

**Viewer Questions from March 30, 2020 PYA Webinar “The CARES Act: Your Piece of the \$2 Trillion Pie”
UPDATED APRIL 8, 2020**

| Question Asked | Answer Given |
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| <p>So no need to do Cover letter....just the form by MAC. If our MAC doesn't have updated form, how do we handle getting in today?</p> | <p>You will need to monitor your MAC's website frequently for the form and submittal directions to become available over the next few days. Per MR: To apply, one need only complete, sign, and submit the on-line application form; no cover letter is required. Continue to check your MAC's website for an updated form. Some MACs have posted links to prior versions of the application form (i.e., for pre-CARES Act accelerated payment requests). These forms are not consistent with CMS' program instructions published on March 28. They request information regarding a provider's receipts and liabilities, which is not relevant under the CARES Act Medicare Advance Payment program. If you cannot locate a current form on your MAC's website, call the MAC's COVID-19 hotline. Note that most hotlines are only operational during normal business hours.</p> |
| <p>Can we borrow enough that would include payment for the owning physicians?</p> | <p>For purposes of determining the maximum loan amount available for a CARES Act Paycheck Protection Program (PPP) loan for a qualifying concern or entity, 'payroll costs' includes the sum of payments of any compensation with respect to employees, including owners if they are employees, if those payments are salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits, including insurance premiums; payment of any retirement benefit; and payment of State or local tax assessed on the compensation of employees. Compensation paid to independent contractors (ICs) is excluded from the payroll costs of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs. Other exclusions from 'payroll costs' are the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period; taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code during the covered period; any compensation of an employee whose principal place of residence is outside of the United States; and qualified sick leave and family leave wages for which a credit is allowed under sections 7001 and 7003, respectively, of the Families First Coronavirus Response Act (Public Law 116– 127).</p> |
| <p>Does the PPP take into account payments to physician-owners?</p> | <p>For purposes of determining the maximum loan amount available for a CARES Act Paycheck Protection Program (PPP) loan for a qualifying concern or entity, 'payroll costs' includes the sum of payments of any compensation with respect to employees, including owners if they are employees, if those payments are salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits, including insurance premiums; payment of any retirement benefit; and payment of State or local tax assessed on the compensation of employees. Compensation paid to independent contractors (ICs) is excluded from the payroll costs of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs. Other exclusions from 'payroll costs' are the compensation of an individual employee in excess of an annual salary of \$100,000, as prorated for the covered period; taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code during the covered period; any compensation of an employee whose principal place of residence is outside of the United States; and qualified sick leave and family leave wages for which a credit is allowed under sections 7001 and 7003, respectively, of the Families First Coronavirus Response Act (Public Law 116– 127).</p> |
| <p>FQHC- billing requirements - we bill on UB with Gcode for service - how would we bill the telehealth services now authorized by CARES Act?</p> | <p>The CARES Act directs CMS to establish new telehealth billing codes and payment rates for RHCs and FQHCs. These providers will not be able to submit claims for these services until CMS publishes those codes and rates. The CARES Act does not include a specific deadline for CMS to publish this information. Nor does the statutory language address whether CMS can make the codes and rates retroactive to services furnished before their publication.</p> |
| <p>How soon is it expected Providers need to post the cash price of COVID tests?</p> | <p>CARES Act Section 3202(b)(1), which imposes the posting requirement, does not specify a time frame by which a provider must post pricing information on its website.</p> |
| <p>I interpret that we include in payroll costs those individuals making greater than \$100,000 but it's just limited to \$100,000. Obviously you take \$100,000/12 x2.5 x all individuals making greater than \$100,000</p> | <p>Correct if by individuals what is meant is employees, in which case you would include all employees, including those with compensation greater than \$100,000 at an annual compensation level of \$100,000. Thus, for purposes of the average monthly payroll cost calculation used for the determination of the maximum loan amount, that average would only consider compensation of up to \$100,000 per employee for each employee whose annual compensation was over \$100,000. If the word individuals refers to any independent contractors (ICs), however, new regulations make clear that compensation paid to ICs is excluded from the payroll costs of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs.</p> |

