



SUMMARY OF THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT)

March 31, 2020

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") into law. This \$2.2 trillion stimulus package is designed, in part, to increase access to quality health care, provide financial assistance to individuals and families, and support small and medium-sized businesses affected by the COVID-19 pandemic. The U.S. Small Business Administration (SBA), Department of Health and Human Services (HHS), and other agencies will be issuing guidance in the coming days and weeks. In the meantime, we urge you to be proactive and take advantage of these programs now, many of which are temporary. Please contact a member of our team if you wish to have a more in-depth discussion regarding your options under one of these programs.

SMALL BUSINESS ASSISTANCE

Paycheck Protection Program

The CARES Act authorizes the SBA to make loans to small businesses under the Paycheck Protection Program (PPP) in the total amount of \$349 billion through December 31, 2020. Small businesses, including health care practices and nonprofits with 500 employees or less are eligible for the loans. Sole-proprietors, independent contractors, and other self-employed individuals are also eligible. The loan to a business under the PPP will be the lesser of \$10 million or 2.5 times the borrower's average total monthly payments for payroll costs during the one-year period before the date on which the loan is made.

The loans can be used for payroll support, costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, insurance premiums, mortgage payments, and any other debt obligations. Borrowers must make a good faith certification that they have been impacted by COVID-19 and will use the funds for the purposes outlined in the CARES Act. Rather than determining repayment ability, lenders are required to determine whether the applicant small business was operational on February 15, 2020, and has been impacted by COVID-19.

The covered loan period runs from February 15, 2020, through June 30, 2020. Unless a borrower has received an economic injury disaster loan (EIDL) between February 15 and March 31, 2020, or for a different purpose unrelated to COVID-19, borrowers may not receive both an EIDL and a loan under the PPP for the same purpose.

Borrowers may be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date of the loan on payroll costs, mortgage interest on any mortgage incurred prior to February 15, 2020, rent payment for any lease in force prior to February 15, 2020, and utility payments for which service started before February 15, 2020. Documentation of such payments will need to be provided by the borrower to the lender to obtain forgiveness. Any portion of the loan that is not forgiven will have a maximum interest rate of four percent and a maximum term of 10 years. The amount forgiven may not exceed the principal amount of the loan.

Borrowers who laid off employees at the beginning of the period will not be penalized for rehiring such employees to take advantage of the PPP. However, the amount to be forgiven will be reduced proportionally by any reduction in employees retained compared to the prior year and any reduction in pay greater than 25% of any employee compared to prior year compensation as of June 30, 2020. Accordingly, if a borrower does not rehire all employees or rehires employees at a

more than 25% reduction in pay, such borrower will not be eligible for full forgiveness under the PPP. Cancelled indebtedness under these provisions will not be included in the borrower's taxable income.

Economic Injury Disaster Loans

The CARES Act authorizes \$10 billion for emergency EIDLs to businesses with less than 500 employees, including sole proprietors and independent contractors. The applicant's ability to pay may be determined solely by the applicant's credit score. The covered period for EIDLs is January 31 through December 31, 2020.

Under this program, applicants can request up to a \$10,000 advance on the loan to be distributed by the SBA within three days. The applicant shall not be required to repay the advance payment even if the applicant is subsequently denied for an EIDL. The applicant must certify under penalty of perjury that the applicant is eligible for an EIDL to receive an advance payment. Advance payments may be used for providing paid sick leave to employees unable to work due to the direct effect of COVID-19, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses associated with COVID-19. If an applicant refinances an EIDL loan into a PPP loan, advance payments will be subtracted from the amount forgiven under the PPP.

We recommend speaking to a member of our [COVID-19 Taskforce](#) and a qualified lender to determine whether you should apply for a PPP loan, EIDL, or both for different purposes.

Additional SBA Loan Information

The CARES Act provides for SBA subsidies to existing small business loans. It requires the SBA to pay principal, interest, and fees on certain non-PPP loans, including microloans, Community Advantage loans, and 504 loans, for a six-month period starting on the next payment date.

HEALTH CARE SYSTEM

Health Care Providers

The CARES Act appropriates \$100 billion to hospitals and other health care providers for non-reimbursable expenses attributable to COVID-19. Such expenses include those related to building temporary structures, medical supplies and equipment, testing supplies, increased workforce and training, emergency operation centers, retrofitting facilities, and surge capacity. Recipients need to be engaged directly in diagnosing or treating "possible or actual cases of COVID-19."

We urge providers to begin compiling immediately documentation of such expenses as well as documentation to show participation in treatment and diagnosis of COVID-19.

Distribution of these funds is at the discretion of the Secretary of HHS. HHS will likely hire a third-party claims processor to use criteria, outlined by HHS, to determine: (1) eligibility of provider, (2) justifiability of amount, (3) amount of claim, (4) payment, and any other information HHS determines necessary. This will be an entirely new program, and HHS will have broad discretion in implementing it. HHS has been instructed to review applications and make payments on a rolling basis to get money into the health system as quickly as possible.

Funding in the amount of \$1.3 billion will also be made available for grants to Community Health Centers for testing and treating patients with COVID-19. The bill also reauthorizes the Health Resources and Services Administration grants for telehealth programs and rural health networks to increase access to and coordination of care. Nurse training programs under the Public Health Service Act are also updated to permit Nurse Corps loan repayment beneficiaries to serve at private institutions under certain circumstances.

Lastly, the new law adds liability protections to health care professionals who provide volunteer medical services during the public health emergency related to COVID-19. Volunteers are defined as those not paid for their services.

