

## ***The Following Summary of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was provided by the American Association of Oral and Maxillofacial Surgeons (AAOMS)***

President Donald Trump signed on March 27, a third stimulus package passed by Congress to help stabilize the economy and provide relief to Americans during the COVID-19 pandemic. The “Coronavirus Aid, Relief, and Economic Security Act” or “CARES Act” ([HR 748](#)) provides more than \$2 trillion in relief to individuals and families in the form of direct payments to individuals and families, short-term additional lending opportunities and tax relief for small businesses to help them continue operations and retain employees, temporary additional unemployment benefits and temporary relief to student loan borrowers. Below is a summary of the most relevant provisions to the specialty.

### **Small Business Loan Expansion**

#### **Sec. 1102: Paycheck Protection Program**

- Establishes a temporary new Paycheck Protection Program to let small businesses, nonprofits, and individuals seek loans through the Small Business Administration’s 7(a) loan [program](#) to be used for salaries, paid sick and medical leave, mortgage or rent payments. Temporarily expands the 7(a)-borrowing limit to \$10 million from \$5 million.
- Defines eligibility for loans as a small business, 501(c)(3) nonprofit, a 501(c)(19) veteran’s organization, or Tribal business concern described in section 31(b)(2)(C) of the Small Business Act with not more than 500 employees, or the applicable size standard for the industry as provided by SBA, if higher, as well as sole-proprietors, independent contractors, and other self-employed individuals.
- Defines the covered loan period as Feb. 15, 2020 to June 30, 2020.
- Provides delegated authority for 7(a) lenders to make determinations on borrower eligibility and creditworthiness and allows these lenders to issue covered loans if they determine a business was operational on Feb. 15, 2020 and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.
- The SBA would have to assume that eligible loan applicants in operation as of Feb. 15, 2020 were adversely affected by Covid-19 and require lenders to let them defer payments for at least six months and as long as one year.
- Increases the limit on SBA express loans from \$350,000 to \$1,000,000 through the end of 2020.

#### **Sec. 1106: Loan Forgiveness**

Borrowers under the new Paycheck Protection Program are eligible for loan forgiveness equal to the amount spent by the borrower during an eight-week period after the origination date of the loan on payroll costs, interest payment on any mortgage incurred prior to Feb. 15, 2020, payment of rent on any lease in force prior to Feb. 15, 2020, and payment on any utility for which service began before Feb. 15, 2020.

Amounts forgiven cannot exceed the cost of the loan. Eligible payroll costs do not include compensation above \$100,000 in wages.

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8-week period compared to the previous year or time period, proportionate to maintaining employees and wages:

- Payroll costs plus any payment of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation + and any covered utility payment.

Loan forgiveness will be reduced proportionally by any reduction in employees retained compared to the prior year and reduced by the reduction in pay of any employee beyond 25 percent of their prior year compensation. Borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

Canceled indebtedness will not be included in the borrower's taxable income.

Any loan amounts not forgiven at the end of one year is carried forward as an ongoing loan with terms of a maximum of 10 years, at a maximum 4 percent interest. The 100 percent loan guarantee remains intact.

#### **Sec. 1109: United States Treasury Program Management Authority**

Prohibits borrowers from applying for the Paycheck Protection Program loan if that borrower has a previously pending application for a 7(a) loan for the same purpose. The SBA will administer the program, including purchasing and guaranteeing loans, with guidance from Treasury.

#### **Sec. 1110: Emergency Economic Injury Disaster Loans (EIDL) Grants**

The measure provides additional funds to temporarily expand the Emergency Economic Injury Disaster Loans program from Jan. 31, 2019 to Dec. 31, 2020 to include among others, individuals operating as a sole proprietors.

For EIDL loans made in response to COVID-19 before Dec. 31, 2020, the SBA must waive any personal guarantee on advances and loans below \$200,000, the requirement that an applicant needs to have been in business for the 1-year period before the disaster, and the credit elsewhere requirement.

During the covered period, SBA would be allowed to approve and offer EIDL loans based solely on an applicant's credit score or use an alternative appropriate alternative method for determining applicant's ability to repay.

