

Last Update – 12/16/2020 (*changes are noted in red font below*)

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Paycheck Protection Program Flexibility Act of 2020 (PPP Flexibility Act)

On June 5, 2020, the President signed the PPP Flexibility Act. The Act makes changes to the Paycheck Protection Program that passed on March 27, 2020.

Original PPP	PPP Flexibility Act
8-week covered period	24-weeks; or 12/31/2020 (whichever is first)
	The borrower may also elect to choose the 8-week period.
75% of the loan must be used to cover payroll costs; and 25% of the loan may be used for non-payroll costs	60% or more must be used to cover payroll costs; and 40% or less may be used for non-payroll costs.
Any portion over 25% used for non-payroll costs, will not be forgiven and must be repaid. The portion of the loan used appropriately, will be forgiven.	Any portion over 25% used for non-payroll costs, will not be forgiven and must be repaid. The portion of the loan used appropriately, will be forgiven.
Loan repayment – 2 years	Loan repayment – 5 years
	For loans originated before June 5 th , the borrower and lender may agree to extend the maturity to 5 years.

Paycheck Protection Program and Health Care Enhancement Act (PPHCEA)

Background

The bill, passed by Congress on April 21 and 23, provides \$484 billion in additional funding to replenish and supplement key programs under the CARES Act, including the Paycheck Protection Program (PPP), small business disaster loans and grants, hospitals and health care providers and testing. An additional \$310 billion will be added to the Paycheck Protection Program, \$75 billion to the Public Health and Social Services Emergency Fund, and other entities (i.e. lenders, COVID testing, diagnostic and antigen testing).

Public Health and Social Services Emergency Fund (PHSSEF) \$100 Billion Available

Background

The CARES Act established a \$100 billion Public Health and Social Services Emergency Fund (PHSSEF). This funding will be used to support healthcare-related expenses or lost revenue attributable to COVID-19 and to ensure uninsured Americans can get testing and treatment for COVID-19.

\$50 billion of the Provider Relief Fund is allocated for general distribution to Medicare facilities and providers impacted by COVID-19, based on eligible providers' 2018 net patient revenue. The initial \$30 billion was distributed between April 10 and April 17, and the remaining \$20 billion is being distributed beginning Friday, April 24. Of the remaining \$50 billion, \$10 billion will be allocated for a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19 outbreak based on information they provide on the number of ICU beds and admissions for patients with a COVID-19 diagnosis. An additional \$10 billion is being allocated to rural hospitals and rural health clinics based on their operating expenses.

See number 5. below for the details on the distribution of the remaining \$20 billion and number 6. for distribution of \$15 million to Medicaid providers.

[FAQs from HHS](#) on the Provider Relief Fund

1. *First Wave: Distribution of \$30 billion – [CARES Act Provider Relief Fund](#)*

- a. Payments were deposited beginning April 10th.
- b. If you have not received your stimulus payment in your Medicare direct deposit account, contact UnitedHealth Group's Provider Relations at 866-569-3522 about eligibility, whether a payment has been issued, and where it was sent.
- c. If you do NOT treat Medicare patients, you should receive a payment in the next round of stimulus funds that are sent out.

2. *Who is eligible?*

- a. All facilities and providers that received Medicare fee-for-service (FFS) reimbursements in 2019 are eligible for this initial rapid distribution.

- b. As a condition to receiving these funds, providers must agree not to seek collection of out-of-pocket payments from a COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.
- c. These are payments, not loans, to healthcare providers, and will not need to be repaid.
- d. If you ceased operation as a result of the COVID-19 pandemic, you are still eligible for these funds so long as you provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19. Care does not have to be specific to treating COVID-19. HHS broadly views every patient as a possible case of COVID-19.

3. ***How will the payment be distributed?***

- a. Most Medicare providers have a direct deposit program and that funds will go directly in their accounts.
- b. Payments to practices that are part of larger medical groups will be sent to the group's central billing office.
 - i. All relief payments are made to the billing organization according to its Taxpayer Identification Number (TIN).
- c. HHS has partnered with UnitedHealth Group (UHG) to provide rapid payment to providers eligible for the distribution of the initial \$30 billion in funds.
 - i. Providers will be paid via Automated Clearing House account information on file with UHG or the Centers for Medicare & Medicaid Services (CMS).
 - ii. The automatic payments will come to providers via OptumBank with "HHSPAYMENT" as the payment description. *TMA Note: One physician conveyed to TMA that "HHSSTIMULUS" was the payment description on his deposit.*
- d. Providers who normally receive a paper check for reimbursement from CMS, will receive a paper check in the mail for this payment as well, within the next few weeks.
- e. Within **45 days** of receiving the payment, providers must sign an attestation confirming receipt of the funds and agreeing to the terms and conditions of payment. The [CARES Act Provider Relief Fund Payment Attestation Portal](#) is now open.
- f. HHS' payment of this initial tranche of funds is conditioned on the healthcare provider's acceptance of the Terms and Conditions - PDF, which acceptance must occur within **45 days** of receipt of payment. If a provider receives payment and does not wish to comply with these [Terms and Conditions](#), the payment may be rejected within 45 days after

receiving payment through the [CARES Act Provider Relief Fund Payment Attestation Portal](#).

