

The CARES Act and the Paycheck Protection Program (PPP):

Key Considerations for Physicians and Their Practices



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OBJECTIVES

- Provide an Overview of the CARES Act and Implementation of the Paycheck Protection Program.
- Describe the Impact of this Over \$2 Trillion Economic Relief Bill on Physicians and Their Practices.
- Provide a Checklist of Reports and Documentation that are Required for Application to the Paycheck Protection Program.
- Identify Key Considerations for Physicians and Their Practices and Steps to Take to Prepare for the Next Round of Paycheck Protection Program Funds.

Paycheck Protection Loans

- The CARES Act modifies Section 7(a) of the Small Business Act, so if you want to FULLY understand the new Paycheck Protection Act, you have to also understand Section 7(a) of the SBA.
- New “Paycheck Protection Loans” under Section 7(a)(36) will be available during the “covered period,” from February 15, 2020 – June 30, 2020.
- The loans are available from SBA and Treasury approved banks and credit unions.
- Loans are guaranteed by the SBA 100% until December 31, 2020; will be guaranteed at 85% for loans less than \$150,000, and 75% for loans over \$150,000, after that date.
- You don’t need to establish that you were unable to get credit elsewhere. No personal guarantee is required. No collateral is required.
- There will be no prepayment penalties, no guarantee fees, and no yearly fees.

Paycheck Protection Loans

The borrower needs to certify:

- That the uncertainty of current economic conditions makes the loan necessary to support the ongoing operations of the borrower;
- That the funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments and utility payments; and
- That the borrower does not have an application for a loan under Section 7(a) for the same purpose and has not received another Section 7(a) loan for the same purpose from February 15, 2020 through December 31, 2020.

Paycheck Protection Loans

Who is a “small business concern” eligible for these loans? Expands upon the definition in Section 7(a) to include any Business concern, nonprofit organization (Section 501(c)(3); Section 501(c)(19) veterans organizations), or tribal business concern if it has no more than the greater of: 500 employees, or

- If applicable, the size standard for the industry established by the SBA, see Section 3 of the SBA).
- Sole proprietors, independent contractors, and eligible self-employed individuals (must provide documentation to prove status).
- Any business with less than 500 employees per physical location that has a NAICS code of 72 (accommodation and food services).

Paycheck Protection Loans

- Guidance: affiliation rules for measuring number of employees are found at 13 C.F.R. § 121.103.
- Affiliation rules are waived for certain franchisers and those in the accommodation and food service industry.
- Definition of Employee: Take the average number for each of the pay periods for the preceding 12 calendar months. If you haven't been in business for 12 months, take the average number for each pay period you've been in business.
- SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, PEO, or leasing concern.

Paycheck Protection Loans

- Paycheck Protection Loans

- Maximum Loan Amount: Lesser of: The sum of:(Average monthly payroll costs for the 1 year prior to the date on which the loan is made* 2.5), PLUS.
- Any outstanding disaster loan under Section 7(b)(2) of the SBA that was made after January 31, 2020 and refinanced into a 7(a) loan.
 - \$10 million.

Paycheck Protection Loans

- If you weren't in business from February 15, 2019 through June 30, 2019, take 2.5 multiplied by the average payroll costs from January 1, 2020 and ending February 29, 2020.
- A seasonal employer determines average payroll by taking the 12-week period beginning February 15, 2019, or upon election, the period March 1, 2019 and ending June 30, 2019. If you weren't in business from February 15, 2019 through June 30, 2019, Thus, they will generally loan you 250% of your average monthly payroll costs for the previous year.

Paycheck Protection Loans

Payroll costs:

- Payments of compensation to employees for: Wages, commission, salary (not to exceed an annual rate of pay of \$100,000);
- For self-employed taxpayers: net earnings from self employment up to \$100,000;
- Cash tips or equivalents;
- Vacation, parental, family, medical or sick leave;
- Severance, separation pay, and any retirement benefit;
- Group health care benefit pay including insurance premiums; and
- State or local tax on the compensation of employees.

Paycheck Protection Loans

Not Counted:

- Compensation above \$100,000 for any one employee (on an annualized basis);
- Payroll taxes;
- Compensation for an employee whose principal place of residence is outside the US; and
- Qualified sick leave and family emergency leave.

Paycheck Protection Loans

- Example. Physician Practice had \$2.4 million of total payroll costs for the period April 1, 2019 through March 31, 2020. Physician Practice average monthly payroll costs were thus \$200,000. Physician Practice is eligible for a Paycheck Protection Loan equal to the lesser of:\$500,000; or
- \$10 million.

