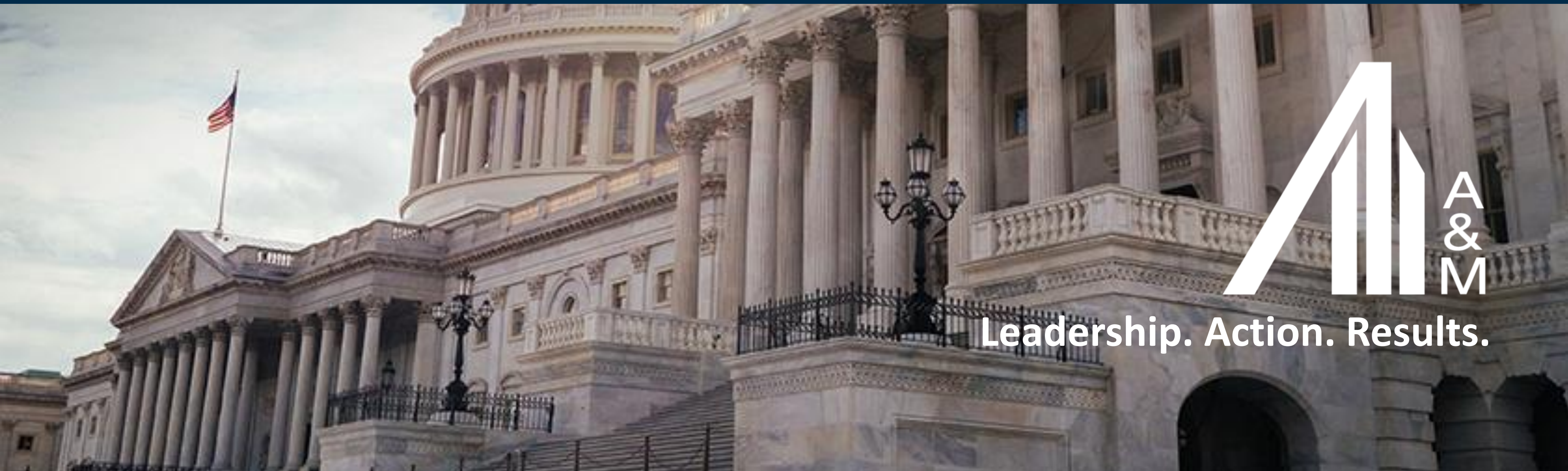
COVID-19: Health & Human Services (HHS) Related Support Initiatives

Preliminary – Subject to change as additional Federal guidance becomes available and new legislation is enacted

Last Updated: April 30, 2020 @ 3 pm ET



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I: Executive Summary

Executive Summary: Appropriations Overview

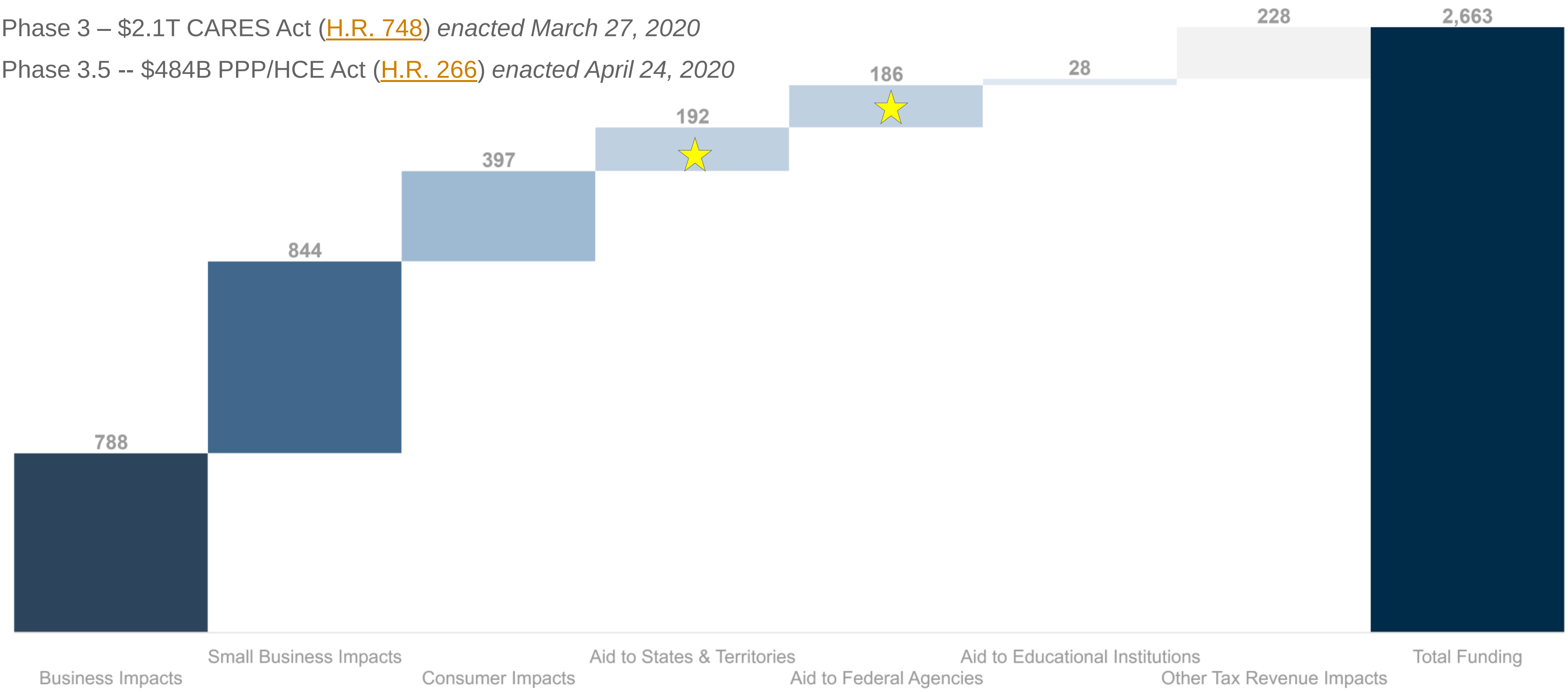
The U.S. government has passed four rounds of legislation to provide economic stimulus in response to the COVID-19 crisis at an expected total cost of $2.7T.