- g. Healthcare providers (e.g., obstetricians-gynecologists, pediatricians, and nursing homes) that do not receive significant funds from Medicare will be prioritized in the second wave of funding.

4. **Payment Calculation**

- a. Total Medicare FFS reimbursements in 2019 were approximately \$484 billion.
- b. Estimate payment by dividing the 2019 Medicare FFS (not including Medicare Advantage) payments received by \$484,000,000,000 and multiply that ratio by \$30,000,000,000

5. **Second Wave: Distribution of \$20 billion**

- a. Beginning April 24th, providers will automatically be sent an advance payment based off the revenue data they submit in CMS cost reports.
 - i. Providers that do not submit CMS cost reports or do not have adequate cost report data on file, will need to submit their revenue information to a portal.
 - ii. This portal will be opening this week on the website for the [CARES Act Provider Relief Fund](#).
- b. Payments will go out weekly, on a rolling basis, as information is validated, with the first wave being delivered at the end of this week (April 24, 2020).
- c. Providers who receive their money automatically will still need to submit their revenue information so that it can be verified.
- d. Uninsured patients:
 - i. Every health care provider who has provided treatment for uninsured COVID-19 patients on or after February 4, 2020, can request claims reimbursement through the program and will be reimbursed at Medicare rates, subject to available funding.
 - ii. Providers will have to enroll as a provider participant, check patient eligibility and benefits, submit patient information, submit claims, and receive payment via direct deposit.
 - iii. Providers may register for the program on April 27, 2020 and begin submitting claims on May 6, 2020. The earliest that payments will be received is May 18.

- e. Health Resources & Services Administration has detailed information on how to file claims on its website (i.e. what is covered, timeline, reimbursement amount). [Click here](#) to view the information.

6. ***Third Wave: Distribution of \$ 15 billion***

- a. HHS will distribute \$15 billion to providers that participate in Medicaid and CHIP and have not received a payment from the “General Allocation” that was targeted to Medicare providers.
- b. HHS released [Payment Forms and Guidance](#) that physicians should review carefully before logging onto the portal. These forms are located in the section titled *Medicaid/CHIP Provider Relief Fund Payment Forms and Guidance*.
- c. HHS launched an [Enhanced Provider Relief Fund Payment Portal](#) on June 10 to allow “eligible Medicaid and CHIP providers to report their annual patient revenue, which will be used as a factor in determining their Provider Relief Fund payment.” HHS indicates each provider will receive “at least 2 percent of reported gross revenue from patient care.”
- d. The required [attestation form has been posted](#) on the website and is available. It is titled *Medicaid & CHIP Provider Relief Fund Payment Terms and Conditions – PDF* and is near the bottom of the page. This must be completed once a physician receives a distribution.
- e. Physicians must submit applications by [September 13 2020](#).
- f. Once an application has been submitted, its status may be [checked by contacting the Provider Support Line](#) at 866-569-3522. You need to have the following information ready:
 - i. Last four digits of the recipient’s/applicant’s tax identification number;
 - ii. Name of the recipient/applicant as it appears on the most recent tax filing;
 - iii. Mailing address for the recipient/applicant as it appears on the most recent tax filing; and
 - iv. The application number (begins with “DS” or “CR”).
- g. [Fields 27-29 of the application](#) requires reporting of the number of FTEs as of 5/31/2020. Providers may include staff that were furloughed as a result of the coronavirus in the number.

7. Phase 3 General Distribution of \$20 billion (10/5/2020)

- a. This fund was available from 10/5/2020 to 11/6/2020.
- b. **HRSA began distributing \$24.5 billion to over 70,000 providers on 12/16/2020. Click [here](#) to access the full press release.**
 - i. **This distribution will provide applicants up to 88 percent of their reported losses.**
 - ii. **Over 35,000 applicants will not receive an additional payment either because they experienced no change in revenues or net expenses attributable to COVID-19, or because they have already received funds that equal or exceed reimbursement of 88 percent of reported losses.**
 - iii. **Click [here](#) to access a state-by-state breakdown of the payments.**
- c. Who was eligible to apply?
 - i. Providers that were eligible for a previous Provider Relief Fund distribution. Even if a provider has applied for, received, accepted, or rejected a previous distribution;
 - ii. New 2020 providers (began practicing 1/1/2020 – 3/31/2020); and
 - iii. Behavioral health providers.
- d. A provider had to meet at least one of the following criteria:
 - i. Billed Medicaid/CHIP programs or Medicaid managed care plans for health-related services between 1/1/2018 and 3/31/2020; or
 - ii. Billed a health insurance company for oral healthcare-related services as a dental service provider as of 3/31/2020; or
 - iii. Be a licensed dental service provider as of 3/31/2020 who does not accept insurance and has billed patients for oral healthcare-related services; or
 - iv. Billed Medicare fee-for-service during the period of 1/1/2019 – 3/31/2020; or
 - v. Be a Medicare Part A provider that experienced a CMS approved change in ownership prior to 8/10/2020; or
 - vi. Be a state-licensed / certified assisted living facility as of 3/31/2020
 - vii. Be a behavioral health provider as of 3/31/2020 who has billed a health insurance company or who does not accept insurance and has billed patients for healthcare-related services as of 3/31/2020

