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# The CARES Act

## Your Piece of the \$2 Trillion Pie

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March 30, 2020

*updated April 7, 2020*



# Your Presenters

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# Congressional Response



**COVID #1 (March 6)**  
Coronavirus Preparedness  
and Response Supplemental  
Appropriations Act

\$8.3 billion in emergency funding for federal agencies to respond to COVID-19 pandemic

**COVID #2 (March 18)**  
Families First  
Coronavirus Response Act

Paid sick leave; free coronavirus testing; expanded food assistance and unemployment benefits; protections for health care workers

**COVID #3 (March 27)**  
CARES Act  
(Coronavirus Aid, Relief  
and Economic Security Act)

- \$2 Trillion relief package for state & local governments; big, medium, & small businesses; healthcare providers; and individuals
- 20% increase in overall federal spending in FY20

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March 26, 2020 04:57 PM | UPDATED 17 HOURS AGO

## **Kentucky hospital to furlough 300 employees in 'unprecedented times'**

Modern Healthcare

March 28, 2020 08:06 PM

## **Intermountain cutting doc pay as COVID-19 impacts service lines**

Modern Healthcare

1. Paycheck Protection Program – Sections 1102 and 1106
2. Medicare Advance Payments – Section 3719
3. Public Health and Social Services Emergency Fund – Title VIII
4. Other Health Care-Related Provisions
  - a. Medicare Sequestration Relief – Section 3709
  - b. Medicare COVID-19 DRG Add-On – Section 3710
  - c. Delay in Medicaid DSH Cuts – Section 3813
  - d. Medicare Telehealth Expansion – Sections 3212, 3703, 3704, & 3706
  - e. Pricing for COVID-19 Diagnostic Tests – Section 3203
  - f. FQHC Funding – Section 3211
  - g. Access to Post-Acute Care – Section 3711

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# 1. Paycheck Protection Program

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# \$349 Billion in Small Business Loans

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- SBA Act section 7(a) guaranteed loan program
- Loans of up to \$10 million
- Loans must be applied for on or before June 30, 2020
- No SBA fees
- No collateral or personal guarantees required
- No SBA recourse against any individual shareholder, member, or partner if the proceeds are used as allowed

# Who Qualifies?

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- Business concerns, including:
  - Business entities
  - Nonprofit organizations
  - Sole Proprietorships or other eligible Self-Employed Individuals
  - Independent Contractors
  - Veterans organizations and Tribal concerns
  - Companies defined as small businesses in SBA Act
- With 500 or fewer employees
- Operating on February 15, 2020 with
  - Compensated employees (salaries and payroll taxes)
  - Independent contractors (are excluded for business concerns and entities that are not independent contractors)



# Who Makes the Loans?

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- Currently authorized SBA Act Section 7(a) lenders that opt to participate, any federally insured depository institution or credit union, any Farm Credit System institution, and certain other designated institutions
  - Reimbursement to lenders from SBA for processing based on percentage of loan amounts
- Borrower must make good faith certifications, including that proceeds will be “used to retain workers and maintain payroll” or make other allowed payments
- Application process went live for submission Friday, April 3 for small businesses and sole proprietors. Applications for independent contractors and self-employed individuals can be submitted starting Friday, April 10.

# How Much Can Be Borrowed?

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- Maximum amount = lesser of:
  - \$10 million, **OR**
  - 2.5 times the borrower’s average total monthly payments for payroll costs (as defined in the Act) during the calendar year 2019 (in general) **plus** (it is mandatory) any Economic Injury Disaster Loan (EIDL) received between February 15 and June 30, 2020 which was used to fund payroll costs
- Eligible payroll costs include –
  - Salaries, wages, and commissions, “or similar compensation”
  - Cash tip or equivalent
  - Payment for vacation, parental, family, medical, or sick leave
  - Separation payments
  - Group health care benefits /premiums
  - Payment of any retirement benefit
  - Payment of state or local tax assessed
  - Except for business concerns and entities, the sum of payments of any compensation to or income of a sole proprietor or independent contractor that is a wage, commission, income, net earnings from self-employment, or similar less than \$100,000 in 1 year, as prorated for the covered period