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| <p>Question about calculating payroll costs. If you have NOT funded your 2019 retirement but included on your 2019 tax return can you include in calculating that average for payroll costs?</p> | <p>It would be dependent on the date paid and the period for which average monthly payroll costs are determined, and we recommend that specific advice should be sought concerning your particular facts. The final PPP loan application form, SBA Form 2483, states that "most Applicants will use the average monthly payroll for 2019."</p> |
| <p>Request for accelerated Medicare payments. On the form it asks a. general cash position b. anticipated receipts c. anticipated expenditures d. indicated cash position in next 30 days. Is this how they determine what to fund? How much you are in the whole? I don't understand the amount they will advance? Typical receipts x 3 months?</p> | <p>The MAC is using a form for the pre-CARES Act accelerated payment process. These questions are not relevant to the methodology the MACs have been instructed to follow in CMS' March 28 guidance. We recommend contacting the MAC on its COVID-19 hotline to inquire when the corrected form will be posted.</p> |
| <p>Beyond the \$500B in direct relief funds, are there any other funds/loans that hospitals could apply for to assist with payroll if you have more than 500 employees?</p> | <p>Hospitals and health systems with more than 500 employees may be eligible for loans under Section 4003 of the CARES Act. These loans are not eligible for forgiveness. The Treasury Department will be issuing guidance regarding application for and conditions on these loans shortly. Section 4003 includes the following provision: "[t]he Secretary shall endeavor to seek the implementation of a program or facility described in subsection (b)(4) that provides financing to banks and other lenders that make direct loans to eligible businesses including, to the extent practicable, nonprofit organizations, with between 500 and 10,000 employees, with such direct loans being subject to an annualized interest rate that is not higher than 2 percent per annum. For the first 6 months after any such direct loan is made, or for such longer period as the Secretary may determine in his discretion, no principal or interest shall be due and payable." The statute specifies a number of conditions on these loans.</p> |
| <p>Leased employees?</p> | <p>The SBA has stated in a FAQ published 4/7/20, that for purposes of the Paycheck Protection Program, "employees of the eligible borrower will not be considered employees of the eligible borrower's payroll provider or PEO" as indicated in the last line of the answer to question 10 at this link: https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf</p> |
| <p>For the PPP program, regarding an employee who has compensation greater than \$100,000 is the employee not eligible or is it compensation greater than \$100,000 that is not eligible?</p> | <p>You would include all employees, including those with compensation greater than \$100,000 at an annual compensation level of \$100,000. Thus, for purposes of the average monthly payroll cost calculation used for the determination of the maximum loan amount, that average would only consider compensation of up to \$100,000 per employee for each employee whose annual compensation was over \$100,000.</p> |
| <p>To clarify - can we take first 100K of an employee's salary toward average monthly payroll (if they make more than 100K)?</p> | <p>For purposes of the average monthly payroll cost calculation used for the determination of the maximum loan amount, that average would only consider compensation of up to \$100,000 per employee for each employee whose annual compensation was over \$100,000.</p> |
| <p>And, retirement benefits includes 401K match, profit sharing, etc.?</p> | <p>The guidance simply indicates "payment of any retirement benefit."</p> |
| <p>And, group health includes all health services provided (health insurance, vision, dental)?</p> | <p>Payroll costs are defined to include group health care benefits, including insurance premiums. The key word here is "health."</p> |
| <p>Are we including Guaranteed payments to owners as a part of the payroll cost? Or the draw to a SCh. C employer?</p> | <p>Payroll costs include compensation to an individual employee (which may be an owner if the owner is an employee) up to an annual salary of \$100,000 as prorated for the covered period. For purposes of the Paycheck Protection Program, new regulations make clear that compensation paid to independent contractors (ICs) is excluded from the "payroll costs" of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs.</p> |
| <p>Can you take loan capped at 100k based on employees that make more than 100k for that individual employee?</p> | <p>Annual compensation up to \$100,000 per employee is included in the payroll cost calculation as prorated for the covered period.</p> |