- e. A provider had to meet **ALL** of the following requirements:
 - i. Filed a federal income tax return for fiscal years 2017, 2018, 2019 if in operation before 1/1/2020; or be exempt from filing a return; and
 - ii. Provided patient care after 1/31/2020 (Note: patient care includes health care, services, and support, as provided in a medical setting, at home, or in the community); and
 - iii. Did not permanently cease providing patient care directly or indirectly; and
 - iv. For individuals providing care before 1/1/2020, have gross receipts or sales from patient care reported on Form 1040 (or other tax form).

8. *Reporting Requirements for Recipients of Provider Relief Funds – Notice Issued 10/22/2020*

- a. Any provider receiving payments exceeding \$10,000 in the aggregate must submit post-payment reports to HHS.
- b. The reporting system will be available beginning January 15, 2021.
- c. Recipients must file reports by February 15, 2021 on expenditures made through December 31, 2020. Any recipient who has used all of the provider relief funds he/she received may submit a single report.
- d. Any recipient who has not used all of the provider relief funds he/she received by December 31, 2020 will have to submit a second and final report by July 31, 2021.
- e. Review the [Post-Payment Notice of Reporting Requirements](#) for the specific details on what information must be reported. [Auditing and Reporting Requirements FAQs](#) are available on HHS' website.
- f. Health Resources & Services Administration (HRSA) will offer Q&A sessions via webinars prior to the submission deadline. Once announced, a link to these sessions will be posted in this fact sheet.

Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) Paycheck Protection Program (PPP)

1. Eligible Entities

- a. Businesses with fewer than 500 employees, as well as for certain non-profit organizations that were in operation on February 15, 2020.¹
- b. Had employees it paid salaries to and paid payroll taxes or paid independent contractors (Form 1099-Misc)

2. Loan Forgiveness

- a. Loans used by borrowers for payroll expenses (paid leave & certain other employee benefits), mortgage and rent expenses and utility expenses *during the eight-week period following the closing of a loan* under the Program will qualify for debt forgiveness.
- b. Loans to those that reduced workforce after 2/15/2020 due to the Coronavirus may qualify by rehiring those employees by 6/30/2020.
- c. Debt Forgiven under the loan is not considered income for federal income taxes.
- d. Not more than 25% of the forgiven amount may be for non-payroll costs.²
- e. [FAQs for PPP](#) from the Small Business Administration and Department of Treasury.

3. Loan Forgiveness Process

- a. To apply for forgiveness of your PPP loan, the Borrower must [complete the application](#) as directed and submit it to the Lender that is servicing the loan.³
 - i. The application instructions detail information the borrower must maintain, but does not have to submit with the application (page 10).
 - ii. This documentation must be maintained for six years after the date the loan is forgiven or repaid in full (page 10).
- b. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments.

¹ Small Business Administration, [Interim Final Rule, Paycheck Protection Program](#), page 6.

² [Paycheck Protection Program \(PPP\) Information Sheet: Borrowers, U.S. Department of Treasury](#), page 2

³ Small Business Administration, [PPP Loan Forgiveness Application](#)

- c. The lender must make a decision on the forgiveness within 60 days.⁴
- d. On August 11, 2020, the Small Business Administration (SBA) published an [interim final rule](#) detailing the process for a borrower to appeal loan review decisions to the SBA Office of Hearings and Appeals.
 - i. This includes the ability to appeal a decision by a lender on the amount of forgiveness.
 - ii. The appeal must be filed within 30 calendar days after the receipt of the final SBA loan review decision or notification by the lender of the final SBA loan review decision (whichever is earlier).
- e. Borrowers that received a PPP loan under \$50,000 may use a simplified forgiveness application ([Form 3508S](#) & [Instruction Form](#)). These borrowers are also eligible for two new exemptions regarding reduction of the forgiveness amount.
- f. The SBA released an [interim final rule on 10/8/2020](#) to simplify further:
 - i. The forgiveness and loan review process for loans less than \$50,000; and
 - ii. Lender responsibilities for all loans (review of borrower documentation).
- g. SBA opened the forgiveness portal on August 10. Contact your lender to learn if it is accepting forgiveness applications.

