

Coronavirus Aid, Relief and Economic Security (CARES) Act – Key Provisions Affecting Family Physicians

On March 27, 2020 President Trump signed the Coronavirus Aid, Relief and Economic Security (CARES) Act into law. The bipartisan CARES Act is the third legislative package passed in response to the COVID-19 outbreak. The first COVID-19 funding bill, the Coronavirus Preparedness and Response Supplemental Appropriations Act, was signed into law on March 6 and provided \$8.3 billion in emergency funding. The second bill, the Families First Coronavirus Response Act, primarily addressed paid family medical leave (FMLA) and sick leave. The CARES Act provides \$2 trillion in economic stimulus and financial assistance to address the current public health emergency and includes several provisions that are important for family medicine.

Financial Relief

- **Paycheck Protection Program** - provides \$349 billion for loan guarantees through the Small Business Administration (SBA). This is a short-term loan program to help businesses increase cash flow. Loans are made by lenders certified by the SBA and guaranteed by the federal government. Businesses eligible for loans include sole-proprietors, independent contractors, and other self-employed individuals as well as small businesses, 501(c)(3) nonprofits, 501(c)(19) veteran's organizations, or Tribal business concerns. It allows businesses with more than one physical location that employs no more than 500 employees per location. It specifically allows for coverage for payroll, benefits, rent/mortgage, utilities, interest payments and must not include any wages considered as qualified sick leave wages for which credit is already allowed or salaries over \$100,000. Loans must be made prior to June 30, 2020.
- **Loan Forgiveness** - establishes that the SBA loan borrower is eligible for loan forgiveness during the initial 8-week period if funds are used for payroll costs, mortgage or utility costs. Amounts forgiven may not exceed the principal amount of the loan. Eligible payroll costs do not include compensation above \$100,000 in wages and businesses must keep their employees and pay them at least 75% of their prior-year's compensation. To apply for forgiveness, businesses must submit documentation that loan amounts were used to pay eligible expenses (payroll, mortgage utilities), and attestation that documentation is true and correct, and any other documentation that SBA may require.
- **Emergency Economic Injury Disaster Loan (EIDL)** - provides an additional \$562 million for to the Small Business Administration (SBA) to provide EIDL. Eligible EIDL recipients include businesses with fewer than 500 employees as well as sole proprietors and contractors. It requires eligible recipient to have been in business at least one year prior to application. Recipients are eligible to receive advances of up to \$10,000 within 3 days of SBA receiving application while awaiting determination on a loan application and there is no requirement to repay grant even if loan application is denied. The CARES Act modified the existing EIDL program by allowing 501(c)(3) nonprofits to gain access, increasing the maximum loan amount to \$10 million and expanding the allowable uses of loans to include payroll support such as paid sick or medical leave, employee salaries, mortgage payments and other debt obligations. The legislation also includes \$10 billion

in direct grants to businesses that do not qualify for the EIDL program and \$17 billion to have the SBA step-in and make six months of principal and interest payments for all SBA backed business loans. The SBA is required to issue guidance within 15 days of enactment of the CARES Act.

- **HHS Health Care Provider Funding** - provides \$100 billion in funding for the U.S. Department of Health and Human Services (HHS) Assistant Secretary for Preparedness and Response (ASPR) to administer a new program to provide grants to health care providers impacted by COVID19. This funding will be used to provide grants to hospitals, public entities, non-for-profit entities, and Medicare and Medicaid enrolled providers to cover unreimbursed health care related expenses or lost revenues attributed to COVID-19.
- **USDA Rural Business Program** - authorizes \$20.5 million for the cost of loans for rural business development programs to prevent, prepare for, and respond to coronavirus.

Addressing Supply Shortages

- **CDC Funding for COVID Response Efforts** – provides \$4.3 billion to purchase personal protective equipment and diagnostic tests and perform public health activities, such as surveillance, contact tracing, and other infection control activities. The funds will remain available to be expended through 2024.
- **National Academy of Sciences (NAS) Study on Medical Supplies** - within 60 days of enactment, the NAS will issue a report on national medical product supply security. The report will examine critical drugs, supply chain issues, and provide recommendations for addressing drug and device needs. The process requires input from stakeholders, including health care providers, medical societies, product manufacturers, and public health entities.
- **PPE Added to the Strategic National Stockpile List** – adds personal protective equipment (PPE) and ancillary medical supplies needed to administer drug, vaccines, biological products, and medical devices to the list of items for the Strategic National Stockpile for medical countermeasures.
- **Respiratory Protective Devices Added as Emergency Fund Expenditure** - includes NIOSH-approved respiratory protective devices as a priority for expedited distribution under the Department of Health and Human Services' Public Health Emergency Fund.

Coverage of COVID-19 Testing and Services

- **Coronavirus Lab Testing Coverage** - expands the current law's requirement regarding which COVID lab tests private plans should cover without cost sharing or administrative barriers. It expands it from just FDA-approved tests to those developed by clinical laboratories, public health labs, and state labs. Coverage extends to any services or items provided during a medical visit—including an in-person or telehealth visit to a doctor's office, an urgent care center, or an emergency room—that results in coronavirus testing or screening.
- **Rapid coverage for COVID-19 vaccines or treatment** - requires HHS and Department of Labor to require group and individual health plans to cover qualifying COVID preventive services and treatments without cost sharing. This is defined as a U.S. Preventive Service Task Force (USPSTF) grade A or B service that either prevents or

mitigates coronavirus (vaccines or treatment). It would require coverage within 15 days from a USPSTF or Advisory Committee on Vaccine Practices determination. It also eliminates the minimum one-year interval period before insurance vaccine coverage begins.