| <p>What options (if any) are available to small businesses that lease personnel from larger entities (ie hospitals greater than 500 employees)?</p> | <p>We recommend that you may want to seek specific professional advice for this question. In general, for purposes of the PPP Loan amount calculation of business concerns and entities, payroll costs exclude compensation paid to independent contractors as they would be reported on a 1099. Only the independent contractor can use their pay for purposes of their own PPP loan application. Also, the SBA has stated in a FAQ published 4/7/20, that for purposes of the Paycheck Protection Program, "employees of the eligible borrower will not be considered employees of the eligible borrower's payroll provider or PEO" as indicated in the last line of the answer to question 10 at this link: https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf. PEO means Professional Employer Organization which has a very specific legal definition. Thus if the company you lease employees from is a PEO, there may be a very different answer than if it is not a PEO.</p> |

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| <p>I have a staff member that asthma and has decided to self quarantine prior to April 1. How do I handle paying her? Her own sick/pto or am I required to pay her like she was working?</p> | <p>Because FFCRA does not take effect until April 1, you can require her to take PTO or sick pay if available, or not pay her at all, provided that she is an hourly/non-exempt employee and that she is not doing any work from home. If she is salaried, you must pay her full weekly salary for any partial week worked. Note that healthcare providers with less than 500 employees can exempt themselves from FFCRA due to the nature of the services provided. Also, if the employer opts in to FFCRA, and the employee chooses to self-quarantine after April 1, the absence would not be a covered absence unless a healthcare provider recommended the employee self-quarantine. The Act does not apply if the employee fails to seek the advice of a medical professional.</p> |
| <p>Would costs of malpractice premiums, EMR fees, billing service fees all be considered under utilities as they are monthly costs?</p> | <p>No, they are not utilities, the definition of which is not predicated on something being a monthly cost. The Act and related guidance indicate that the amount of the loan should be spent at least 75% on payroll costs, and the remaining 25% or lesser percent on interest payments on mortgages incurred prior to February 15, 2020, payments on covered rents in force prior to February 15, 2020, and utility payments (i.e., gas, water, transportation, telephone, internet) for which services began before February 15, 2020.</p> |
| <p>Will 401K payments for employees made during the 8 week period be part of the loan forgiveness?</p> | <p>The guidance indicates that payroll costs include costs associated with any retirement benefits. The assumption would be that if those were incurred during the 8 week period they would be considered part of the loan forgiveness and would count toward meeting the 75% payroll cost "use" requirement.</p> |
| <p>Because the PPP loan program is on a first-come first-served basis, should I go ahead and apply for a 7a loan within the sba and then try to refinance with the sba bank after may 1?</p> | <p>The PPP loan application submission process went live Friday, April 3, for small businesses and sole proprietors. Applications for independent contractors and self-employed individuals can be submitted starting Friday, April 10. Not clear about the refinance question, but PPP loans must include (as a form of refinancing) the amount of EIDL loans received before April 3, 2020 the proceeds of which were used for payroll costs as defined in the CARES Act.</p> |
| <p>If we do not do testing and send to outside lab, do we then need to post on our website our price to collect the specimen for the testing?</p> | <p>No, CARES Act Section 3202(b)(1) only requires posting of the cash price for the testing, not specimen collection.</p> |
| <p>Does the increase in payment for a patient with a COVID-19 diagnosis apply to Doctors or facility only?</p> | <p>The only COVID-19-specific payment adjustment relates to hospital DRG payments for inpatients diagnosed with COVID-19.</p> |
| <p>Is there a percentage in collections down you must have to qualify? what if you are 25% down in collections versus 5% down?</p> | <p>The guidance does not indicate a required reduction in collections in order to qualify.</p> |
| <p>Can you give details about the 50% payroll tax credit?</p> | <p>If this is related to FFCRA, preliminary information (press release by IRS, DOL, Treasury) indicates employers will receive immediate credit for 100% of required payments made under FFCRA through deductions from amounts otherwise remitted to the IRS for withheld and employer portion of payroll tax. Guidance on exact logistics is still pending.</p> |
| <p>Can you include the first \$100,000 of earnings for the higher earners (annual salary above \$100,000) in payroll calculations for loan forgiveness?</p> | <p>Annual compensation up to \$100,000 per employee is included in the payroll cost calculation as prorated for the covered period.</p> |
| <p>Will interest be assessed on the Medicare advance payments?</p> | <p>No interest will be assessed during the recoupment phase. If a provider is unable to pay the full amount owing at the end of the recoupment period, the MAC likely will accept an extended repayment plan which would include interest payments.</p> |
| <p>Are self-insured plans required to cover COVID testing, and without cost sharing?</p> | <p>Yes, first-dollar coverage for all COVID-19 diagnostic testing is mandated under Section 3203 of the CARES Act and Section 6001 of the Families First Coronavirus Response Act.</p> |

