



Key Provisions of the CARES Act Relevant to Member Practices

Sec. 1102. Paycheck Protection Program

- Sets the government guarantee of loans made for the Payment Protection Program under section 7(a) of the Small Business Act to 100 percent. This does not apply to other 7(a) loans.
- Outlines the terms in this section, such as defining eligible payroll costs.
- Provides the authority for the Administrator of the U.S. Small Business Administration (SBA) to make loans under the Paycheck Protection Program.
- Requires the Administrator to register each loan using the taxpayer TIN, as defined by the Internal Revenue Service, within 15 days.
- Defines eligibility for loans as a small business, 501(c)(3) nonprofit, a 501(c)(19) veteran's organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the applicable size standard in number of employees for the industry as provided by SBA, if higher.
- Applies current SBA affiliation rules to eligible nonprofits and veterans organizations for purposes of determining size.
- Includes sole-proprietors, independent contractors, and other self-employed individuals as eligible for loans.
- Makes eligible businesses with more than one physical location, as long as it has no more than 500 employees per physical location in certain industries.
- Waives affiliation rules for businesses in the hospitality and restaurant industries, franchises that are approved on the SBA's Franchise Directory, and small businesses that receive financing through the Small Business Investment Company (SBIC) program.
- Defines the covered loan period as beginning on February 15, 2020 and ending on June 30, 2020.
- Sets the maximum Paycheck Protection loan amount at \$10 million, with each borrower's loan size based on a formula regarding their payroll costs.
- Defines the allowable uses of the loan proceeds to payroll support – such as employee salaries, paid sick and medical leave, and insurance premiums – as well as mortgage interest, rent, and utility payments.
- Extends delegated authority, which is the ability for lenders to make determinations on borrower eligibility and creditworthiness without going through SBA's channels, to all current 7(a) lenders, and extends that same authority to new lenders that join the program.
- For eligibility purposes, instead of requiring lenders to determine repayment ability, which is not possible during this crisis, lenders will only need to determine whether a business was operational on February 15, 2020 and if it had employees for whom it paid salaries and payroll taxes, or if the borrower is a paid independent contractor.

- Provides the U.S. Department of Treasury temporary authority to approve new lenders to make Paycheck Protection loans through the 7(a) loans.
- Allows a borrower who has an EIDL loan related to COVID-19 (an EIDL made between January 31, 2020 and June 30, 2020) to apply for a Paycheck Protection loan, with an option to refinance that loan into a PPP loan. However, the emergency EIDL grant award of up to \$10,000 would be subtracted from the amount forgiven under the Paycheck Protection Program. Existing EIDL borrowers not related to COVID-19 are also eligible to apply for Paycheck Protection loans for payroll assistance, but they may not refinance into a Paycheck Protection loans.
- Requires eligible borrowers to make a good faith certification that the loan is necessary due to the uncertainty of current economic conditions caused by COVID-19; they will use the funds to retain workers and maintain payroll, lease, and utility payments; and that the borrower does not have an application pending for another 7(a) loan for the same purpose and is duplicative of amounts applied for or received under a Paycheck Protection loan, and that between February 15, 2020 and December 31, 2020, the borrower is not receiving funding from another 7(a) loan for the same purpose. Waives both borrower and lender fees for Paycheck Protection loans that typically apply for regular 7(a) loans.
- Waives the credit elsewhere test for borrowers seeking a loan under this program.
- Waives collateral and personal guarantee requirements for borrowers under this program.
- Outlines the treatment of any portion of a loan that is not used for forgiveness purposes. The remaining loan balance will have a maturity of not more than 10 years, and the guarantee for that portion of the loan will remain intact.
- Sets the maximum interest rate for Paycheck Protection loans at 4 percent, whether the loan is made by an SBA lender or Treasury-approved lender.
- Prohibits any prepayment fees charged to borrowers.
- Mandates that SBA require all Paycheck Protection lenders to defer payments for at least six months and not more than a year. If a Paycheck Protection loan that has been sold on the secondary market, and the investor will not defer payments, SBA is required to purchase the loan and provide deferment of payments for at least six months and not more than a year. Requires SBA to disseminate guidance to lenders on this deferment process within 30 days.
- Allows Paycheck Protection loans to be sold on the secondary market and prohibits SBA from collecting a fee.
- Provides the regulatory capital risk weight of loans made under this program, and temporary relief from troubled debt restructuring (TDR) disclosures for loans that are deferred under this program.
- Requires the Administrator to provide a lender with a process fee for servicing the loan. Sets lender compensation fees at 5 percent for loans of not more than \$350,000; 3 percent for loans of more than \$350,000 and less than \$2,000,000; and 1 percent for loans of not less than \$2,000,000.
- Further, it includes a sense of the Senate for the Administrator to issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals.
- Provides an authorization level of \$349 billion for the Paycheck Protection program through December 31, 2020.