- **HDHP exemption for telehealth services** - allows Health Savings Account (HSA) eligible high-deductible health plans (HDHPs) to waive deductibles and cost-sharing for telehealth and other remote care services through 2021.
- **Supplemental Awards for Health Centers** - provides \$1.32 billion in supplemental funding for Community Health Centers for the diagnosis, treatment, and prevention of COVID-19.
- **Outreach and Assistance for Low-Income Programs** - provides additional funding for State Health Insurance Programs, Agencies on Aging and Disability Resource Centers, and National Center for Benefits and Outreach Enrollment.

Workforce Support

- **Primary Care Extensions** - extends the Teaching Health Center Graduate Medical Education Program, Community Health Centers program, and National Health Service Corps through November 30, 2020 at current funding levels.
- **Health Care Workforce** - reauthorizes the Public Health Services Act Title VII Health Professions Workforce Programs administered by [HRSA](#). Specifically, it reduces the annual authorized level for the Primary Care Training and Enhancement §747 from \$125 million to \$48.924 million with new priorities in making awards to train residents in rural area including for tribes or tribal organization and cuts the authorized level for the Area Health Education Centers §751 from \$125 million to \$41.25 million for FYs 2010-2014.

Telehealth

- **Clarifying Medicare telehealth flexibility** – amends HHS waiver authority under Section 1135 emergency waivers to allow Medicare physicians/practitioners to furnish telehealth services to beneficiary, regardless of whether or when they have previously furnished services to that beneficiary.
- **Telehealth for FQHCs and rural health clinics** - requires HHS to pay for telehealth services furnished by a Federally qualified health center (FQHC) or rural health clinic (RHC) to Medicare beneficiaries.
- **Telehealth for home dialysis patients** - allows the Secretary of HHS to temporarily waive the requirement for a face-to-face clinical assessment to enable end stage renal disease patients receiving home dialysis to receive related clinical assessments via telehealth.
- **Improving Care Planning for Medicare Home Health Services** - in addition to physicians, allows a nurse practitioner, clinical nurse specialist, or physician assistant to have a face-to-face encounter to certify the patient's need for home health services. This must be done in accordance with state law.
- **Telehealth Network and Resource Center Grant Program** - authorizes \$29 million for each of fiscal years 2021 through 2025 for HRSA administered grants to promote and improve telehealth services in rural and medically underserved areas.

- **USDA Distance Learning, Telemedicine and Broadband Program** - authorizes \$25 million for the program to prevent, prepare for, and respond to coronavirus.

Medicare

- **Suspension of Medicare Sequestration** - suspends the Medicare Sequestration between May 1, 2020 and December 31, 2020 that otherwise was required. This section also extends direct spending reductions by one additional year.
- **IPPS Add-on Payment** - establishes an add-on payment for COVID-19 patients during this emergency period under the Medicare Inpatient Prospective Payment System (IPPS). For discharges occurring during the emergency period in the case of a discharge of an individual diagnosed with COVID-19, CMS increases the weighting factor to the diagnosis-related group to which the discharge is assigned by 20 percent. This change will not be considered when HHS applies the budget neutrality clause.
- **Medicare Part B COVID Vaccine Coverage** - allows Medicare to cover COVID-19 vaccines for beneficiaries with no cost sharing.
- **Medicare Part B Prescription Refills** - requires Medicare Part D plans to fill or refill prescriptions for up to 90 days if a beneficiary requests it during the COVID-19 emergency.
- **Medicare Part B Test Coverage** – clarifies current law to ensure all testing relevant to COVID-19 will be covered with no cost-sharing requirement for those under Medicare Part B.
- **Providing Hospitals Medicare Advance Payments** - for the duration of the COVID-19 emergency period, an existing Medicare accelerated payment program. Qualified facilities would be able to request up to a six -month advanced lump sum or periodic payment based on net reimbursement represented by unbilled discharges or unpaid bills. Most hospital types could elect to receive up to 100 percent of the prior period payments, with Critical Access Hospitals able to receive up to 125 percent. Finally, a qualifying hospital would not be required to start paying down the loan for four months and would also have at least 12 months to complete repayment without a requirement to pay interest.
- **Medicare Geographic Index Floor** - extends the Medicare work geographic index floor through December 1, 2020. It otherwise expires on May 23, 2020.

Medicaid

- **Medicaid Demonstration programs** - extends the Money Follows the Person Rebalancing Demonstration Program, Spousal Impoverishment Protections, and Community Mental Health Services Demonstration Program until November 30, 2020.
- **Delays of Medicaid Disproportionate Share Hospital (DHS)** - the Secretary of HHS can start making reductions December 1, 2020 and ending September 30, 2021, and for fiscal years 2022 through 2025.
- **Medicaid FMAP** - creates special rules related to temporary increase in Medicaid federal medical assistance percentages (FMAP) to provide states the time to pass enabling legislation.

Miscellaneous



- **Limitation on liability for volunteer health care professionals** - protects *volunteer* health care professionals practicing within the scope of their license, registration or certification, from liability under Federal or state law for any harm caused while providing health care services during the COVID-19 Public Health Emergency
- **Guidance on Protected Health Information** – requires HHS, within 180 days, to issue guidance on what patient information can be shared during the COVID-19 Public Health Emergency/National Emergency Declaration.