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| <p>CARES act excludes Medicaid beneficiaries in this 7(a) program? SEC. 1102. 7(a) LOAN PROGRAM. * * *</p> <p>(b) INCREASED ELIGIBILITY FOR CERTAIN SMALLBUSINESSES AND ORGANIZATIONS.- (1) IN GENERAL.-During the covered period, any business concern, private nonprofit organization, or public nonprofit organization which employs not more than 500 employees shall be eligible to receive a loan made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), in addition to small business concerns.</p> <p>(2) EXCLUSION OF NONPROFITS RECEIVING MEDICAID EXPENDITURES.-Paragraph (1) shall not apply to a nonprofit entity eligible for payment for items or services furnished under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under a waiver of such plan.</p> | <p>The provision in the proposed CARES Act to exclude non-profits was struck from the final rule. Per the CARES Act final rule, Medicaid-participating businesses are eligible to receive SBA loans.</p> |
| <p>is that for people making up to \$100k?</p> | <p>Annual compensation up to \$100,000 per employee is included in the payroll cost calculation as prorated for the covered period.</p> |
| <p>I am still a little confused with the HHS Marshall grant. Will everyone qualify on first come first serve?</p> | <p>The provision in the CARES Act creating the \$100 Billion fund does not include any criteria for HHS to apply in awarding these monies to providers, other than to state awards should be made on a rolling basis. We anticipate HHS will establish some criteria as it fully develops the program.</p> |
| <p>You mentioned posting the cost of the Coronavirus testing price on your website is that for all patients or just for Medicare patients?</p> | <p>The provider should post the price it would charge an individual paying cash (i.e., not insurance coverage) for the test.</p> |
| <p>Can we apply for both PPL and Eidl loans?</p> | <p>You can take out a PPP loan, but cannot take out an EIDL loan if it will be used for payroll costs or other allowable uses under the PPP.</p> |
| <p>Three months of payments, is that the most recent 3 months of payments we have received from Medicare? Or what is the measurement period</p> | <p>CMS' program instructions to the MACs does not specify the time period by which to measure total Medicare payments for purposes of determining the amount of the advance payment. Presumably, each MAC will make this determination.</p> |
| <p>Physician practices have been lobbying for change to the audio AND vide requirements for telehealth. Any update on that?</p> | <p>By interim final rule published on March 30, CMS announced Medicare will now cover telephonic E/M services, CPT 98966-68 (non-physician practitioner) and 99441-43 (physician). However, a service may be billed as a telehealth service only if interactive audio-visual communication system is utilized.</p> |
| <p>Related party rent and S-corp owners qualify as forgiveness under PPP?</p> | <p>The guidance indicates that the amount of the loan should be used at least 75% for payroll costs, and the remaining 25% or lesser percent should be used for interest payments on mortgages incurred prior to February 15, 2020, payments on covered rents in force prior to February 15, 2020, and utility payments (i.e., gas, water, transportation, telephone, internet) for which services began before February 15, 2020, all as defined in the CARES Act. We suggest you seek professional advice about the related party aspects of the rent.</p> |
| <p>Can we furlough staff now, apply for sba loan...then re-hire staff if approved for sba loan - without negatively affecting our eligibility, loan amount or forgiveness?</p> | <p>The goal of the CARES Act is to keep businesses open and employees on the payroll. If you obtain the PPP loan, an organization would work to rehire any of the prior employees so that no reduction in forgiveness would occur. Any individuals laid off between February 15, 2020 and April 26, 2020 would need to be rehired by June 30, 2020.</p> |
| <p>If loans are not available for another month or so, what is your recommendation on how to make payroll to staff until that time? Would unemployment be the way to go until the cash is received?</p> | <p>The PPP loan application submission process went live Friday, April 3, for small businesses and sole proprietors. Applications for independent contractors and self-employed individuals can be submitted starting Friday, April 10. PPP loans must include (as a form of refinancing) the amount of EIDL loans received before April 3, 2020 the proceeds of which were used for payroll costs as defined in the CARES Act. While the goal of the CARES Act is to keep businesses open and employees on the payroll, laying off staff would certainly be an option. In order to obtain loan forgiveness under the PPP, however, any employees would need to have been laid-off before April 26, 2020 and must be rehired by June 30, 2020 for purposes of calculating the loan forgiveness amount.</p> |

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| <p>Are physician salaries included?</p> | <p>Payroll costs include compensation to an individual employee (which may be a physician) up to an annual salary of \$100,000 as prorated for the covered period. Compensation paid to physicians who are independent contractors (ICs) and thus are not employees, is excluded from the payroll costs of business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs.</p> |