Phase 1 – $8.5B CPRSA Act (H.R. 6074) *enacted March 6, 2020*

Phase 2 – $105B FFCR Act (H.R. 6201) *enacted March 18, 2020*

Phase 3 – $2.1T CARES Act (H.R. 748) *enacted March 27, 2020*

Phase 3.5 -- $484B PPP/HCE Act (H.R. 266) *enacted April 24, 2020*



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Executive Summary: Presentation Context

In this presentation, the legislation summaries and detail are organized by HHS impact group.

Detailed slides on each major provision answer the key questions listed below (and provide hyperlinks to sources, including the enacted legislative text, federal guidance, and other relevant information).

- ✓ What is the program
- ✓ Who qualifies
- ✓ How does it work
- ✓ Where can I find it

Impact on State Health and Human Services Agencies {Section B}

- Additional flexibilities for Medicaid services made temporarily available through waivers
- Temporary 6.2% increase in Federal Medical Assistance Percentage (FMAP)
- $150B to use for expenditures incurred due to the public health emergency with respect to COVID-19
- Billions of dollars in assistance for food and nutrition programs, child care, community health centers, public health capacity, etc.

Impact on People with Intellectual / Developmental Disabilities {Section C}

- Cash payments, Unemployment, FMLA, and increased funding for emergency paid sick leave and special education
- Concerns remain about potential discrimination in health care, waivers of special education protections, and the need for paid time off

Impact on Children and Families {Section D}

- $3.5B in additional funding for the Child Care and Development Block Grant (CCDBG)
- $1.75B in additional funding for Community Services Block Grant (CSBG) and the Head Start Act
- Millions of dollars for programs targeting vulnerable children and families

Impact on Small Businesses and Human Services Providers {Section E}

- SBA loan programs provide funding to stabilize provider agency operations and maintain staff
- Providers can leverage flexibilities under Appendix K, supplemented by SBA assistance, to stabilize operations until the pandemic ends
- Most states have submitted an Appendix K application for home and community based services (HCBS)

II: Impact on State Health and Human Services Agencies

Impact to State Health and Human Services Agencies

A Presidential disaster or emergency declaration in conjunction with a public health emergency declaration authorizes the Health and Human Services (HHS) Secretary to temporarily waive/modify requirements to ensure services are available to meet the needs of Social Security enrollees. The Public Health Emergency declaration on January 31, 2020 and Presidential Emergency / Disaster Declarations on March 13, 2020 allowed HHS to waive/modify requirements for states in the administration of their Medicaid State Plan, Children's Health Insurance Program (CHIP) and 1915(c) waivers.

B.1 Waiver of Requirements under Section 1135 of the Social Security Act

1135 Waivers allow states to temporarily waive or modify certain Medicare, Medicaid and CHIP requirements to ensure that sufficient health care items and services are available to meet the needs of Medicare, Medicaid and CHIP beneficiaries in an emergency area.

B.2 1915(c) Waiver Appendix K: Emergency and Preparedness and Response for HCBS Waivers

States may submit Appendix K before or during an emergency to document necessary changes to HCBS waiver operations in order to respond to the emergency. Appendix K includes flexibility to modify provider and staff requirements, service delivery requirements, rates, and authorize retainer payments to programs that cannot operate.

B.3 COVID-19 1115 Demonstrations for Disaster Response

States can submit an 1115 Demonstration to waive certain sections of Title XIX (Medicaid) and Title XXI (CHIP) and to provide expenditure authority for costs that wouldn't otherwise be matched.

B.4 COVID-19 National Emergency Medicaid State Plan Amendment (SPA)

States may request a SPA that temporarily offers additional flexibility around eligibility, enrollment, premiums and cost sharing, benefits, payments, post eligibility treatment of income, and other material changes deemed necessary to respond to the COVID-19 pandemic.

Impact to State Health and Human Services Agencies

Enacted coronavirus legislation has added flexibility and funding to state programs. While some funding will flow directly to states, territories, tribes, etc., others require entities to seek funding through an application process, making timing critical to accessing appropriated funding, before it is exhausted.

B.5 Coronavirus Preparedness and Response Supplemental Appropriations (CPRSA) Act – Health Provisions

$2.2B for CDC-wide activities to prevent, prepare for, and respond to Coronavirus including $950M for states, localities, territories and tribes for pandemic preparedness and response activities.

B.6 Family First Coronavirus Response Act (FFCRA) – COVID-19 Health Insurance and Medicaid Provisions

Key provisions of the FFCRA address the domestic COVID-19 outbreak, providing funding for COVID related health costs and increasing the states' federal medical assistance percentage for Medicaid.

B.7 Coronavirus Aid, Relief, and Economic Security (CARES) Act - Coronavirus Relief Fund for States and Municipalities

$150B appropriated to States, Territories, and Tribal governments to use for COVID-related expenditures.

B.8 Additional COVID-19 Relief Funding for Health and Human Services

Funding has been allocated to the Public Health and Social Services Emergency Fund (PHSSEF), Community Health Centers (CHC), Substance Abuse and Mental Health Services Administration (SAMHSA), and Administration on Community Living (ACL) for aging and disability programs. Existing demonstration programs that provide care coordination and transition to community living – Money Follow the Person (MFP), Medicaid Community Mental Health Services - have been extended to 11/30/2020.

Waiver of Requirements under Section 1135 of the Social Security Act

Covered Period: Retroactive to March 1, 2020 – termination of emergency period

What is the program?	Allows HHS to waive various administrative requirements including but not limited to conditions of participation or other certification requirements; program participation and similar requirements; pre-approval requirements; limitations on out-of-state and out-of-network providers; Emergency Medical Treatment and Labor Act (EMTALA) sanctions for re-direction of medical screening, stark self referral sanctions; performance deadlines and timetables; skilled nursing facility coverage in absence of a qualifying hospital stay; and certain HIPAA privacy sanctions and penalties.
Who qualifies?	• There are two types of 1135 waivers: (a) Medicare blanket waivers apply to all applicable providers and suppliers; (b) Individual provider/supplier waivers issued for states or specific providers if something is needed beyond what is provided under an existing blanket waiver (i.e. COVID-19 facility set up and drive-thru testing) • Health care providers that provide such services in good faith can be reimbursed and not be subjected to sanctions for non-compliance, absent any fraud or abuse
How does it work?	• Waives Federal requirements only - not state licensure or conditions of participation • Not a grant or financial assistance program • Does not allow reimbursement for services otherwise not covered • Temporary – appropriateness may fade with disaster recovery • See Additional Emergency and Disaster Related Policy and Procedures that may be Implemented only with a 1135 Waiver – Q&A (May 15, 2019) at cms.gov
Where can I find it?	• Requests are submitted to the state's CMS regional office - CMS provides a pre-packaged checklist template • Approved state 1135 waivers and summaries can be found at cms.gov • Kaiser Family Foundation (KFF) provides a Medicaid Emergency Tracker: Approved State Actions to Address COVID-19 • A list of Medicare Blanket waivers with a retroactive effective date of 3/1/2020 is available at COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers

Sources: CMS Waivers and COVID-19 Response

1915(c) Waiver Appendix K: Emergency Preparedness & Response for HCBS Waivers

Covered Period: Retroactive to March 1, 2020 – termination of emergency period

What is the program?	Utilized by states operating a 1915(c) waiver to advise CMS of expected changes to it's operations or to request amendment to its approved waiver. CMS created this appendix in order to reduce the administrative burden during times of emergencies.
Who qualifies?	States that operate a 1915(c) waiver; changes are limited in scope to 1915(c) authority, including temporary changes to: • Access and Eligibility: Increase individual eligibility cost limits; modify additional targeting criteria • Services: Modify service scope/coverage, exceed limits, add services, expand settings, provide services out-of-state • Provider qualifications: Modify provider qualifications, types, licensure requirements, permit payment for services rendered by family/legally responsible caregivers • Level of care (LOC): Modify process and timelines for initial LOC and annual re-determination • Payment: Increase rates, allow retainer payments and payment for services to support participants in acute care or short term institutional stay • Service plans: modify the development process and responsible individual • Others changes: Incident reporting, opportunities for self-direction and unduplicated number of participants
How does it work?	• Appendix K may be completed retroactively, as needed by the state, but cannot be made for changes to the waiver for a waiver year that has already expired • Appendix K should be submitted for each affected waiver; the application may be combined • In the event that the state is making permanent changes to the structure and operation of their waiver the changes reflected in the K should also be included in the appropriate appendices throughout the existing waiver document • States cannot use a K amendment to make changes outside the scope of 1915(c) authority. 1115 or 1135 authority, for example, is required for changes to administrative claiming, suspension of payment, eligibility rules, or changes prohibited by statute
Where can I find it?	• CMS Appendix K: Instructions and Technical Guidance and a pre-populated Appendix K template and addendum • Approved K amendments and summaries at cms.gov • Kaiser Family Foundation (KFF) provides a Medicaid Emergency Tracker: Approved State Actions to Address COVID-19

COVID-19 Section 1115 Demonstrations for Disaster Response

Covered Period: Retroactive to March 1, 2020 – termination of emergency period

What is the program?	In the event of Federal designation of a natural disaster or public health emergency, Section 1115 authority assists states to address the direct impact on the Medicaid and CHIP programs. Section 1115 of the Social Security Act provides the US DHHS Secretary with authority to waive certain provisions to provide expenditure authority for costs not otherwise matchable under Medicaid and CHIP regulations.
Who qualifies?	States can request a new Medicaid and/or CHIP section 1115(a) demonstration, or amend or extend its current section 1115(a) demonstration to address the impact of the Federally-designated public emergency. In an effort to assist states with addressing the COVID-19 public health emergency, CMS developed a COVID-19 section 1115 demonstration opportunity to: • Extend flexibility available under Appendix K to people receiving 1915(c)-like services under 1115 demonstrations, 1915(i) and 1915(k) authorities • Streamline eligibility determinations for some populations by accepting self-attestation of resources • Consider other provisions under this demonstration authority
How does it work?	• Because CMS has determined that the costs to the Federal Government are likely to have otherwise been incurred and allowable, states are not required to submit budget neutrality calculations • States must track expenditures and evaluate the connection between and cost effectiveness of expenditures and the state's response to the public health emergency • States are required to complete a final report consolidating all required monitoring and evaluation deliverables, lessons learned and best practices one year after the end of the COVID-19 1115 demonstration
Where can I find it?	• COVID-19: 1115 Waiver Demonstration template and State Medicaid Directors Letter (SMDL) #20-002 • States submit a request to their CMS section 1115 Project Officer and/or the Associate Regional Administrator for the Division of Medicaid and Children's Health. Completed applications are submitted to 1115demorequests@cms.hhs.gov • Medicaid.gov State Waivers List • Kaiser Family Foundation (KFF) Medicaid Emergency Tracker: Approved State Actions to Address COVID-19

Sources: Using Section 1115 Demonstrations for Disaster Response

COVID-19 National Emergency State Plan Amendment (SPA)

Covered Period: Retroactive to March 1, 2020 – termination of emergency period

What is the program?	A Medicaid and CHIP state plan sets forth groups of individuals to be covered, services to be provided, methodologies for providers to be reimbursed and the administrative activities that are underway in the state. CMS is allowing time-limited state plan amendments in response to COVID-19 to ensure the availability of sufficient health care items and services. Health care providers that furnish items and services in good faith, but are unable to comply with requirements due to the pandemic, may be reimbursed and, absent any determination of fraud or abuse, are exempted from sanctions.
Who qualifies?	States must have requested a SPA by 3/31/2020 to obtain an effective date during the first calendar quarter of 2020. In addition to specific provision flexibilities, states may request coverage of a new optional Medicaid eligibility group for uninsured during the COVID-19 emergency described in section 1135(g)(1)(B) of the Act. Coverage may be effective no earlier than 3/18/2020. Eligible individuals receive a limited benefit package related to testing & diagnosis rendered during the emergency.
How does it work?	In addition to coverage of the new optional Medicaid eligibility group, states may submit a COVID-19 SPA that requests waiver of public notice and modification of tribal consultation requirements to temporarily modify: • Eligibility: Expand coverage for people with income above 133% of the federal poverty level (FPL); establish income and resource disregards for excepted eligibility groups, establish residency for individuals temporarily out-of-state or considered residents of another state • Enrollment: Extend hospital presumptive eligibility determination by additional healthcare providers and for excepted groups; provide up to 12 months of continuous Medicaid eligibility to children; extend redetermination periods and implement streamlined applications • Premiums and cost sharing: Suspend deductibles, co-payments, co-insurance, other cost-sharing charges, enrollment fees, premiums and similar charges • Benefits: Add new optional benefits; adjust covered benefits; adjust/expand drug benefits, telehealth and payments
Where can I find it?	• Medicaid Disaster Relief for COVID-19 National Emergency State Plan Amendment Instructions and Template • List of states' SPAs at Medicaid.gov Medicaid State Plan Amendments • Kaiser Family Foundation (KFF)'s Medicaid Emergency Tracker: Approved State Actions to Address COVID-19