# How Much Can Be Borrowed?

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- Eligible payroll costs **do not** include –
  - Compensation of individual employee in excess of annual salary of \$100,000
  - For any borrower that is not an independent contractor, amounts paid to independent contractors
  - Taxes imposed or with held under chapters 21, 22, or 24 of the Internal Revenue Code of 1986
  - For loan forgiveness and loan proceeds allowable use purposes, Federal employment taxes imposed or withheld between February 15, 2020 and June 30, 2020, including the employee’s and employer’s share of FICA and Railroad Retirement Act taxes, and income taxes required to be withheld from employees.
  - Any compensation of an employee whose principal place of residence is outside of the United States
  - Qualified sick leave wages for which a credit is allowed under section 7001 of Families First Coronavirus Response Act
  - Qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act

# How May Loan Proceeds Be Used?

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- Payroll costs (as specifically defined in the Act)
- Costs related to continuation of group health care benefits during periods of paid sick, medical or family leave, and insurance premiums
- Rent (including rent under a lease agreement)
- Utility payments (power, water, transportation, telephone, and internet access)
- Mortgage interest payments and interest on any other debt obligations incurred before 02/15/20
- Existing SBA Act Section 7(a) loan allowable uses, including working capital
- *Note: At least 75% of the PPP loan proceeds must be used for payroll costs.*

- **Exercise caution:**
  - **There may be consequences for using PPP loan proceeds other than for allowable uses.**
    - 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.

# What Loan Amount May Be Forgiven?

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- Specified costs incurred and payments made during the 8-week period following the loan origination date (8-week period) for the following things, as specifically defined in the Act:
  - ✓ Payroll costs (at least 75% of all costs)
  - ✓ Payments on covered rent obligations
  - ✓ Covered utility payments
  - ✓ Payments of interest on any covered mortgage obligation
- Total forgiveness can include the loan principal amount plus accrued interest
- Debt forgiveness  $\neq$  income for federal income tax purposes

# Loan Forgiveness Reductions



- Decrease during the 8-week period of employee wages in excess of 25% for employees whose pay rate was less than \$100,000 per year
- Decrease during the 8-week period in full-time equivalent employees
  - Loan forgiveness will not be reduced for employees previously laid off and re-hired by June 30, 2020.



Image source: Shutterstock

# Forgiveness Calculation



**Amount  
expended on  
Allowable Costs  
previously  
defined**



**Average Number of FTE's per Month  
Employed Over the 8-Week Period  
Following Receipt of the Loan**



**At the election of the Non-Seasonal  
Borrowers, either:**


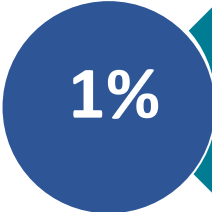


- a) Average Number of FTE's per Month  
Employed 2/15/19 - 6/30/19; or**
- b) Average Number of FTE's per Month  
Employed 1/1/20 – 2/29/20**

**For Seasonal Employers only – the Average  
Number of FTE's per Month Employed  
2/15/19 – 6/30/19**



# Repayment of Unforgiven Amounts



-  **2 Years** Unforgiven portion to be repaid over a maximum 2-year period
-  **1%** Maximum interest rate = 1%
-  **No prepayment penalty**
-  **Automatic repayment deferral period of six months**

# Act Now

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- PPP loans will be issued on a first-come, first-served basis
- Reach out to your lender NOW, verify they will be participating in the PPP program and begin the application process
- PPP loan application form, SBA Form 2483, is available on the Treasury Department website at:
  - <https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Application-3-30-2020-v3.pdf>

# Economic Injury Disaster Loans (EIDL)

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- Working capital loans of up to \$2 million from SBA
- Available to businesses with fewer than 500 employees, sole proprietors, and independent contractors
- Waiver of personal guarantees for loans of \$200,000 or less
- Waiver of showing inability to obtain credit elsewhere
- EIDLs must be refinanced as part of an SBA Act Section 7(a) loan, *if any loan proceeds were used for Payroll costs*