Establishes an Emergency Grant to allow an eligible entity who has applied for an EIDL loan due to COVID-19 to request an advance on that loan, of not more than \$10,000, which the SBA must distribute within 3 days. Applicants are not be required to repay advance payments, even if subsequently denied for an EIDL loan. Advance payment may be used for providing paid sick leave to employees, maintaining payroll, meeting increased costs to obtain materials, making rent or mortgage payments, and repaying obligations that cannot be met due to revenue losses.

Requires that an advance payment be considered when determining loan forgiveness, if the applicant transfers into a loan made under SBA's Paycheck Protection Program.

#### **Sec. 1112: Subsidy for Certain Loan Payments**

Allows deferment of existing 7(a) loan payments for at least six months and not more than a year. Requires SBA to disseminate guidance to lenders on this deferment process within 30 days.

#### **Sec. 1114: Emergency Rulemaking Authority**

Requires the SBA to establish emergency regulations on the above new loan programs within 15 days.

## Bankruptcy

### **Sec. 1113: Bankruptcy**

Temporarily increases the threshold for small businesses with less than \$7,500,000 in debt to file for bankruptcy. The increase sunsets after one year and the eligibility threshold returns to \$2,726,625. Temporarily excludes coronavirus-related payments from the federal government from being treated as “income,” or being counted toward the calculation of disposable income for the purposes of filing bankruptcy.

Temporarily allows individuals currently in Chapter 13 to seek payment plan modifications if they are experiencing if they are experiencing a material financial hardship due to the coronavirus pandemic, including extending their payments for up to seven years after their initial plan payment was due.

## Unemployment Assistance

### **Sec. 2102: Pandemic Unemployment Assistance**

Creates a temporary Pandemic Unemployment Assistance program through Dec. 31, 2020 to provide payment to those not traditionally eligible for unemployment benefits (self-employed, independent contractors, those with limited work history, and others) who are unable to work as a direct result of the coronavirus public health emergency.

### **Sec. 2104: Emergency Increase in Unemployment Compensation Benefits**

Provides an additional \$600 per week payment to each recipient of unemployment insurance or Pandemic Unemployment Assistance for up to four months.

### **Sec. 2105: Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week**

Provides temporary funding through Dec. 31, 2020 to states to pay the cost of providing unemployment benefits for recipients as soon as they become unemployed instead of waiting one week before the individual is eligible to receive benefits.

### **Sec. 2107: Pandemic Emergency Compensation**

Provides an additional 13 weeks of unemployment benefits through the Pandemic Emergency Unemployment Compensation program through Dec. 31, 2020 to help those who remain unemployed after state unemployment benefits are no longer available.

### **Sec. 2108: Temporary Financing of Short-Time Compensation Payments in States with Programs in Law**

Provides funding to support “short-time compensation” programs, where employers reduce employee hours instead of laying off workers and the employees with reduced hours receive a pro-rated unemployment benefit. This provision would pay 100 percent of the costs they incur in providing this short-time compensation through Dec. 31, 2020.

## Tax and Business Provisions

### **Sec. 2201: 2020 Recovery Rebates for Individuals**

Provides a full \$1,200 (\$2,400 married) rebate to all U.S. residents with adjusted gross income up to \$75,000 (\$150,000 married), who are not a dependent of another taxpayer and have a work eligible social security number. Such individuals are also eligible for an additional \$500 per child. The rebate amount is reduced by \$5 for each \$100 that a taxpayer’s income exceeds the phase-out threshold. The

amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

For the vast majority of Americans, no action on their part will be required in order to receive a rebate check as IRS will use a taxpayer's 2019 tax return if filed, or in the alternative their 2018 return.

#### **Sec. 2202: Special Rules for Use of Retirement Funds**

Waives the 10-percent early withdrawal penalty for distributions up to \$100,000 from qualified retirement accounts for coronavirus-related purposes made on or after Jan. 1, 2020. Income attributable to such distributions would be subject to tax over three years, and the taxpayer may recontribute the funds to an eligible retirement plan within three years without regard to that year's cap on contributions. The provision provides further flexibility for loans from certain retirement plans for coronavirus-related relief.