Sources: https://www.medicaid.gov/state-resource-center/downloads/covid-19-section-6008-CARES-faqs.pdf

CPRSA Act (H.R.6074) – Health Provisions

Covered Period: Available until September 30, 2022

What is the program?	Provides $2.2B for CDC-wide activities to prevent, prepare for, and respond to Coronavirus domestically and internationally, including $950M in grants to or agreements with states, localities, territories, tribes and tribal organizations, urban Indian health organizations, or health service providers to tribes to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities.
Who qualifies?	• $950M made available to states, localities, territories - $475M must be allocated within 30 days of bill enactment, and recipients must provide detailed spending plan within 45 days • $300M for global disease detection and emergency response • $300M transfer to the Infectious Diseases Rapid Response Reserve Fund • Funding available for the construction and renovation of non-federally owned hospitals to increase capacity and preparedness
How does it work?	• Funding is made directly to the CDC and available until September 30, 2022 • CDC will serve as oversight agency for the grant/cooperative agreement dollars to be made available to government agencies and providers • Funds appropriated under Title III may be transferred to, and merged with, other appropriation accounts under Title III headings following consultation with the Office of Management and Budget • The Secretary of Health and Human Services, in consultation with the CDC, shall provide a report to Congress every 14 days from which point a public health emergency has been declared
Where can I find it?	• The Director of the CDC-may satisfy the funding thresholds outlined in the preceding by making awards through other grant or cooperative agreement mechanisms • The Secretary of Health and Human Services shall provide a detailed spend plan of anticipated uses of funds made available to the Department of Health and Human Services, including estimated personnel and administrative costs, to Congress within 30 days of enactment

Sources: CPRSA Act (HR 6074)

FFCRA (H.R.6201) – COVID-19 Health Insurance and Medicaid Provisions

Covered Period: From enactment of legislation through end of declared public health emergency

What is the program?	Key provisions of the FFCRA address the domestic outbreak, providing paid employee sick leave, insurance coverage of Coronavirus testing, nutrition assistance and unemployment benefits. COVID-19 related health provisions include diagnostic testing and cost of medical visits at no cost to insured consumers. Medicaid related provisions include optional, limited coverage to uninsured populations, temporary 6.2% increase to states' Federal Medical Assistance Percentage (FMAP), and increases Medicaid allotments to territories for 2020 and 2021.
Who qualifies?	COVID-19 related health provisions apply to all private and public health plans, including Medicare Part B, Medicare Advantage, Medicaid, TRICARE, covered veterans, federal workers, American Indians and Alaskan Natives, and, at the option of the state, uninsured individuals.

How does it work?	• States may request 1135 authority to extend eligibility to uninsured individuals for purposes of diagnostic testing
	• Diagnostic testing & state expenditures for medical and administrative costs are matched by the federal government at 100%
	• Temporary 6.2% increase in FMAP is effective 1/1/2020 continuing until the end of the last quarter of the emergency declaration (currently through June 30, 2020). Based on current expenditures trends, increased FMAP could bring upwards of $18B to states in Q2 and Q3 of FFY20
	    • FMAP increase applies only to expenditures defined in the first sentence of 1905(b) and does not apply to administrative costs or areas with an enhanced FMAP (i.e. the Medicaid expansion population). An exception was recently made for Community First Choice services which will shall receive the 6.2% increase
	    • To be eligible for the enhanced FMAP, states must meet eligibility, premiums and covered services criteria
	    • For purposes of determining which FMAP applies, expenditures are considered to be incurred based on when the state makes a payment to a provider, not based on the date of service
	• CMS is working to modify the Form CMS-64 and Form CMS-37 in the MBES/CBES system to accommodate the changes from the FFCRA, including reporting of budget estimates and expenditures eligible for the increased FMAP

Where can I find it?	• Approved state 1135 waivers and summaries can be found at cms.gov • Kaiser Family Foundation (KFF) provides a Medicaid Emergency Tracker: Approved State Actions to Address COVID-19

Sources: FFCR Act (HR 6201), Division F, CMS Increased FMAP FAQs

CARES Act (H.R. 748) - Coronavirus Relief Fund for States and Municipalities

Provides targeted funding to stabilize severely distressed sectors of the economy

What is the program?	• Establishes a $150B Coronavirus Relief Fund to assist States, Territories, Tribal governments, and localities as they face spiking costs and sharp declines in tax revenues • The bill also includes $1.3B funding to Community Health Centers (CHC) that were established under the Affordable Care Act for the detection, prevention, and treatment of COVID-19
Who qualifies?	• All US States, Territories, and Tribal governments may use these funds for costs related to the response to the crisis • Localities with populations over 500,000 may receive a portion of the funds allocated to each state • The measure would also allow CHC to use leftover funds from fiscal year 2020 to maintain or increase staffing to address the impact of the coronavirus pandemic
How does it work?	• The funds will be divided proportionately depending on the State, Territory, Tribal government, or locality. No states will receive a payment less than $1.25B • 45% of a state's funds are designated to be used by local governments with populations over 500,000; Unused funds by these localities revert to the state. Similarly, states with no eligibility receive the full portion of the allocation • Eligible expenditures must be incurred due to the COVID-19 crisis, unbudgeted expenses in the most recent state budget, and incurred in between March 1 and December 30, 2020
Where can I find it?	• For eligible localities, the Secretary of the Treasury is granted authority to disburse these funds following a certified request signed by the chief executive of the local government • Payments will be made within 30 days of the bill passage • The Department of Health and Human Services will distribute funding to CHC