# \$10,000 EIDL Advance

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- Available through December 31, 2020
- Must be used for payroll, sick leave, increased supply costs, rent/mortgage payments, and certain other items
- SBA pays applicant within 3 days of application
- Advance does not have to be repaid even if denied a loan under EIDL; will offset forgiveness under a Section 7(a) loan

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## **2. Medicare Advance Payments**

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# Address Providers' Cash Flow Challenges



- IPPS, Children's, and Cancer hospitals - up to 100% of Medicare payments for 6-month period
- Critical Access Hospitals - up to 125% of Medicare payments for 6-month period
- All other Part A providers and Part B suppliers - up to 100% of Medicare payments for 3-month period



PUBLISHED MARCH 30, 2020

**ENSURING PROVIDER CASH  
FLOW DURING THE COVID-19  
PANDEMIC – MEDICARE  
ADVANCE PAYMENTS**

Image source: Shutterstock

# Eligibility

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1. Billed Medicare for claims within last 180 days
2. Not be in bankruptcy
3. Not be under active medical review or program integrity investigation
4. Not have any outstanding delinquent Medicare overpayments

# Application Process

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1. Use advance payment request form posted on each Medicare Administrative Contractor's website
  - Each MAC maintains COVID-19 Hotline to assist with requests
2. Required information:
  - Provider/supplier identification information
  - Amount requested
  - Reason for request
    - Check Box 2 and state request is for advance payment due to COVID-19 pandemic
3. Signed by authorized representative
4. Submit by e-mail





## Jurisdiction L - Medicare Part A and B Accelerated and Advance Payment Request Form

The Centers for Medicare & Medicaid Services (CMS) has expanded the Accelerated and Advance Payment Program to provide financial relief to Medicare providers/suppliers working to provide treatment to patients and combat the 2019-Noval Coronavirus (COVID-19) pandemic. The expansion of this program is only for the duration of the public health emergency.

### Instructions:

- Please type your responses on the form. The completed form must be printed and signed by the provider's/supplier's authorized representative that is legally able to make financial commitments and assume financial obligations on the provider's/supplier's behalf. If not signed by the authorized representative, the request will be denied.
- Complete all fields to prevent delays in processing.
- If you need to request a payment for more than one Medicare Identification Number (PTAN), submit a separate form for each Medicare Identification Number (PTAN) and matching National Provider Identifier (NPI). This will ensure faster processing of your request.
- Novitas Solutions will notify you of the decision and when you'll receive payment to the email listed on the form.
- Providers will have to pay back the accelerated/advance payment.

**Request forms must be uploaded through our Provider Enrollment Gateway at:**

[https://www.novitas-solutions.com/webcenter/portal/Enrollment\\_JL/EnrollmentGateway](https://www.novitas-solutions.com/webcenter/portal/Enrollment_JL/EnrollmentGateway)

Our Gateway entry page includes a help guide on accessing the tool and submitting your request form.  
Only PDF formats are accepted on the Gateway.

Provider Name:	Phone Number:
Medicare Identification Number (PTAN):	Fax Number:
NPI:	Email Address:
Select one option below	<b>Check the reason for your request</b>
<input type="checkbox"/>	Delay in provider/supplier billing process is of an isolated temporary nature beyond the provider/supplier's normal billing cycle due to COVID-19 and not attributable to other third party payers or private patients
<input type="checkbox"/>	Other: Please explain
Select one option below	<b>Payment Amount Requested</b>
<input type="checkbox"/>	I want the maximum payment amount as calculated by CMS.
<input type="checkbox"/>	I want less than the maximum payment amount as calculated by CMS. Enter payment amount requested _____.

I \_\_\_\_\_, \_\_\_\_\_, certify that I'm the authorized representative that is legally able to make financial commitments and assume financial obligations on the provider's/supplier's behalf.