| <p>I understand that the 7(a) loans are to be used to pay for payroll support, group health benefits payments, debt, and utilities, but in the section of the bill outlining the terms of the loan forgiveness, the term “payroll continuity” is used. Does that mean that all costs related to continuing payroll will be forgivable, including wages, payroll taxes, health benefits, and 401(k) contributions, or are only the wages themselves forgiven?</p> | <p>For a PPP loan to be forgiven, at least 75% of its proceeds must be used for Payroll costs, with the remaining 25% or lesser percent being allowed to be used for interest payments on mortgages incurred prior to February 15, 2020, payments on covered rents in force prior to February 15, 2020, and utility payments (i.e., gas, water, transportation, telephone, internet) for which services began before February 15, 2020, all as defined in the CARES Act. Payroll continuity relates to certain reductions in loan forgiveness that will result from failure to maintain that continuity. Loan forgiveness will be reduced for:</p> <ul style="list-style-type: none"> •Any decrease in excess of 25 percent occurring during the 8-week period starting on the date of the Loan, in the wages of employees whose pay rate was less than \$100,000 per year. •The proportion of any decrease during the 8-week period starting on the date of the Loan, in the average number of monthly full-time equivalent (FTEs) employees (i.e., the numerator) compared to, at the election of the Borrower, the average number of FTEs employed per month (i.e., the denominator) during (A) the period of 2/15/19 through 6/30/19 or (B) the period of 1/1/20 through 2/29/20. <p>Note that the definition of FTEs for this purpose differs from the definition of employees for Loan amount qualification, as previously discussed, and that special rules will apply to Borrowers that employ seasonal employees. In addition, Loan forgiveness will not be reduced for employees laid off between February 15, 2020 and April 26, 2020 and re-hired by June 30, 2020.</p> <p>Note that the SBA will have recourse for unauthorized use of loan proceeds against each shareholder, member, or partner of a Borrower that is an entity, and the Borrower will be ordered by the SBA to repay unauthorized use amounts. If a Borrower knowingly makes unauthorized use of PPP Loan proceeds, the Borrower and possibly its principals will be subject to additional liability such as charges for fraud. Unauthorized uses can be a use of PPP loan proceeds contrary to the CARES Act allowable uses or a use that violates a certification on the PPP loan application form.</p> |
| <p>If I get the PPP Loan and am paying staff while they are home furloughed, do I still have to file for partial unemployment on their behalf? That would mean they would be getting their full pay as well as unemployment....? What if they are getting paid a part of their pay...would we still file partial unemployment then?</p> | <p>They can't be paid their full salary under the PPP loan and also receiving unemployment. However, if they receive a decrease in pay, then they are eligible to file for partial unemployment, and, at least in Georgia, the employer is required to handle that filing on the employee's behalf.</p> |
| <p>If I re-open during the 8 week term of the PPP Loan, and the company begins to receive revenue, can I still use the loan to pay the employees now that they are back at work?</p> | <p>The purpose of the PPP Loan is really to keep businesses open and employees on staff. The 8-week period after the loan is made is the period under consideration for the loan forgiveness. During that period, the monies can be used for operational expenditures, including payroll costs (which must be at least 75% of all amounts sought to be forgiven), interest payments on mortgage, covered rent, and covered utilities. An application must be filed with supporting documentation to seek forgiveness.</p> |
| <p>Does the CARES Act exclude Medicaid beneficiaries in the 7(a) loan program?</p> | <p>The provision in the proposed CARES Act to exclude non-profits was struck from the final rule. Per the CARES Act final rule, Medicaid-participating businesses are eligible to receive SBA loans.</p> |
| <p>I plan on my staff receiving unemployment from the State starting this week. I have heard from one of my dentist friends in Perry that he has been doing the Employer Filed Partial Claims since he has closed his office. Since I plan on keeping all of my staff through all of this, is this the best way for them to receive benefits? He said he just plugged everything in through the Georgia DOL website.</p> | <p>Purely for unemployment purposes in Georgia, if employees are receiving some pay during this time, then the partial unemployment option is available and must be completed by the employer on the Georgia DOL website. Our understanding is that employees file their own claims for full unemployment (a.k.a. no funds coming from their employer). The following blog post has new info from GA DOL that may be helpful: https://dol.georgia.gov/blog/new-information-filing-unemployment-partial-claims-and-reemployment-services</p> |

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| <p>Does the base calculation for CARES Act SBA loans include group health, retirement and social security matching? Are federal and state unemployment included?</p> | <p>The base calculation includes group health and retirement, but not social security matching. "State or local tax assessed on the compensation of employees" is included in the definition of payroll costs which is averaged as part of the monthly amount for 2019 which is multiplied by 2.5 to determine the portion of the maximum amount which may be borrowed which is not related to mandatory refinancing of certain EIDL loans. In states where employers must pay an unemployment insurance "tax," employer amounts paid for it should be included in payroll costs, subject to all the calculation rules and definitions in the CARES Act.</p> |