Sources: CARES Act (HR 748), Section 5001, NCSL

Additional COVID-19 Relief Funding for Health and Human Services

Funding for Health Care and other Specialized Service Providers

Funding	To	For	Resources
$175B	PHSSEF	Health Care Providers must submit an application to HHS • $50B for general distribution; $10B to COVID-19 hot spots; $10B to rural hospitals; $400M to Indian Health Services • Treating uninsured COVID-19 patients • Skilled nursing facilities, dentists, facilities serving only Medicaid patients	US House of Representatives, Committee on Ways and Means HHS.gov, CARES Act Provider Relief Fund; PPP/HCE Act (HR 266) - Title I
$25B		COVID-19 Testing: $11B for States, Territories, Tribes, et al.; $14B for Federal agencies	PPP/HCE Act (HR 266) - Title I
$1.9B	CHC & rural health clinics	US DHHS, through the Health Resources and Services Administration to award $1.3B in CARES Act funding to 1,387 CHC to detect, prevent, diagnose and treat COVID-19; and maintain or increase health capacity and staffing levels to address this public emergency; PPP/HCE Act appropriated an additional $600M to CHCs and rural health clinics.	HHS.gov, Press Release; List of award recipients
$425M	SAMHSA	• $250M to Certified Community Behavioral Health Clinics • $50M for suicide prevention • $110M Emergency COVID-19 Grants for up to $2M/state (CLOSED) • $15M for tribal communities	HHS.gov, SAMHSA Press Release, SAMHSA, FG-20-006 Individual Grant Awards
$995M	ACL	Supplemental funding for programs authorized by the Older Americans Act of which $905M awarded to States, Territories and Tribes: • $480M Home-delivered meals • $200M Personal care • $85M Centers for Independent Living • $20M Nutrition and related services for tribes • $100M National Family Caregiver Support • $20M State Long-term Care Ombudsman • $50M for Aging and Disability Resource Centers	HHS.gov, Press Release; ACL, State by State Cares Act Funding;

Sources: CARES Act (HR 748), Section 5001, NCSL, Kaiser Family Foundation, PPP/HCE Act (HR 266) - Title I

III: Impact on People with Intellectual and Developmental Disabilities

Impact on People with Developmental Disabilities

People with disabilities and their families will benefit from cash payments, unemployment insurance and expanded FMLA.

C.1 People Receiving Social Security Benefits are Eligible for Cash Payments

Starting April 13, 2020, the IRS began making Economic Impact Payments, aka stimulus payments. Payments are automatic for most taxpayers who, depending on adjusted gross income, may receive up to $1,200 per person. People who receive Social Security benefits will automatically receive the payment – no requirement to file taxes, unless the non-filer has a qualifying dependent.

C.2 Unemployment Assistance Expanded to Include Self-Employed Workers

The Federal-State Unemployment Insurance (UI) program provides temporary unemployment benefits to eligible unemployment workers. On 3/12/20, the US Department of Labor issued the first round of Federal guidelines expanding criteria for eligible employees impacted by COVID-19. The second round of Federal guidelines issued on 4/2/20, extended benefit weeks, increased state flexibility and added a $600 weekly benefit.

C.3 Emergency Family and Medical Leave Expansion

Provides employees of employers with fewer than 500 employees and government employers, who have been on the job for at least 30 days,12 additional weeks of job-protected FMLA leave for those who are unable to work or telework due to a need to care for a child whose school is closed. Some exceptions are available to employers who have less than 50 employees.

Impact on People with Developmental Disabilities

Increased funding for emergency paid sick leave and special education, will help, but may not go far enough for people with disabilities and their families; US DHHS Office of Civil Rights has issued anti-discrimination guidance

C.4 Emergency Paid Sick Leave for to care for child under the age of 18

Provides employees of employers with fewer than 500 employees and government employers with paid sick time at the employee's full regular rate of pay if leave is due to the COVID-19. Employers with less than 50 employees may be exempted from these requirements.

C.5 Potential Impact on Special Education

Congress set aside approximately $3B allotted to the Education Stabilization Fund for the Governor's Emergency Education Relief fund (GEERF) to assist teachers and students with disabilities to transition to online learning and virtual classrooms, and to fund summer and after-school learning opportunities. While the US Secretary for Education recommends no waivers to the Individuals with Disabilities Education Act regarding student access to learning, she has recommend a waiver to allow Local Education Agencies to retain funding allocated for 2019-2020 academic year that they have not spent during the emergency.

C.6 Office of Civil Rights Bulletin on Civil Rights, HIPAA and Coronavirus

Entities covered by civil rights authorities have legal obligations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience and religion in HHS-funded program. People with disabilities should not be denied medical care on the basis of stereotypes or judgements about a person's relative worth based on the presence or absence of disabilities or age. People with disabilities are entitled to reasonable accommodations which may require exceptions to hospitalization visitation restrictions.

Sources: HHS Office for Civil Rights in Action (March 28, 2020), Bulletin: Civil Rights, HIPAA, and the Coronavirus Disease 2019, ACL, Supporting Community Living during COVID-19: CARES Act and Civil Rights Protections; Report to Congress on Recommended Waiver Authority

People Receiving Social Security Benefits are Eligible for Cash Payments

Covered Period: First checks issued week of April 13, 2020 continuing for 20 weeks

What is the program?	Provides Economic Impact Payments, also referred to as stimulus payments. Payments are automatic for most taxpayers who may receive up to $1,200 per adult, up to $2,400 per married couple and $500 per child.
Who qualifies?	• US Citizen or U.S. resident alien • Cannot be claimed as a dependent on someone else's return • Has a social security number (SSN) that is valid for employment Exception: If either spouse is a member of the U.S. Armed Forces at any time during the taxable year, then only one spouse needs to have a valid SSN • Has adjusted gross income (AGI) below an amount based on filing status and the number of qualifying children
How does it work?	• U.S. residents will receive the Economic Impact Payment of $1,200 for individual or head of household filers, and $2,400 for married filing jointly with AGI up to $75,000 for individuals; $112,500 for head of household filers; and $150,000 for married couples filing joint returns • Taxpayers will receive a reduced payment if their AGI is between: $75,000 and $99,000 if their filing status was single or married filing separately; 112,500 and $136,500 for head of household; $150,000 and $198,000 if their filing status was married filing jointly; based upon AGI • No action needed if filed taxes for 2019 or 2018, or receive Social Security benefits (unless have qualifying child) and eligible SSI recipients will start receiving their automatic payments directly from the Treasury Department in early May • Non-filers with a qualifying dependent must submit information using the IRS's Non-Filer tool by 5/5/2020 to receive payment quickly • Stimulus payments are not treated as income for public benefits and are disregarded as a resource for 12 months; people can invest all or part of them in an ABLE account
Where can I find it?	• House Committee on Ways & Means, Expected Timeline for Economic Impact Payments • For information about eligibility, payment amounts, what to expect, when to expect it and more go to Internal Revenue Service: Economic Impact Payments Information Center • For people receiving Social Security benefits with a child under the age of 17, Non-Filers: Enter payment information here • The Internal Revenue Service (IRS) has issued updated guidance for SSI recipients