(Name) (Title)

Signature of authorized representative listed above:	Date:
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MAC confirms  
form is  
complete and  
requestor  
meets eligibility  
requirements



MAC notifies  
requestor of  
approval/denial  
via email



MAC issues  
payment within  
7 calendar days  
from request

# Recoupment and Reconciliation



- Recoupment begins 120 days following receipt
  - MAC withholds payment on all claims up to the amount of the advance payment



- Reconciliation
  - MAC makes demand for payment of any remaining amount one year following receipt for hospitals, 210 days for all other providers
  - Opportunity for extended repayment schedule (with interest)?
  - Impact of bankruptcy?

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## **3. Public Health and Social Services Emergency Fund**

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- FY 2019 budget = **\$2.6B**
  - ✓ Preparedness and Emergency Operations
  - ✓ National Disaster Medical System
  - ✓ Hospital Preparedness Program
  - ✓ Biomedical Advanced Research and Development Authority
  - ✓ Project BioShield
  - ✓ Strategic National Stockpile
  - ✓ Medical Reserve Corps
  - ✓ Pandemic Influenza
  - ✓ Cybersecurity

- **\$275M** (available through FY 22)
  - To be transferred to HRSA for Ryan White HIV/AIDS Program (\$90M); poison control programs (\$5M); and rural health initiatives (\$180M)
- **\$27B** (available through FY24)
  - Secure vaccines, therapeutics, diagnostics, and necessary medical supplies; develop medical surge capacity
  - Up to \$16B for National Strategic Stockpile
- **\$100B** (available until expended)
  - “[T]o reimburse ... providers for health care related expenses or lost revenues that are attributable to coronavirus”
  - “[M]ay not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse”

# Marshall Plan for Healthcare Providers

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1. Open to any entity that “provide[s] diagnoses, testing, or care for individuals with possible or actual cases of COVID–19”
  - Not limited to hospitals
2. Must submit “an application that includes a statement justifying the need of the provider for the payment”
  - Funds “shall be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity”
  - Lost revenue?

# Marshall Plan (cont.)

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3. HHS “shall, on a rolling basis, review applications and make payments” from the fund
  - No funding criteria
  - First come, first served?
4. HHS shall make payments “in consideration of the most efficient payment systems practicable to provide emergency payment”
5. Recipients must “submit reports and maintain documentation as the Secretary determines are needed to ensure compliance with conditions that are imposed by this paragraph for such payments....
6. HHS must submit progress report to Congress every 60 days



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# Other Health Care Related Provisions

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# Medicare Sequestration Relief

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- Eliminates automatic 2% reduction in Medicare payments imposed by Budget Control Act of 2011
- Effective May 1 – December 31, 2020
  - Date of service or date of submission?
- Extend sequestration through FY2030
- Medicare Advantage?
  - Plans will receive 2% payment increase
  - Impact on provider payments likely dependent on contract terms

## Before CARES Act

\$4B reduction for period  
05/23/20 through 09/30/20

\$8B reduction each year  
from FY21 to FY25



## CARES Act

Eliminate FY20  
reduction

FY21 reduction = \$4B;  
delay effective date to  
12/01/20

\$8B reduction each  
year from FY22 to FY25  
(no add-on year)

# Medicare COVID-19 DRG Add-On



- For any discharge of individual diagnosed with COVID-19 during national emergency, increase by 20% weighting factor that would otherwise apply to DRG to which discharge is assigned
- Medicare Advantage?
- CAH interim rate review

Image source: Shutterstock

# Medicare Telehealth Expansion

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- New payment to RHCs and FQHCs for telehealth
  - HHS to set rates similar to national average payment rates for comparable telehealth services under Medicare Physician Fee Schedule
  - Telehealth costs excluded from FQHC PPS calculation and RHC AIR calculation
- Waiver of cost sharing for telehealth services
- Coverage for telehealth services furnished to new patients
- Use of telehealth to conduct face-to-face encounter prior to recertification for hospice care
- Beyond COVID-19 emergency period, extend current funding for HRSA telehealth grant programs through FY25