Allows individuals to make withdrawals up to \$100,000 from their retirement accounts through the end of 2020 and such funds would be treated as a tax-exempt rollover contribution if repaid within the next three years. Otherwise, they would be taxed as income over three years.

#### **Sec. 2203: Temporary Waiver of Required Minimum Distribution Rules for Certain Retirement Plans And Accounts**

Waives the required minimum distribution rules for certain defined contribution plans and IRAs for calendar year 2020.

#### **Sec. 2204: Allowance of Partial Above the Line Deduction for Charitable Contributions**

Permits individuals to deduct up to \$300 of cash contributions to churches and charitable organizations in 2020 whether they itemize their deductions or not.

#### **Sec. 2205: Modification of Limitations on Charitable Contributions During 2020**

Increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the 50-percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income.

#### **Sec. 2301: Employee Retention Credit for Employers Subject to Closure Due to COVID-19**

The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis. The credit is available to employers whose (1) operations were fully or partially suspended, due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

The credit is based on qualified wages paid to the employee. For employers with greater than 100 full-time employees, qualified wages are wages paid to employees when they are not providing services due to the COVID-19-related circumstances described above. For eligible employers with 100 or fewer full-time employees, all employee wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first \$10,000 of compensation, including health benefits, paid to an eligible employee. The credit is provided for wages paid or incurred from March 13, 2020 through December 31, 2020.

Employees cannot receive the credit if they receive a loan under the SBA Payment Protection Program. Wages taken into account for the paid leave credits established under the second coronavirus law cannot be used for this credit.

**Sec. 2302: Delay of Payment of Employer Payroll Taxes**

The provision allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax. The deferred tax would be paid over the following two years with half the amount to be paid by Dec. 31, 2021 and the other half by Dec. 31, 2022. This provision would not apply to employers who had debt forgiven under the 7(a) Small Business Administration loan program. Holds harmless Social Security Trust Funds.

**Sec. 2303: Modifications for Net Operating Losses**

Relaxes a company's use of net operating losses from prior years by allowing a loss from 2018, 2019 or 2020 to be carried by five years and temporarily removes the taxable income limitation to allow a net operating loss to fully offset income. Such changes apply to pass-through businesses and sole proprietors as well.

**Sec. 2304: Modification of Limitation on Losses for Taxpayers Other Than Corporations**

Modifies the loss limitation applicable to pass-through businesses and sole proprietors.

**Sec. 2305: Modification of Credit for Prior Year Minimum Tax Liability of Corporations**

Allows companies to recover alternative minimum tax (AMT) refundable credits now – rather than over several years – to allow additional cash flow during the COVID-19 emergency.

**Sec. 2306: Modification of Limitation on Business Interest**

Temporarily increases the amount of interest expense businesses are able to deduct on their tax returns from 30 percent limitation to 50 percent of taxable income for 2019 and 2020.

**Sec. 2307: Technical Amendment Regarding Qualified Improvement Property**

Allows businesses to immediately write off costs associated with improving facilities instead of having them depreciate over the 39-year life of the building.

**Sec. 3601: Limitation on Paid Leave**

Caps at \$200 per day and \$10,000 in the aggregate the amount of family leave an employer has to pay per employee for those who take leave to care for a child whose school or day care has closed because of the coronavirus

**Sec. 3602: Emergency Paid Sick Leave Limitation**

Caps at \$511 per day and \$5,110 in the aggregate the amount of emergency paid sick leave an employer has to pay an employee for taking sick leave related to the employee's quarantine or diagnosis. Also caps at \$200 per day and \$2,000 in the aggregate for an employee taking sick leave to care for a quarantined individual or child whose school or daycare has closed.

**Sec. 3605: Paid Leave for Rehired Employees**

Allows an employee who was laid off by an employer March 1, 2020 or later to have access to paid family and medical leave in certain instances if they are rehired by the employer. The employee would have had to work for the employer at least 30 days prior to being laid off.

**Sec. 3606: Advance Refunding of Credits**

Allows employers to receive an advance tax credit from Treasury instead of having to be reimbursed on the back end. Creates regulatory authority to implement the tax credit advances.