- Increases the maximum loan for a SBA Express loan from \$350,000 to \$1 million through December 31, 2020, after which point the Express loan will have a maximum of \$350,000.
- Requires Veteran’s fee waivers for the 7(a) Express loan program to be permanently waived.
- Permanently rescinds the interim final rule entitled, “Express Loan Programs: Affiliation Standards” (85 Fed. Reg. 7622 (February 10, 2020)).

Sec. 3701. Exemption for telehealth services

- This section would allow a high-deductible health plan (HDHP) with a health savings account (HSA) to cover telehealth services prior to a patient reaching the deductible, increasing access for patients who may have the COVID-19 virus and protecting other patients from potential exposure for those plan years beginning on or before December 31, 2021.

Sec. 3702. Inclusion of certain over-the-counter medical products as qualified medical expenses.

- This section would allow patients to use funds in HSAs and Flexible Spending Accounts for the purchase of over-the-counter medical products, including those needed in quarantine and social distancing and menstrual products, that don’t require a prescription from a physician.

Sec. 3703. Increasing Medicare telehealth flexibilities during emergency period

- This section would broaden the authority of the Secretary of Health and Human Services (HHS) to waive the telehealth requirements of section 1834(m) of the Social Security Act during the COVID-19 emergency period. This would enable Medicare beneficiaries to access telehealth, including in their homes, from a broader range of health care providers, reducing COVID-19 exposure.

Sec. 3704. Enhancing Medicare telehealth services for federally qualified health centers and rural health clinics during emergency period.

- This section would allow, during the COVID-19 emergency period, Federally Qualified Health Centers (FQHCs) (including Community Health Centers (CHCs)) and Rural Health Clinics (RHCs) to furnish telehealth services to Medicare beneficiaries, including in their homes to avoid potential exposure to COVID-19. Medicare would be required to pay FQHCs and RHCs for these telehealth services based on payment rates similar to the national average payment rates for comparable telehealth services under the Medicare Physician Fee Schedule. This section would also exclude the costs associated with these telehealth services from both the FQHC prospective payment system and the RHC all-inclusive rate calculations.

Sec. 3705. Temporary waiver of requirement for face-to-face visits between home dialysis patients and physicians

- This section would eliminate a requirement during the COVID-19 emergency period that a nephrologist conduct some of the required periodic evaluations of a patient on home dialysis face-to-face, allowing these vulnerable beneficiaries to get more care in the safety of their home.

Sec. 3706. Use of telehealth to conduct face-to-face encounter prior to recertification of eligibility for hospice care during emergency period

- Under current law, hospice physicians and nurse practitioners cannot conduct recertification encounters using telehealth. This section would allow, during the COVID-19 emergency period, qualified providers to use telehealth technologies in order to fulfill the hospice face-to-face recertification requirement.

Sec. 3707. Encouraging use of telecommunications systems for home health services furnished during emergency period

- This section would require the Secretary of HHS to issue clarifying guidance encouraging the use of telecommunications systems, including remote patient monitoring, to furnish home health services consistent with the beneficiary care plan during the COVID-19 emergency period.

Sec. 3708. Improving care planning for Medicare home health services

- Under current law, only physicians are able to certify the need for home health services. This section makes a permanent change to allow physician assistants, nurse practitioners, and clinical nurse specialists to order home health services for beneficiaries, reducing delays and increasing beneficiary access to care in the safety of their home.

Sec. 3709. Adjustment of sequestration

- This section would provide prompt economic assistance to health care providers that bill Medicare. Specifically, this section would temporarily lift the Medicare sequester, which reduces payments to providers by two percent, from May 1 through December 31, 2020. The Medicare sequester would be extended by one year beyond current law.

Title VIII – Department of Labor, Health and Human Services, Education, and Related Agencies

Assistant Secretary for Preparedness and Response – \$127 billion for medical response efforts, including:

- \$100 billion for a new program to provide grants to hospitals, public entities, not-forprofit entities, and Medicare and Medicaid enrolled suppliers and institutional providers to cover unreimbursed health care related expenses or lost revenues attributable to the public health emergency resulting from the coronavirus.