Paycheck Protection Loans

Acceptable Use of Funds

- During the period February 15, 2020 through June 30, 2020, the borrower may use the borrowed funds for:
 - Payroll costs,
 - Group health care benefits,
 - Interest on any mortgage obligation
 - Rent
 - Utilities, and
 - Interest on any other debt incurred before February 15, 2020.
- Terms of the loan: Maximum maturity of 10 years.
- Maximum interest rate of 4% (usually 1%-2.75%).
- Guaranteed deferral of repayment for 6-12 months

Paycheck Protection Loans

Loan Forgiveness Feature: Section 1106 of the CARES Act:

- If the Paycheck Protection Loan is used for its intended purposes, the first 8 weeks worth of certain payments will be forgiven on a tax-free basis.
- What payments are covered during the first 8 weeks?
 - Interest on a mortgage incurred before February 15, 2020.
 - Rent for a lease in force before February 15, 2020.
 - Certain utilities for which service started before February 15, 2020.
 - Payroll costs (same definition as under Section 7(a)(36)) .

Paycheck Protection Loans

- The limit cannot exceed the principal of the note (interest will still be owed).
- The forgiveness amount will be reduced if you:
 - Cut employees during the 8-week period;
 - Cut salary of some employees during the 8-week period; or
 - Receive a \$10,000 advance under the disaster loan program.

Paycheck Protection Loans

- Example: Physician Practice had \$2.4 million of total payroll costs for the period April 1, 2019 through March 31, 2020. Physician Practice's average monthly payroll costs were thus \$200,000. Physician Practice is eligible for a Paycheck Protection Loan equal to the lesser of:
 - \$500,000, or
 - \$10 million.
- During the first 8 weeks after Physician Practice borrows \$500,000, it incurs payroll costs, mortgage interest, and utilities of \$440,000. The \$440,000 is eligible for forgiveness, and the remaining \$60,000 loan is deferred for at least six months and up to a year.

Paycheck Protection Loans

- The amount eligible for forgiveness is reduced by multiplying the forgiveness amount by: The quotient obtained by dividing: The average number of Full-Time Equivalent (FTE) employees of the borrower during the 8-week period from the date the loan originated by:
 - The average number of full-time employees per month from February 15, 2019 through June 30, 2019, or
 - The average number of full time employees per month from January 1, 2020 through February 29, 2020.

Paycheck Protection Loans

- Full time employees are determined by calculating the average number of full-time equivalents for each pay period falling within the month.
- Seasonal employers use February 15, 2019 through June 30, 2019.
- Example. Physician Practice had 30 full-time employees during the 8-week period after it borrows the \$500,000. During the period February 15 –June 30, 2019, it had 50; just as it did from January 1, 2020 through February 29, 2020. The loan forgiveness of \$440,000 must be reduced by 20/50, or 40%.

Paycheck Protection Loans

- The amount eligible for forgiveness is also reduced by: The total reduction in salary during the 8-week period of an employee earning less than \$100,000 (on an annualized basis) by more than 25% when compared to the most recent quarter before the 8-week period began.
- Example: RN, an employee of Physician Practice earned an annual salary of \$70,000 as of March of 2020. After Physician Practice takes out the Paycheck Protection Loan, RN's salary is reduced to \$40,000. This was a greater-than 25% decrease in RN's wages. Thus, the forgiveness amount of \$440,000 is reduced by another \$30,000. Total forgiveness is \$440,000 - \$176,000 - \$30,000, or \$234,000.

Paycheck Protection Loans

Restoration of Forgiveness:

- If an employer replaces any full-time employees or restores any substantially reduced wages that occurred during the period from February 15, 2020, until 30 days after passage of the CARES Act, when compared to February 15, 2020, the full forgiveness is again allowed.
- Example: On February 15, 2020, Physician Practice had 40 employees before they were eventually cut down to 30 in April. On February 15, 2020, Physician Practice paid RN a salary of \$60,000 that was reduced to \$30,000 on April 1st. Before June 30, 2020, Physician Practice rehires 10 employees and raises RN's salary back to \$60,000. Physician Practice is entitled to the full \$440,000 forgiveness again.

Paycheck Protection Loans

Application for Forgiveness:

Decision to be made by lender within 60 days

- A borrower must apply for forgiveness, and the application must include:
 - Documentation verifying the number of full-time equivalent employees on payroll and pay rates for the periods: The covered period (8 weeks after the loan was taken out);
 - February 15, 2019 –June 30, 2019;
 - January 1, 2020 –February 29, 2020;
 - February 15, 2019 –June 30, 2019 (for a seasonal employer); and
 - February 15, 2020 through 30 days after the enactment of the CARES Act.