Sources: IRS Economic Impact Payments

Unemployment Assistance Expanded to Include Self-Employed Workers

Covered Period: For Pandemic Unemployment Assistance - January 27, 2020 to December 31, for expanded benefits – eligible from bill passage to July 31, 2020

What is the program?	Unemployment assistance estimated to provide an additional $260B for lost wages: • Pandemic Unemployment Assistance (PUA) expands access to UI to self-employed and part-time workers and others • Additional weekly UI payments by $600 for all beneficiaries • Expands unemployment insurance by 13 weeks
Who qualifies?	• Pandemic Unemployment Compensation (PUC): increases weekly UI payments by $600/week (until 7/31/2020) for all people receiving UI and PUC applicants; no impact on eligibility for Medicaid or CHIP • Pandemic Emergency Unemployment Compensation (PEUC): expands UI by 13 weeks; ends 12/31/2020 • Pandemic Unemployment Assistance: For workers who do not qualify for UI: self-employed; gig workers; independent contractors; freelancers; seeking PT employment; insufficient work history; covers people unable to work because they or a family member have COVID-19; or caring for a family member who cannot attend school or work because of COVID-19
How does it work?	• PUC: Already-eligible and expanded eligibility individuals receive their normal unemployment benefits through their state unemployment benefits program plus an additional $600 per week. The $600/week benefit does not vary based on previous salary – it is applied to every individual receiving or eligible for unemployment benefits (3/27/20 to 7/31/20) • PEUC: Additional 13 weeks of unemployment benefits, after state's 26 weeks of unemployment benefits. Ends 12/31/2020 • PUA: Benefits for a maximum of 39 weeks, including any week(s) for which a person received regular UI. PUA will have a minimum benefit that is equal to one-half the state's average weekly UI benefit (about $190 per week). PUA runs from Jan 27, 2020 through Dec 31, 2020 and is retroactive • Unemployment benefits remain taxable
Where can I find it?	Benefits are accessed through state-based unemployment benefits programs.

Sources: CARES Act (HR 748), Section 2102, NBC News, CNBC

Emergency Family and Medical Leave Expansion

Covered Period: April 1, 2020 to December 31, 2020

What is the program?	Provides employees of covered employers 12 additional weeks of job-protected FMLA leave for those who are unable to work or telework.

Who qualifies?	• Employers with 50 or more employees working during each of 20 or more calendar workweeks in the current or proceeding year. The receiving employee must have been employed for at least 30 calendar days by the employer. Excludes:
	  • Employers with fewer than 50 employees may be exempted if the requirements would jeopardize the viability of their business
	  • Certain health care providers and emergency responders
	• Eligible employees include: employees that are unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to the COVID-19 public health emergency. Not available to parents caring for an adult child with disabilities

How does it work?	• The first two weeks (i.e.10 days) are unpaid/not covered under this provision, but employees may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave • The following 10 weeks will be paid at no less than two-thirds employee's regular pay rate as determined under section 7(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(e)) for the number of hours the employee would otherwise be normally working • Paid leave cannot exceed $200 per day and $10,000 in the aggregate • Employers that are required to provide expanded family and medical leave based on this provision are eligible for payroll tax credits
Where can I find it?	• DOL: FMLA and how to access benefits • DOL: Families First Coronavirus Response Act: Questions and Answers

Sources: FFCR Act (HR 6201), Division C, U.S. Department of Labor FFCR Guidance, U.S. Department of Labor FFCR Q&A

Emergency Paid Sick Leave - No Paid Time to Care for Adult Children w/ Disabilities

Covered Period: April 1, 2020 to December 31, 2020

What is the program?	Provides employees of covered employers with paid sick time at the employee's full regular rate of pay if leave is due to the COVID-19 factors outlined below.
Who qualifies?	• Covered employers: in the case of a private entity or individual, employs fewer than 500 employees; and in the case of a public agency or any other entity that is not a private entity or individual, employs 1 or more employees • Employers with fewer than 50 employees may be exempted if the requirements would jeopardize the viability of their business; also excludes certain health care providers and emergency responders • An employer shall provide paid sick time to the extent that the employee is unable to work (or telework): (1) under a Federal, State, or local quarantine or isolation order related to COVID–19, (2) self-quarantined as advised by a health care provider, (3) experiencing symptoms or seeking medical diagnosis (4) caring for someone who is subject to (1) or (2); (5) caring for a child (only available for children – not adults with disabilities) because of school or childcare closures or childcare closures; (6) experiencing any other substantially similar condition • Details regarding specific categories of covered employees can be found here

How does it work?	• Employees are entitled to the following hours of paid sick time:
	    • Full-time: 80 hours
	    • Part-time: the number of hours that the employee would work on average over a 2-week period
	• Pay caps:
	    • $511/day and $5,110 in aggregate for situations 1-3 above
	    • $200/day and $2,000 in aggregate for situations 4-6 above
	• Employers that are required to provide expanded paid sick leave are eligible for payroll tax credits

Where can I find it?	Information on the Emergency Paid Sick Leave Act and how to access benefits can be found here

Sources: FFCR Act (HR 6201), Division C, U.S. Department of Labor FFCR Guidance, U.S. Department of Labor FFCR Q&A

Potential Impact on Special Education

Available information is limited and still emerging

What is the program?

Congress set aside approximately $3B of the $30.75B allotted to the Education Stabilization Fund for the Governor's Emergency Education Relief fund (GEERF) to assist teachers and students transition to online learning and virtual classrooms, and to fund summer and after-school learning opportunities and the Secretary of Education has recommended waiver authority under the Perkins Act, the Rehabilitation Act of 1973, and the IDEA.

Who qualifies?

US Department of Education will award these grants to States (Governors' Offices) based on a formula stipulated in the legislation:

- 60% on the basis of the State's relative population of individuals aged 5 through 24
- 40% on the basis of the State's relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (ESEA)

How does it work?

- Funds may be used to help teachers and students with and without disabilities to make the switch to online learning and virtual classrooms. These grants can help teachers meet the needs of students with disabilities in these trying times
- Funds are for summer learning, supplemental after-school programs and online learning for students with disabilities
- US Secretary for Education has issued a report to Congress with recommendations for any waivers necessary under the Individuals with Disabilities Education Act to "provide limited flexibility" to states and school districts during the emergency (Not part of EERF)
    - IDEA: Defer the work or repayment requirements or allow credit for the service obligation for recipients of IDEA personnel preparation grants (personnel development scholarships) if employment was interrupted by COVID-19
    - Perkins Act: Allow Local Education Agencies to keep any funds allotted to them for the 2019-2020 academic year that they have not spent during the COVID-19 national emergency
    - Permit Vocational Rehabilitation funds to be used to replace expired or spoiled food products at Randolph-Sheppard vending sites required to close due to COVID-19
    - See a complete list of recommended waivers

Where can I find it?