| <p>For self-funded groups, does the calculation include one-month average claims plus fixed cost, reinsurance, network rental fees, etc.?</p> | <p>While this is not addressed in the Act and there is no official guidance for it, the formula seems logical. Your lending institution may have further information on how to account for these expenses.</p> |
| <p>We understand we can include payroll costs for our partners who are technically self-employed. For them, we will include \$8,333 per month in the base. For forgiveness calculations, what documentation do we need to "prove" their payroll? K1s? Monthly draw and bonus stubs?</p> | <p>The rules have now changed. For purposes of determining the maximum loan amount available for a CARES Act Paycheck Protection Program (PPP) loan for a qualifying concern or entity, 'payroll costs' includes the sum of payments of any compensation with respect to employees, including owners if they are employees, if those payments are salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits, including insurance premiums; payment of any retirement benefit; and payment of State or local tax assessed on the compensation of employees. Compensation paid to independent contractors (ICs) is excluded from the payroll costs of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs.</p> <p>As proof of employment or independent contractor or self employment status under the Act, "An eligible self-employed individual.....seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099-MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary." Although we have an incomplete portrayal of your factual situation, in general the foregoing indicate that the partners, since they are considered independent contractors, will have to apply individually as independent contractors for a PPP loan.</p> <p>You must apply through your lender for forgiveness on your Loan. In this application, you must include:</p> <ul style="list-style-type: none"> •Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings. •Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities. •Certification from a representative of the business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use. |
| <p>For partners, all their payroll and benefits run through a captive sub-entity. Will we need to apply for a loan for every single captive sub-entity? Each one has a separate tax ID.</p> | <p>Likely yes. For purposes of determining the maximum loan amount available for a CARES Act Paycheck Protection Program (PPP) loan for a qualifying concern or entity, 'payroll costs' includes the sum of payments of any compensation with respect to employees, including owners if they are employees, if those payments are salary, wage, commission, or similar compensation; payment of cash tip or equivalent; payment for vacation, parental, family, medical, or sick leave; allowance for dismissal or separation; payment required for the provisions of group health care benefits, including insurance premiums; payment of any retirement benefit; and payment of State or local tax assessed on the compensation of employees. Compensation paid to independent contractors (ICs) is excluded from the payroll costs of small business concerns and entities; because ICs themselves can apply for a PPP loan, only ICs can include their compensation in payroll costs.</p> <p>As proof of employment or independent contractor or self employment status under the Act, "An eligible self-employed individual.....seeking a covered loan shall submit such documentation as is necessary to establish such individual as eligible, including payroll tax filings reported to the Internal Revenue Service, Forms 1099-MISC, and income and expenses from the sole proprietorship, as determined by the Administrator and the Secretary." Although we have an incomplete portrayal of your factual situation, in general the foregoing indicate that the partners, since they are considered independent contractors employed by a captive subentity, will have to apply individually either as independent contractors or as an entity if employed as an employee of the respective captive subentity.</p> |

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| <p>I am researching if our Ambulatory Surgery Centers (ASCs) could qualify for SBA loan with forgiveness. We have no plans to lay off any team members. The ASCs are partnerships with owners being the Health System and non-employed physicians. Less than 500 employees. Seem to meet all the other criteria. Any thoughts?</p> | <p>Upon client research, client found that the System owns over 50% of each ASC and probably has control (per its articles, bylaws etc.). If System controls, probably need to include System in small business tests per the applicable SBA affiliation rules and would not meet revenue criteria. Additional facts: ASCs can now apply for advanced payments from CMS, and can provide hospital services to patients - and bill as such. We have more information coming soon on that front, but it may be a way to get some revenue back into the ASCs. Finally, make sure you look into the payroll tax deferrals in the CARES Act that may apply to your JVs.</p> |