Paycheck Protection Loans

- This can be done with payroll tax filings, unemployment insurance filings, etc.
- Documentation, including cancelled checks, verifying payments on mortgages, rent and utilities.
- A certification that the information is true and correct, and that the amount of forgiveness requested was used to retain employees.

Other Loan Options

Disaster Loans under Section 7(b)(2) of the SBA:

- Loans of up to \$2 million made directly from the SBA are available to meet working capital needs or normal business operating expenses when there has been a qualified disaster.
- Current covered period is January 31, 2020 through December 31, 2020.
- Term is 30 years, rate is 3.75% for for-profit businesses; 2.75% for a not-for-profit.
- No personal guarantee is needed for loans up to \$200,000.
- Available to Businesses and tribal concerns with less than 500 employees.
- A sole proprietorship, with or without employees, or an independent contractor.
- An ESOP; a Section 501(c)(3).
- No longer required to be in business for 1 year before the disaster.

Disaster Loans under Section 7(b)(2) of the SBA:

- These loans, when made after January 31, 2020 for payroll purposes and before the date Paycheck Protection Loans are ready to go, may be refinanced into Paycheck Protection Loans.
- The CARES Act provides that you can still take a disaster loan between January 31, 2020 and the day Paycheck Protection Loans will be made available, and as long the loan is for purposes OTHER than paying payroll, you can still get a Paycheck Protection Loan.

Other Loan Options

Emergency Grant:

- From January 31, 2020 through December 31, 2020, an applicant for a Section 7(b)(2) disaster loan may request up to a \$10,000 advance.
- The advance can be used to pay sick leave, maintain payroll, meet increased costs of materials, make rent or mortgage payments, or repay obligations.
- The \$10,000 is not required to be repaid, even if the disaster loan is denied.
- If an application for a disaster loan transfers into a Paycheck Protection Loan, the \$10,000 advance amount is reduced from the loan forgiveness amount discussed previously.
- The funds are to be advanced within 3 days of an application.

Other Loan Options

Traditional 7(a) Loans:

- Can still apply for a traditional 7(a) loan.
- Maximum loan \$5 million.
- 10 year term without real estate purchase; can go up to 25 years with real estate purchase.
- Typically 1-2.75% rate.
- 75%-85% is guaranteed by the SBA.
- Subsidy Payments: The SBA will pay 6 months of principal, interest and fees on a Section 7(a) loan OTHER THAN a Paycheck Protection Loan.

Other Loan Options

How do these loans interact?

- Borrowers may apply for Paycheck Protection Loans and other SBA financial assistance, including disaster loans and 7(a) loans. However, you cannot use your Paycheck Protection Loan for the same purpose as your other SBA loan(s). For example, if you use your Paycheck Protection Loan to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

Other Loan Options

- Disaster loan and \$10,000 grant recipients and those with 7(a) loans receiving a six-month subsidy may apply for and take out a Paycheck Protection Loan as long as there is no duplication in the uses of funds. If so, the \$10,000 grant reduces the forgiveness amount.
- When would you choose the disaster loan? You have significant non-payroll costs.
- If it was for payments that won't be forgivable or if you won't be able to get forgiveness because you lay people off or cut salaries because the disaster loan has more favorable terms (a 30-year period).

Checklist of Reports and Documents That Are Required for Application to the Paycheck Protection Program

- Confirmation that the applicant Physician Practice and any of its owners are not presently involved in any bankruptcy proceedings;
- In connection with federal government contracting activities, confirmation that the related business (Physician Practice) or any of its owners are not presently suspended, debarred, proposed for debarment, or declared ineligible;
- Confirmation that the related business (Physician Practice) or any of its owners are not voluntarily excluded from the PPP by a federal agency;

Checklist of Reports and Documents That Are Required for Application to the Paycheck Protection Program

- Confirmation that the related business (Physician Practice) or any of its owners, or any business owned or controlled by any of them, have never taken a loan from the SBA or another federal agency that is currently delinquent or that has defaulted in the last seven (7) years and caused a loss to the government;
- Confirmation that the related business or any 20% owner thereof is not currently subject to criminal charges, incarcerated, on probation, or on parole; and
- Confirmation the related business or any 20% owner thereof, have not, within the last seven (7) years, been convicted or otherwise punished for a felony or misdemeanor crime against a minor.

