



The CARES Act Key Physician Provisions Part II: Update April 2, 2020

Friday, March 27, 2020, we provided the following update on the passage of The CARES Act; please note that this a very fluid situation with regulatory agency updates coming out almost daily on the 3 federal statutes signed in the past 3 weeks related to the coronavirus:

“Background of Major Legislation:

First, in its initial response to the global coronavirus pandemic, Congress passed and POTUS signed the Coronavirus Preparedness and Response Supplemental Appropriations Act (COVID-19 1.0) on March 6, 2020. Next, the Families First Coronavirus Response Act (COVID-19 2.0) was signed March 18, 2020. Finally, the Coronavirus Aid, Relief and Economic Security Act (the CARES Act or COVID-19 3.0) (S. 3548) passed the Senate late on March 25, 2020 with a vote of 96-0—the House passed The CARES bill on Friday, March 27, 2020 and POTUS signed it into law that same day.

This document is a Part II summary of The CARES Act provisions that relate to the Small Business Administration’s (SBA) Section 7(a) loan program, now known as the “Paycheck Protection Program” (PPP), including updates, clarifications, and a correction. There are presently no material updates for the \$100 billion public health and social services fund.

Section 7(a) Small Business Association (SBA) loans and loan forgiveness provisions—The Paycheck Protection Program (PPP):

- Congress has funded the PPP with \$349 billion and applicants have up until June 30, 2020 to apply, but funds will be disbursed on a first come, first served basis;
- The US Dept. of Treasury (Treasury) is strongly encouraging applicants to apply as soon as possible as the PPP is not healthcare specific and expected to be fully subscribed;
- Applications for small business and sole proprietors may begin as early as Friday April 3, 2020 and applications from Form 1099 independent contractors (I/Cs) and self-employed individuals by Friday, April 10, 2020;
- Treasury has specified that loan repayments will be deferred for 6 months and that term of the loan cannot exceed 2 years; as previously indicated, the loans are 100% guaranteed by the US government;
- No personal guarantees or collateral will be required in the PPP unlike other SBA loan programs;
- Interest rates according to the Treasury will be set at .50%;



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- Banks include any bank listed as an approved SBA lender, any federally insured bank or credit union;
- Payroll and benefit costs, rent, mortgage and utility expense documentation will be required as part of the loan application;
- There are loan forgiveness programs for certain payroll costs, including benefits, mortgages, rent, and utilities, provided, however that at least 75% of the forgiveness amount was applied for payroll and benefits.
- Using a version of the CARES bill from the evening before it was debated, we said that the measurement period for payroll costs and costs related to debts or rent was 3/1/20 through 6/30/20; in the final bill, Congress moved up the date to 2/15/20 through 6/30/20 and apologize for that error.
- Requests for forgiveness of 8 weeks of payroll and benefit expenses (and other expenses as noted above) may be made to the lender and based on the documentation submitted by the debtor for the loan; the lender will have 60 days to act on an application for forgiveness;
- The SBA will remit the forgiveness amount to the lender plus interest within 90 days after the date when the forgiveness is determined by the bank;
- As reminders:
 - For determining forgiveness, payroll costs must exclude those employees who earn \geq \$100K annual compensation; however, the loan forgiveness shall apply to the first \$100K of that compensation, but not to any payroll costs in excess of \$100K per employee, during the measurement period above;
 - The \$100K cap on employee compensation includes the employee's benefit costs; and
 - Forgiveness amounts will not be included in taxable income.

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