| <p>1) we can include up to 100k, for employees that make over 100k, in determining payroll costs? 2) retirement benefits includes 401k and profit sharing? 3) group health care benefits include health insurance... but also vision? dental? disability insurance? life insurance?</p> | <p>Payroll costs include (in response to your questions below): -Compensation of an individual employee up to an annual salary of \$100,000, as prorated for the covered period -The guidance simply indicates "payment of any retirement benefit." -Group health care benefits, including insurance premiums. The key word here is "health."</p> |
| <p>When should we put our staff back at 75/80% of their normal payable hours? Our next pay roll is April 11. They have been reduced to 50%.</p> | <p>The PPP loan does not specifically address timing of adjustments in payroll percentages. Let me address the two key areas for you that do relate to compensation reduction or alternatively layoffs and rehires:</p> <ol style="list-style-type: none"> 1. Calculation of the amount: Ignoring the mandatory refinancing of certain EIDL, this calculation multiplies by 2.5 the average "monthly" payroll costs for 2019. 2. Loan Forgiveness: Loan forgiveness looks to the 8-week period after the origination date of the loan. A reduction in the amount forgiven may result from: <ul style="list-style-type: none"> •Any decrease in excess of 25 percent occurring during the 8-week period starting on the date of the Loan, in the wages of employees whose pay rate was less than \$100,000 per year. •The proportion of any decrease during the 8-week period starting on the date of the Loan, in the average number of monthly full-time equivalent (FTEs) employees (i.e., the numerator) compared to, at the election of the Borrower, the average number of FTEs employed per month (i.e., the denominator) during (A) the period of 2/15/19 through 6/30/19 or (B) the period of 1/1/20 through 2/29/20. <p>Note that the definition of FTEs for this purpose differs from the definition of employees for Loan amount qualification and that special rules will apply to Borrowers that employ seasonal employees. In addition, Loan forgiveness will not be reduced for employees laid off between February 15, 2020 and April 26, 2020 and re-hired by June 30, 2020.</p> |
| <p>Should I be applying for EIDL? How do I apply for EIDL?</p> | <p>The PPP loan application submission process went live Friday, April 3, for small businesses and sole proprietors. Applications for independent contractors and self-employed individuals can be submitted starting Friday, April 10. PPP loans must include (as a form of refinancing) the amount of EIDL loans received before April 3, 2020 the proceeds of which were used for payroll costs as defined in the CARES Act. However, due to the loan forgiveness, six month automatic repayment deferral period, no SBA loan fees or recourse against business owners, 1% interest rate, and no required personal guarantees or collateral, PPP loans are preferable to EIDL.</p> <p>It is your decision, however, and should you choose to, you can fill out the EIDL application (must be COVID-19-specific application) via the SBA website (https://covid19relief.sba.gov/#/) and request the \$10,000 emergency advance during the application process. According to the U.S. Chamber of Commerce, businesses that apply for EIDL loans should be able to get the \$10,000 cash advance within three days of applying for the EIDL loan (application serves as certification under penalty of perjury that applicant is eligible). Applicants are not required to repay advance payments, even if subsequently denied for an EIDL loan.</p> |

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| <p>If I make partial unemployment claims during this time ... does that negate the forgiveness for the paycheck protection program? The WHOLE thing? Or just the portion that my employees have been paid by the federal government?</p> | <p>There is no guidance yet on the impact of partial unemployment on PPP loan forgiveness. Although further guidance may answer this question, the following general rules apply for business concerns and entities:</p> <p>For a PPP loan to be forgiven, at least 75% of its proceeds must be used for employee (and not independent contractor) payroll costs, with the remaining 25% or lesser percent being allowed to be used for interest payments on mortgages incurred prior to February 15, 2020, payments on covered rents in force prior to February 15, 2020, and utility payments (i.e., gas, water, transportation, telephone, internet) for which services began before February 15, 2020, all as defined in the CARES Act. Loan forgiveness will be reduced for:</p> <ul style="list-style-type: none"> •Any decrease in excess of 25 percent occurring during the 8-week period starting on the date of the Loan, in the wages of employees whose pay rate was less than \$100,000 per year •The proportion of any decrease during the 8-week period starting on the date of the Loan, in the average number of monthly full-time equivalent (FTEs) employees (i.e., the numerator) compared to, at the election of the Borrower, the average number of FTEs employed per month (i.e., the denominator) during (A) the period of 2/15/19 through 6/30/19 or (B) the period of 1/1/20 through 2/29/20. <p>Note that the definition of FTEs for this purpose differs from the definition of employees for Loan amount qualification, as previously discussed, and that special rules will apply to Borrowers that employ seasonal employees. In addition, Loan forgiveness will not be reduced for employees laid off between February 15, 2020 and April 26, 2020 and re-hired by June 30, 2020.</p> |