## Student Loan Borrower Relief

### **Sec. 2206: Exclusion for Certain Employer Payments of Student Loans**

Temporarily enables employers to provide a student loan repayment benefit to employees on a tax-free basis. Under the provision, an employer may contribute up to \$5,250 annually toward an employee's student loans, and such payment would be excluded from the employee's income. The \$5,250 cap applies to both the new student loan repayment benefit as well as other educational assistance (e.g., tuition, fees, books) provided by the employer under current law.

### **Sec. 3513: Temporary Relief for Federal Student Loan Borrowers**

Suspends student loan payments, principal, and interest for 6 months, through September 30, 2020, without penalty to the borrower for all federally owned loans.

## Drugs and Devices

### **Sec. 3102: Requiring the Strategic National Stockpile to Include Certain Types of Medical Supplies**

Clarifies that the Strategic National Stockpile can stockpile medical supplies.

### **Sec. 3103: Treatment of Respiratory Protective Devices as Covered Countermeasures**

Provides permanent liability immunity to manufacturers of respiratory protective equipment, such as masks and ventilators, in the event of a public health emergency, to incentivize production and distribution.

### **Sec. 3111: Prioritize Reviews of Drug Applications; Incentives**

Requires the FDA to prioritize and expedite the review of drug applications and inspections to prevent or mitigate a drug shortage.

### **Sec. 3112: Additional Manufacturer Reporting Requirements in Response to Drug Shortages**

Manufacturers of drugs that are critical to public health during an emergency are required to notify the FDA of supply chain interruptions for active pharmaceutical ingredients.

### **Sec. 3121: Discontinuance or Interruption in the Production of Medical Devices**

During a public health emergency, device manufacturers are required to submit information about a device shortage or device component shortage upon request from the FDA.

## Miscellaneous Provisions

### **Sec. 3215: Limitation on Liability for Volunteer Health Care Professionals during COVID-19 Emergency Response**

Provides liability protections for health-care professionals for providing volunteer services during the coronavirus emergency.

### **Sec. 3224: Guidance on Protected Health Information**

Requires the Department of Health and Human Services (HHS) to issue guidance on what is allowed to be shared of patient record during the public health emergency related to COVID-19.

### **Sec. 3701: Health Savings Accounts for Telehealth Services**

Allows a high-deductible health plan (HDHP) with an health savings account (HSA) to cover telehealth services prior to a patient reaching the deductible, increasing access for patients who may have the

COVID-19 and protecting other patients from potential exposure to the virus, expands the ability for HSAs to be used for over-the-counter medicines.

**Sec. 3702: Over-the-Counter Medical Products Without Prescription**

Allows patients to use funds in HSAs and FSAs for the purchase of over-the-counter medical products, including those needed in quarantine and social distancing, without a prescription from a physician.

**Sec. 3703: Expanding Medicare Telehealth Flexibilities**

Eliminates a requirement in Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020 (Public Law 116-123) that limits the COVID-19 Medicare telehealth expansion authority during the COVID-19 emergency to situations where the physician or other professional has treated the patient in the past three years. This would enable beneficiaries to access telehealth, including in their home, from a broader range of providers, reducing COVID-19 exposure risk.

**Sec. 3704: Allowing Federally Qualified Health Centers and Rural Health Clinics to Furnish Telehealth**

Temporarily allows Federally Qualified Health Centers and Rural Health Clinics to furnish telehealth services to beneficiaries in their home or other setting. Medicare would reimburse for these services at a composite rate similar to payment provided for comparable telehealth services under the Medicare Physician Fee Schedule.

**Sec. 3709: Increasing Provider Funding Through Immediate Medicare Sequester Relief**

Temporarily lifts the Medicare sequester, which reduces payments to providers by 2 percent, from May 1 through Dec. 31, 2020, boosting payments for hospital, physician, nursing home, home health, and other care. The Medicare sequester would be extended by one-year beyond current law.

**Sec. 3801: Extension of Physician Work Geographic Index Floor**

Temporarily increases through Dec. 1, 2020 payments for the work component of physician fees in areas where labor cost is determined to be lower than the national average.