# Pricing for COVID-19 Diagnostic Tests

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- Clarifies all health plans required to cover all COVID-19 diagnostic tests covered without cost-sharing
- Health plan must pay provider—
  - Applicable negotiated rate
  - If no negotiated rate, provider's posted cash price
- Providers must post cash price for COVID-19 testing on provider's website
  - Subject to civil monetary penalty of \$300/day if not posted

- Under COVID #2, health centers received \$100 million for COVID-19-related expenses
  - 1,400 health centers received between \$50K and \$320K each
- CARES Act includes additional \$1.32B in FY20 for health centers for prevention, diagnosis, and treatment of COVID-19
  - Approximately \$1 million per health center

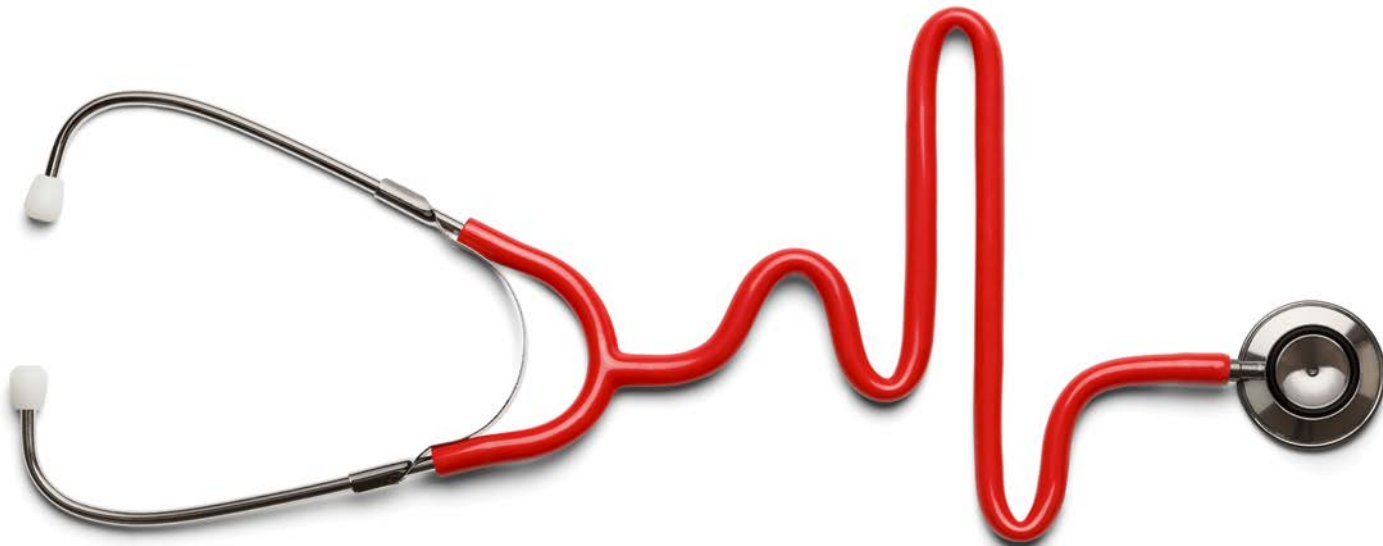


Image source: Shutterstock

# Access to Post-Acute Care

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- Waive inpatient rehab 3-hour rule, which requires patients generally receive at least 3 hours of therapy a day
- Waive LTCH site-neutral payment policy, which uses an IPPS-level payment rate for lower-acuity patients
- Waive LTCH “50% Rule,” which requires that >50% of patients be paid standard LTCH PPS rate for hospital to maintain LTCH designation



## COVID-19 HUB

Because we are living through an unprecedented healthcare phenomenon, PYA is committed to sharing timely and relevant information that we hope will benefit our clients and colleagues. The COVID-19 HUB will centralize PYA's thought leadership, guidance, and resources related to the COVID-19 pandemic.

- Prior webinar recordings, slides, transcripts, follow-up Q&As
- PYA thought leadership
- Links to important resources

[www.pyapc.com/covid-19-hub/](http://www.pyapc.com/covid-19-hub/)