| <p>I have a client who wants to know if she can use the CARES Act SBA proceeds to continue full (partial as a last resort) payroll for individuals who are not working aka can she use the money to tide everyone over until work and normal operations resume? She's derm, volume is down to 5-10% previous levels even with telederm. We talked about the business considerations in that decision but she wants to know what the rule says.</p> | <p>The goal of the CARES Act is to keep businesses open and employees paid. The PPP loans can be forgiven if borrowers maintain their payrolls during the crisis or restore their payrolls afterward (bringing back employees that have been laid off before 4/26/20 on or before 6/30/20). While the loan proceeds do not need to be used for payroll costs only and they can be used to pay other things, the guidance indicates that the amount of the loan should be used during the 8 week period starting on the date of the PPP loan, at least 75% for payroll costs, and the remaining 25% or lesser percent should be used for interest payments on mortgages incurred prior to February 15, 2020, payments on covered rents in force prior to February 15, 2020, and utility payments (i.e., gas, water, transportation, telephone, internet) for which services began before February 15, 2020, all as defined in the CARES Act. But the maximum loan amount is calculated based on the payroll costs only.</p> |

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| <p>Are there certification requirements for the PPP loan application?</p> | <p>The loan application form requires borrowers to make these certifications: They were in operation on February 15 and had employees for whom it paid salaries and payroll taxes or paid independent contractors as reported on a Form 1099-MISC.</p> <p>Current economic uncertainty makes this loan request necessary to support the ongoing operations of the applicant.</p> <p>Funds will be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments and understands that if the funds are knowingly used for unauthorized purposes, the federal government will hold them legally liable such as for charges of fraud. Not more than 25 percent of loan proceeds may be used for non-payroll costs.</p> <p>Provide documentation to the lender verifying the number of full-time equivalent employees on payroll as well as the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight-week period following this loan.</p> <p>Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Not more than 25 percent of the forgiven amount may be for non-payroll costs.</p> <p>During the period beginning on February 15 and ending on December 31, the applicant has not and will not receive another loan under this program.</p> <p>Applicant further certifies that the information provided in the application and all supporting documents and forms is true and accurate in all material respects and they understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000, under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000, and if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than 30 years and/or a fine of not more than \$1 million.</p> |
| <p>As a small rural hospital we use temporary (locums) staffing a lot. These are contracts with Nursing companies. Can we include those hours for FTE's and those dollars as salaries? They are part of our core staffing because of nursing shortages. The same is true with Rehab.</p> | <p>In general, for purposes of the PPP Loan amount calculation of business concerns and entities, payroll costs exclude compensation paid to independent contractors as would be reported on a 1099. Only the independent contractor can use their pay for purposes of their own PPP loan application. Also, the SBA has stated in a FAQ published 4/7/20, that for purposes of the Paycheck Protection Program, "employees of the eligible borrower will not be considered employees of the eligible borrower's payroll provider or PEO" as indicated in the last line of the answer to question 10 at this link: https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf. PEO means Professional Employer Organization which has a very specific legal definition. Thus if the company you lease locums from is a PEO, there may be a very different answer than if it is not a PEO.</p> |
| <p>We are Community Owned, so there are really no true owners. It is the community. Do we use the Board Officers as owners on the application, each with an equal share of ownership?</p> | <p>To apply for the PPP loan, you should be classified as a 501(c)(3) organization that is tax exempt under IRC section 501(a). As such, you would not have any ownership unless wholly-owned or wholly-own another tax-exempt entity. Do not list the board officers as owners with any ownership percentage.</p> |
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Disclaimer: To the best of our knowledge, these answers were correct at the time of publication. Given the fluid situation, and with rapidly changing new guidance issued daily, be aware that these answers may no longer apply. Please visit our COVID-19 hub frequently for the latest information, as we are working diligently to put forth the most relevant helpful guidance as it becomes available.

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