by the aggregate amount of all Holdbacks and multiplying the Surplus by that derived percentage. To the extent Holdbacks are not earlier remitted in-full, another similar analysis will be performed on or around December 10, 2020.

**The use of any funds provided to a facility under either the A (i) above (Reimbursement for actual Direct COVID Items) or A (ii) above (Insufficient Monthly Revenue) must meet all of the federal requirement for use of Coronavirus Relief Funds. It is the facility's responsibility to maintain auditable records showing that the application of these funds was in accordance with the Agreement and Attestation each facility must execute.**

Any claims submitted for payment by September 30, 2020 will be paid in October. Those claims submitted by October 20th will be paid in November. Claims submitted by November 20, 2020, will be paid before December 15, 2020. All requests for reimbursement must be submitted prior to December 10, 2020, or those claims are subject to denial due to the deadline contained in the MOU for return of the funds to the State of Alabama. Claims should be submitted through the Foundation's claims portal, hosted by Foundation's third party accounting firm, Aldridge Borden. To be eligible to seek reimbursement, the facility must first (a) register with Aldridge Borden, and (b) execute the long form updated Agreement and Attestation shown in Exhibit A. If the facility has registered previously under the Testing MOU, then it will not need to register again but will need to complete the UPDATED Long Attestation form at Exhibit A. All requests for reimbursement must be submitted through the Foundation's claims portal with a completed checklist and for COVID expenses the 2nd MOU Worksheet. In addition, if the request is for reimbursement for under paragraph A. (i) for reimbursement for Direct COVID-19 Items, the request must include an invoice, sales receipt or purchase order for each item for which reimbursement is requested.

**Notwithstanding anything to the contrary contained above including the Holdbacks, in any month where the aggregate claims filed by nursing facilities, after being reduced by applying Mitigates and Holdbacks, exceeds amounts available to the Foundation from the State, the Foundation reserves the right to provide the requesting nursing facilities a pro rata share of the available funds. The pro rata share will be based on the same formula as stated above for restoring Holdbacks.**