4. Collateral/Guarantee: Not required to be provided by the borrower under this program.

5. Loan amount is calculated by multiplying the average monthly payroll costs X 2.5.

- a. Check with your current bank to see if it is an approved SBA Section 7(a) lender. TMA Medical Banking is a Section 7 (a) lender. Contact TMA Medical Banking at info@tmamedicalbanking.com to obtain their assistance with a loan.
- b. Sample loan calculations are included in the [SBA Interim Final Rule](#) on page 8.
- c. The checklist of items to gather that **may** be needed for the loan application:
 - i. Average total monthly payments for payroll costs⁵ for the one year period prior to the loan;

⁴ [Paycheck Protection Program \(PPP\) Information Sheet: Borrowers, U.S. Department of Treasury](#), page 3

⁵ The legislation defines payroll costs as payments of compensation to employees that is a salary, wage, commission, or tips capped at \$100,000 on an annualized basis for each employee, payment for vacation,

1. Per the SBA, you may NOT include payments to independent contractors.⁶
 2. Suggested documents: payroll processor records, payroll tax filings, or Form 1099-MISC, or income and expenses from a sole proprietorship. If you do not have this documentation, you must provide bank records sufficient to demonstrate the qualifying payroll amount.⁷
 - ii. The loan *may require* financial statements (current year and prior years);
 - iii. The loan *may require* tax returns for the three previous years; and
 - iv. The federal government *may require* proof for accounts owed and due. (For example, utility bills, a statement from your mortgage company, monthly bill from lender, etc.).
- d. It might be useful to track these items or be able to access them for the forgiveness portion of the loan:
- i. Mortgage interest or monthly rent for January 1, 2020 through June 30, 2020
 - ii. Utilities paid from January 1 to June 30;
 - iii. Interest on any other outstanding active debt related to the business from January 1 June 30 (i.e. medical equipment, etc.);

6. Interest rate

- a. The interest rate is 0.5% for the portions that do not qualify for debt forgiveness.

7. Loan term:

- a. Two years. There is no penalty for paying the loan off before the end of the two-year term.
- b. Payment on the loan is deferred for six months from the date the loan originates and interest accrues over this time.⁸

parental/family/medical/sick leave, payment for group health care benefits including insurance premiums, payment of retirement benefits, and payment of state/local tax assessed on employee compensation. From the [Department of Treasury's Guidance](#): For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee. Items NOT included as payroll costs: 1. Compensation of an employee in excess of \$100,000 annually; 2. Taxes imposed or withheld under chapters 21, 22, or 24 of the Internal Revenue Code of 1986 (21 Expenses for Household and Dependent Care Services, 22 Credit for the Elderly and Permanently and Totally Disabled, 24 Child Tax Credit); 3. Compensation for any employee outside the US; 4. Sick leave or family leave for which a credit is allowed under [Families First Coronavirus Response Act](#).

⁶ Small Business Administration, [Interim Final Rule, Paycheck Protection Program](#), page 11.

⁷ Small Business Administration, [Interim Final Rule, Paycheck Protection Program](#), page 6.

⁸ [Paycheck Protection Program \(PPP\) Information Sheet: Borrowers, U.S. Department of Treasury](#), page 3

8. *Loan Funds Use:* The funds from a loan must be used for:

- a. Payroll costs⁹;
- b. Payments of interest on a mortgage obligations incurred before 2/15/2020¹⁰ (may not prepay or pay on the principal of a mortgage);
- c. Rent, under lease agreements in force before 2/15/2020;
- d. Utilities, for which service began before February 15, 2020; and
- e. Interest on any other debt obligations that were incurred before the covered period of 2/15/2020 to 6/30/2020.
- f. In order for the total loan to be forgiven, 75% must be used for payroll expenses and only 25% for rent and utilities. You may use more than 25% for rent and utilities, any portion over 25% will not be forgiven and will have to be repaid.

HHS CARES Act Provider Relief Fund FAQs

FAQs for the following topics have been posted on the CARES Act website.

[Provider Relief Fund General Information](#)

[Medicaid Distribution](#)

[General Distribution](#)

Money received by a practice must be included in gross income for tax purposes ([see Q1](#) on the IRS' FAQs on Provider Relief Payments).

Money received by a tax-exempt health care provider is generally tax-exempt ([see the IRS' FAQs](#) on Provider Relief Payments).

[Targeted Distribution](#)

⁹ See definition of payroll costs in 1 above.

¹⁰ [Paycheck Protection Program \(PPP\) Information Sheet: Borrowers, U.S. Department of Treasury](#), page 2