- Governor's Emergency Education Relief Fund (GEERF)
- Consortium for Citizens with Disabilities sign-on letter opposing waivers of IDEA
- State allocation tables

Sources: Department of Education, Office of Elementary & Secondary Education, Governor's Emergency Education Relief Fund

Office of Civil Rights Bulletin on Civil Rights, HIPAA and Coronavirus

Self Advocates in Leadership (SAIL) has filed a complain with the US DHHS OCR in response to plans for rationing care

What is the issue?	As the number of COVID-19 cases increase, health care professionals predict that there will be a lack of acute care services and equipment, notably ventilators, to meet the increasing demand. As a result, some states and medical professionals have begun developing guidance protocols for rationing acute medical care. Some of these plans rely on disability-based distinctions, which may constitute discrimination against people with disabilities.
What is the standard?	• U.S. Department of Health and Human Services' Office of Civil Rights (HHS OCR) published a bulletin on March 28, 2020 to ensure that covered entities follow civil rights laws, including Section 1557 of the Affordable Care Act and Section 504 of the Rehabilitation Act which "prohibit discrimination on the basis of disability in HHS funded health programs or activities" • The guidance explains that entities funded by HHS cannot deny people with disabilities medical care "on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative "worth" based on the presence or absence of disabilities." It also discusses the obligations of hospitals to ensure equal access and effective communication
How does it work?	• Advocates are filing complaints about state rationing protocols with US HHS OCR (already filed as of 4/17 in: AL, KS, NY, PA, TN, UT, WA, with resolution in AL) • Advocates are also reaching out to state governors with concerns about medical rationing and discrimination (i.e., CA, CO, FL, GA, IL, KY, MA, NC, NJ, NY, OH, OK, OR, PA, TX, UT, WI) • States and hospitals must provide reasonable accommodations to ensure people with disabilities have equal access; may include providing exceptions to "no visitor" policies when necessary for people with disabilities. NJ, NY, OR, and certain hospitals have issued guidance
Where can I find it?	• Read the HHS Office of Civil Rights bulletin • File a complaint with HHS OCR • Guidance to States and Health Care Providers On Avoiding Disability-Based Discrimination in Accessing COVID19 Treatment

Sources: The Arc, Disability Discrimination Complaint Filed Over COVID-19 Treatment Rationing Plan in Washington State

IV: Impact to Children and Families

Impact to Children and Families in States

Coronavirus Legislations (H.R .748 or "CARES" Act) appropriated emergency funds for the Administration for Children and Families, including emergency funds for the Children and Family Services Program

D.1 Child Care and Development Block Grant (CCDBG)

$3.5B in additional funding for continued payments and assistance to child care providers with decreased enrollment or closures related to coronavirus to ensure they are able to remain open or reopen as appropriate; funds can also be used to provide child care assistance to essential workers.

D.2 Increased funding for low-income communities, families, and children under the Community Services Block Grant (CSBG) and the Head Start Act *($1.75B)*

$1B additional funding appropriated for the CSBG Act to reduce poverty, empower low-income families and individuals to be self-sufficient, and to revitalize low-income communities; $750M is appropriated for the Head Start Act to support school readiness of low-income children with a focus on standing up supplemental summer programs through non-competitive grants.

D.3 Additional funding for vulnerable children and families

Funding appropriated to support programs across the country to serve homeless youth through emergency shelters and transitional living programs, provide temporary housing and assistance to victims of family, domestic, and dating violence, and to focus on providing National Domestic Violence hotline services remotely

D.4 Child Welfare Services

The 6.2% FMAP increase will be available to IV-E child welfare expenditures; $45M appropriated for Title IV-B to address the provision of child welfare services that can be used for prevention of and response to child abuse and neglect.

Sources: ACF-COVID-19-Stimulus Summary

Impact to Children and Families in States

Additional appropriations have been made through legislation to support Food and Nutrition and the Low-Income Heating and Energy Assistance Program.

D.5 FFCRA - Food and Nutrition

Allows the Secretary of the US Department of Agriculture to grant states significant program flexibilities and contingencies to best serve program participants across Food and Nutrition Services (FNS) programs. Provisions include additional funding for the food and nutrition programs and waivers of program requirements.

D.6 Low-Income Heating and Energy Assistance Program (LIHEAP)

Grants to states, territories, and tribes to support immediate home energy assistance for low-income households affected by COVID 19. Funds are available through 9/2021 allowing states flexibility to assist families after utility shutoff suspensions are lifted.

Sources: ACF-COVID-19-Stimulus Summary

Child Care and Development Block Grant

Covered Period: Through September 30, 2021

What is the program?	Additional funding to provide continued payments and assistance to child care providers in the case of decreased enrollment or closures related to coronavirus, and to ensure they are able to remain open or reopen as appropriate. Funds can be used to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to coronavirus by public officials, without regard to the income eligibility requirements of section 658P(4). States, territories, and tribes are encouraged to place conditions on payments to child care providers that ensure that child care providers use a portion of funds received to continue to pay the salaries and wages of staff.
Who qualifies?	• Eligible child care providers under section 658P(6) of the CCDBG Act, even if such providers were not receiving CCDBG assistance prior to the public health emergency as a result of the coronavirus, for the purposes of cleaning and sanitation, and other activities necessary to maintain or resume the operation of programs • Essential workers needing child care support
How does it work?	• $3.5B in additional funds will be provided to State, Territory, and Tribal Child Care and Development Fund (CCDF) Lead Agencies to remain available through 9/30/21 to supplement, and not supplant, general revenue funds for child care assistance for low-income families. Allocation of the additional funding can be estimated given the state, territory, or tribe's share of CCDRF discretionary funding for the group • Payments may be obligated in this fiscal year or the succeeding two fiscal years by Lead Agencies and can be used to restore amounts, either directly or through reimbursement, for obligations incurred to prevent, prepare for, and respond to coronavirus
Where can I find it?	• ACF is still finalizing each Lead Agency's allocations