In Addition to the Application and Payroll Documentation, a Borrower Must Make the Following Good Faith Certifications on the Application to the Paycheck Protection Program

- Current economic uncertainty makes the loan necessary to support its ongoing operations;
- The funds will be used to retain workers and maintain payroll or make mortgage, lease, and utility payments;
- Applicant has not and will not receive another loan under the PPP;
- Applicant will provide to the lender documentation that verifies the number of full-time equivalent (FTE) employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to the high subscription in the PPP, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs;

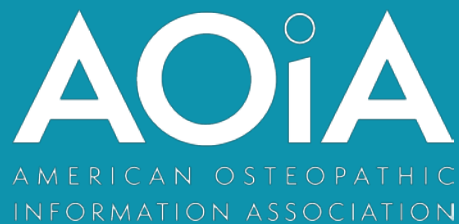
In Addition to the Application and Payroll Documentation, a Borrower Must Make the Following Good Faith Certifications on the Application to the Paycheck Protection Program

- All information applicant provides in its application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to obtain a loan under the PPP is punishable by law;
- Applicant acknowledges that the lender will calculate the eligible loan amount using the tax documents it submitted, and applicant affirms that the tax documents are identical to those it submitted to the IRS; and
- Applicant understands, acknowledges, and agrees that the lender can share the tax information with the SBA's authorized representatives, including representatives of the SBA's Office of Inspector General, for the purposes of compliance with SBA loan program requirements and all SBA reviews.

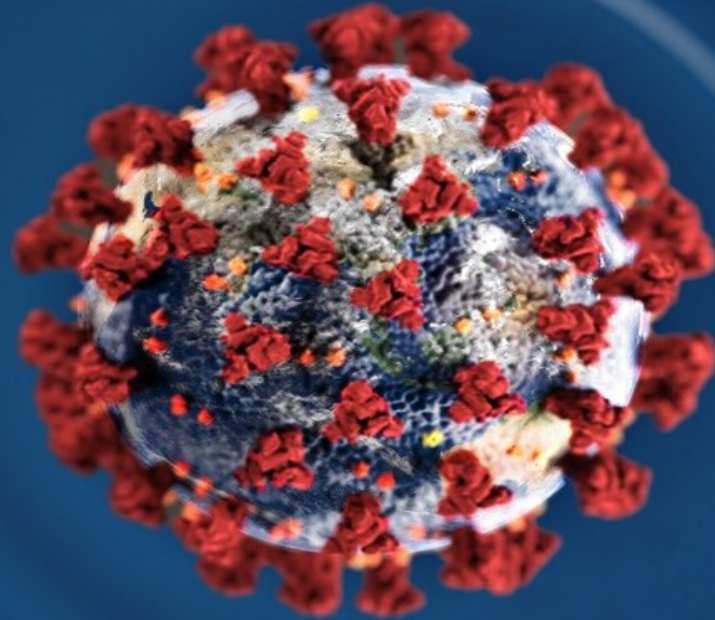
Key Considerations for Physicians and Their Practices During the Pandemic

- Patient Care and Documentation;
- Utilization of Telemedicine;
- Reimbursement and Payment from Third Party Payors;
- Scope of Practice and Licensure;
- Regulatory Compliance;
- Financial Considerations – Applications for PPP and/or Economic Injury Disaster Loan (EIDL);
- Consult with your attorney and accountant regarding legal and tax issues; and
- Payment of practice overhead expenses – payroll, leases, mortgages, and related expenses.

RESOURCES



AOA Resources



www.osteopathic.org/covid-19

On-demand Covid -19 Webinars

Telemedicine – Successfully practicing medicine from a distance



Navigating HIPAA and Telemedicine during COVID19



Get Paid for Telehealth; New Rules for Documentation and Technology



Billing and Coding Under New Telehealth Rules



<https://aoaonlinelearning.osteopathic.org>

Upcoming Webinars

Keeping Your Practice In Shape During the Pandemic

May 6 7:00 PM CT

How to Rebuild Your Practice Now and After COVID-19

May 7 7:00 PM CT

Managing Your Online Presence

May 13 7:00 PM CT

<https://aoaonlinelearning.osteopathic.org>

Telemedicine Platforms

Remote Monitoring of COVID-19 Patients

Ceras Health – Patients download the Ceras app and enter vitals three times a day. Readings are monitored by a Ceras RN. If the readings raise an alert, Ceras will notify the patient and provider for follow up. Consult with Ceras on your state reimbursement. No implementation fee for AOA members
<https://cerashealth.com/aoa.html> - 877-723-7277

Free COVID video consultations

Bluestream Health is offering AOA members free access to HIPAA-compliant video sessions with patients during the COVID-19 crisis. Bluestream will create a platform for the provider to send a secure invite to your patient via text or email. The patient clicks on the link to begin a HIPAA-compliant video session with provider. membervalue@osteopathic.org to receive the link.

Find links at osteopathic.org/membervalue

Questions? membervalue@osteopathic.org

To obtain CME Credit

You must complete the post evaluation.

<https://aoaonlinelearning.osteopathic.org>

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The American Osteopathic Organization's Online CME platform

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THANK YOU