Coverage for COVID-19 Testing and Diagnostics

The CARES Act requires that private insurance plans cover all testing for COVID-19 without cost-sharing. Insurers are required to pay either the rate specified in the contract between the provider and the insurer, or the cash price posted by the provider if there is no contract. Additionally, insurers shall cover without cost-sharing any vaccine for COVID-19

within 15 days that has a rating of “A” or “B” from the U.S. Preventive Services Task Force or a recommendation from the Advisory Committee on Immunization Practices.

MEDICARE & MEDICAID

Telehealth Access through Medicare

The new law eliminates the provision in the Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020 that limits Medicare telehealth expansion to situations where the provider has treated the patient in the last three years.

During the COVID-19 emergency period, Federally Qualified Health Centers and Rural Health Clinics can serve as distant sites for telehealth consultations, allowing providers at those centers and clinics to furnish telehealth services to beneficiaries in their homes.

The new law also eliminates requirements for face-to-face evaluations of at-home dialysis patients as well as face-to-face recertification for hospice care during the emergency period. Telehealth services may be used to meet both requirements.

Advance Payments for Hospitals

For the duration of the COVID-19 emergency period, qualified facilities may request up to a six-month advanced lump sum or periodic payment based on net reimbursement represented by unbilled discharges or unpaid bills. Critical access hospitals can elect to receive up to 125 percent of the previous period payments. A qualified hospital will not be required to begin paying the loan for four months and will have at least 12 months to complete repayment without interest.

Miscellaneous Medicare Provisions

- Allows advanced practice practitioners to order home health service for Medicare beneficiaries;
- Lifts the Medicare sequester, which reduces payments to providers by two percent, from May 1, 2020 through December 31, 2020;
- Increases payments to a hospital for treating a patient with COVID-19 by 20 percent;
- Waives the Inpatient Rehabilitation Facility (IRF) 3-hour rule, which requires that a beneficiary be expected to participate in at least 3 hours of intensive rehabilitation at least 5 days per week to be admitted to an IRF;
- Allows a Long Term Care Hospital to maintain its designation even if more than 50 percent of its cases are less intensive;
- Delays scheduled reductions in Medicare payments for durable medical equipment;
- Ensures COVID-19 testing and potential vaccine treatment are covered with no cost-sharing;
- Increases payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average through December 1, 2020; and
- Requires that Medicare Part D plans provide up to a 90-day supply of a prescription medication if requested by a beneficiary during the COVID-19 emergency period.

Medicaid Provisions

The bill delays scheduled reductions in Medicaid disproportionate share hospital payments and extends the Medicaid Community Mental Health Services demonstration that provides coordinated care to patients with mental health and substance use disorders, through November 30, 2020. It also extends the Medicaid Money Follows the Person demonstration to help patients transition from the nursing home to the home setting through November 30, 2020.

INDIVIDUALS & BUSINESSES

Additional employment-related provisions in the CARES Act and employer information related to the Families First Coronavirus Response Act can be found in a companion client advisory issued by Hancock Daniel today.

Unemployment

The CARES Act expands the pool of those eligible for unemployment to self-employed, independent contractors, those with limited work history and others not traditionally eligible for unemployment benefits who are unable to work as a direct result of the COVID-19 public health emergency. This expansion lasts until December 31, 2020. An additional \$600 per week will be made available for each recipient of unemployment insurance for up to four months.

Rebates

All U.S. residents with adjusted gross income of \$75,000 or less (\$150,000 or less if married) who are not a dependent of another taxpayer will be eligible to receive a one-time rebate of \$1,200 (\$2,400 if married). An individual or couple's adjusted gross income for these purposes will be calculated by their 2019 tax return, or their 2018 tax return if the 2019 return has not been filed. Recipients are eligible for an additional \$500 per child. The rebate amount is reduced by \$5 for each \$100 that a taxpayer earns in excess of \$75,000 or \$150,000 if married. Single filers with incomes exceeding \$99,000, heads of household filers with one child and incomes exceeding \$146,500, and joint filers with no children and incomes exceeding \$198,000 are completely phased out of the rebate program.

Retirement Funds

The 10 percent withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for COVID-19 related purposes made on or after January 1, 2020, is waived. Income attributed to such distributions will be subject to tax over three years, and the taxpayer may re-contribute the funds into an eligible retirement plan within three years without regard to contribution caps.

Student Loans

Employers may contribute up to \$5,250 annually toward an employee's student loans, and such payments will be excluded from the employee's income. The \$5,250 cap applies to both student loan repayments and other educational assistance provided by the employer, including tuition, fees and books. This provision applies to student loan payments made by an employer on behalf of an employee from the date of enactment through December 31, 2020.

Payroll Tax Credit

Employers whose operations are fully or partially suspended due to COVID-19 or whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year will be eligible to receive a refundable payroll tax credit for 50 percent of qualified wages paid to employees from March 13, 2020, through December 31, 2020. Qualified wages for employers with more than 100 full time employees (FTE) are those paid to employees when they are not providing services due to COVID-19 related circumstances. All wages qualify for employers with 100 or less FTE regardless of whether they continued to provide services or were forced to shut down due to COVID-19 related circumstances. The credit is provided for the first \$10,000 of total compensation paid to an eligible employee.

Business Interest

Businesses may deduct business interest expenses up to 50 percent of taxable income, with adjustments, for 2019 and 2020. This is an increase of 20 percent.

Labor Provisions

Employers shall not be required to pay more than \$200 per day or \$10,000 in the aggregate in paid leave for each employee. Additionally, paid sick leave is capped at \$511 per day and \$5,110 in the aggregate or \$200 per day and \$2,000 in the aggregate for an employee who is caring for a quarantined individual or child. Lastly, employees who were laid off after March 1, 2020, can have access to paid family and medical leave if rehired by the employer.

For questions, please contact a member of our [COVID-19 Taskforce](#).

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