

CARES ACT

PREPARED FOR NASP
BY
BROWN & FORTUNATO, P.C.

MARCH 31, 2020



Brown & Fortunato, P.C.
A LAW FIRM

By:

JEFFREY S. BAIRD, ESQ.
KELLY T. CUSTER, ESQ.
BROWN & FORTUNATO, P.C.
HEALTH CARE GROUP
P.O. Box 9418
AMARILLO, TX 79105
806-345-6320
JBAIRD@BF-LAW.COM
KCUSTER@BF-LAW.COM
WWW.BF-LAW.COM

CARES Act

By: Jeffrey S. Baird, Esq. and Kelly T. Custer, Esq.

The “Coronavirus Aid, Relief, and Economic Security (CARES) Act” was signed into law by President Trump this past weekend. It is the largest stimulus bill in the history of the United States and will have profound effects on all of us. While some of the details are not yet clear, we do know that the CARES Act provides tangible relief to a variety of groups, including: individuals, large corporations, small businesses, hospitals and public health, the Federal safety net, state and local government, and education. While the provisions applying to large corporations, state and local government, education and the Federal safety net are no doubt important, and will affect everyone reading this, they are topics for another white paper. Here, we focus on the issues important to NASP members by summarizing the provisions applying to individuals and small businesses along with selected public health provisions, namely telehealth and medicine and supplies.

Individual Benefits under the CARES Act include:

- Payments of up to \$1200 per individual with additional amounts of up to \$500 per child. The payments would begin to phase out at \$75,000 annual income for single filers and \$150,000 for joint filers. Payments would decrease as incomes increase and phase out completely at \$99,000/\$198,000 for individual/joint filers. Payments are based on either 2018 or 2019 tax filings. The payment mechanisms are not yet clear but it appears that the government intends for payments to be made automatically.
- A waiver of the early withdrawal penalty for withdrawals from a qualified retirement plan up to \$100,000 for coronavirus-related reasons. Income from these distributions could be taxed for three years and taxpayers could recontribute these funds within the three-year period without regard to the annual contribution cap.
- A significant expansion of unemployment benefits to those not traditionally entitled, including the self-employed, independent contractors and those with limited work history. Additionally, the federal government will provide an additional \$600 per week on top of state benefits for a period of four months. It would also provide an additional 13 weeks of unemployment benefits through December 31, 2020 to assist those who remain unemployed after state benefits lapse.
- The Act also provides taxpayers greater flexibility in making and deducting charitable contributions.

Significant Medicare Policy changes:

- The Act eliminated the three-year established patient requirement for the telehealth provisions contained in earlier COVID-19 legislation.
- The 2% Medicare sequester reduction that has been in effect since 2013 is temporarily eliminated from May 1, 2020 to December 31, 2020.

- An extension of the 50/50 blended rate for DME in rural and non-contiguous, non-competitively bid areas through the duration of the COVID-19 emergency along with the establishment of a new 75/25 blended rate for all other non-competitively bid areas.
- An expansion of those provider types who can prescribe home health services to include physician assistants, nurse practitioners and clinical nurse specialists. Unlike most of the programs in the CARES Act, this change is permanent.

Programs for Small Businesses:

- Paycheck Protection Program- this program would provide forgivable loans to small businesses for funds intended to cover payroll, rent/mortgage payments and utilities for a period of eight weeks:
 - The covered loan period is defined as February 15, 2020 to June 30, 2020.
 - The allowable expenses include rent or mortgage payments, employee salaries, paid sick or medical leave, insurance premiums and utility payments.
 - The loan forgiveness would be equal to qualified expenses incurred during an eight week period after the origination date of the loan.
 - Eligible payroll costs will be the amount incurred for the eight week period compared to the previous year - forgiveness will be calculated on a proportionate basis of applicable costs and/or employee counts from year to year.
 - Loan forgiveness will not count as income when forgiven.
 - No collateral or personal guarantees.
 - Portions of loans not forgiven are payable over a maximum of 10 years at a 4% interest rate.
 - The maximum loan amount will be the lesser of \$10 million or 2.5 times the employer's previous 12 monthly average of the allowed expenses listed above.
 - We still do not have any information on the exact program requirements or how to apply but we understand that such guidance should be available soon.
- There are additional SBA 7(a) loan program extensions that are briefly introduced below since most readers will pursue the forgivable loan detailed above
 - The SBA Express Loan provides for an accelerated turnaround time for SBA review of loans up to \$1 million. This makes for a simple and efficient way to obtain an SBA loan that is government-guaranteed.

- Emergency Economic Injury Disaster Loans (EIDL) - the Act expanded access to EIDL loans and also allows for emergency grants up to \$10,000 along with relaxed underwriting requirements.
- The CARES Act also provided new programs or amended existing programs for the Minority Business Development Agency and Women's Business Center Program loans.
- The CARES Act requires the SBA to pay the principal, interest and certain fees that are owed on covered loans for a six month period beginning on the next payment due date. These loans include existing 7(a) loans along with 504 and microloan products. We are awaiting additional information on this program.

F:\DOCS\2222\206\WHITEPAPER\2GX5692.DOCX