Sources: Office of Child Care - Summary of Child Care Provisions in the CARES Act

Increased funding for families, and children under the Community Services Block Grant (CSBG) and the Head Start Act ($1.75B)

Covered Period: Payments may be obligated in this fiscal year or the succeeding two fiscal years. Funding to remain available through September 30, 2021

What is the program?	• $1B is appropriated for the CSBG Act to support three goals: reduce poverty, empower low-income families and individuals to be self-sufficient, and to revitalize low-income communities • $750M is appropriated for Head Start Programs with $500M for supplemental summer programs through non-competitive grants and $250M for one-time activities in response to COVID-19. Funding provided for supplemental summer programs to existing Head Start grantees to make up for lost learning opportunities and promote school readiness
Who qualifies?	• The CARES Act's additional funding provides temporary housing and increased the income limit from 125 percent to 200 percent of the FPL; no matching funds required • Existing Head Start grantees with demonstrated capacity to deliver summer learning experiences but not currently funded to be operational for the full calendar year • Summer programs targeting enrolled children entering kindergarten at the beginning of the 2020-2021 program year and children with Individualized Education Programs (IEPs)
How does it work?	• Office of Community Service to distribute supplemented CSBG funds to the lead state agencies to distribute to eligible entities who provide services. Grantees directed to give immediate priority to re-programming existing resources to meet the highest priority needs in support of the COVID-19 emergency response • Up to $500M of Head Start funds available for the purpose of operating supplemental summer programs through non-competitive grant supplements • Appropriated funds available to restore amounts for obligations incurred to prevent, prepare for, and respond to COVID-19
Where can I find it?	• Additional guidance specific to CARES Act supplemental CSBG funds will be forthcoming • Applications for the Summer Program Supplement should be available in the Head Start Enterprise System in late April

Sources: CARES Act (HR 748), Title VIII, CSBG Dear Colleagues Letter, ACF CSBG Immediate Guidance on COVID-19 Response, OHS FY 2020 Supplemental Funds in Response to COVID-19

Additional Funding for Vulnerable Children and Families

Covered Period: Additional funding is available through September 30, 2021

What is the program?	Additional funding appropriated to support programs that serve homeless youth as well as victims of family, domestic, and dating violence: • $25M in additional appropriations for the Runaway and Homeless Youth Act (RHYA) FY20 budget of $119M with no matching funds requirement • $45M in additional appropriations for the Family Violence Prevention and Services Act (FVPSA) FY20 budget of $175M • $2M in additional appropriations for the National Domestic Violence Hotline FY20 budget of $10M
Who qualifies?	• RHYA grantees including 587 programs across the country to serve homeless youth through emergency shelters and transitional living programs • FVPSA grantees including formula grants for housing and victim assistance • National Domestic Violence Hotline to provide hotline services remotely

How does it work?	• CARES Act to support "activities carried out under" the RHYA, but funds allocation not specified beyond the statement "funds should supplement, not supplant, existing funds and should be available without regard to matching requirements"
	• ACF distributes FVPSA funds through formula grants to states, state domestic violence coalitions, and subgrantees with no required state matching funds
	    • FVPSA statute and regulations do not address emergency preparedness but specify a variety of housing types that can be funded: emergency and immediate shelter, including housing, rental subsidies, and temporary lodging in individual units such as apartments; safe homes; and hotel or motel vouchers
	    • Funds can also be used for staff, food, toiletries, and supplies at shelters, among other items

Where can I find it?	Family & Youth Services Bureau Grant Awards

Sources: Family & Youth Services Bureau – RHY Grantee COVID-19 Flexibilities, CRS – Support for Homeless Youth in the Context of COVID-19: A Brief Overview, CRS - Domestic Violence in the Context of COVID-19, FYSB – FAQs on Allowable Use of FVPSA Funds

Enhanced funding for Child Welfare Services

Covered Period: Enhanced FMAP January 1, 2020 through last day of the quarter after the public health emergency ends

What is the program?	Enhanced funding provided through a 6.2% increase to Federal Medical Assistance Percentage (FMAP) applies to states, territories, and tribes operating a IV-E program (hereinafter States, Territories, and Tribes), but does not apply to the IV-E program in the District of Columbia (DC). Other funding sources include: • $45M appropriated by the CARES Act for the Stephanie Tubbs Jones Child Welfare Services Program (Title IV-B) for the provision of child welfare services that can be used for prevention of and response to child abuse and neglect, the promotion and support of adoption, and education and training to help foster care youth to become self-supporting • Grant funding allocated to states by the Administration on Children and Families (ACF) to support implementation of the Family First Prevention Services Act (FFPSA) may be used to assist with implementation of FFPSA and other child welfare activities
Who qualifies?	• States, territories, and tribes operating a IV-E program, excluding DC which will not receive the enhanced match • While the increased FMAP does apply to the territories, the legislation did not increase the “social services” spending cap. • States receiving IV-B funding
How does it work?	• To receive enhanced FMAP for IV-E, states submit quarterly “claims” to HHS-ACF representing program spending. • Funds provided under Title IV-B Part 1 are flexible for a variety of uses • Title IV-B funding is distributed based on formula grants to states based on the population of children under the age of 21 • No matching funds required for this additional funding under the CARES Act; ACF’s Children’s Bureau will not require a separate application for this funding and will develop procedures to make awards as soon as possible
Where can I find it?	More information on Title IV-B allocations will be forthcoming from ACF.

Sources: Formula Grant Opportunities Related to COVID-19 Letter, CRS – Federal Medical Assistance Percentage (FMAP) Increase Available for Title IV-E Foster Care and Permanency Payments

FFCRA (H.R.6201) – Food and Nutrition

Covered Period: Funds through Sept 30, 2021; Waivers for School Lunch programs ends June 1, 2020

What is the program?	FFCRA enabled the US Department of Agriculture to grant states significant program flexibilities and contingencies to best serve program participants across Food and Nutrition Services (FNS) programs. Provisions include additional funding for the food and nutrition programs including $500M for Women, Infants, and Children Program (WIC), $400M for Commodity Assistance Program, and funding for meals for students. Provisions also extent to the Secretary of Agriculture authority to purchase commodities for emergency distribution and provide waivers to school lunch requirements and for certain increased eligibility and emergency allotments for the Supplemental Nutritional Assistance Program (SNAP).
Who qualifies?	• USDA will allocate available funding to all WIC state agencies, which may issue additional benefits to eligible families • Students eligible for free and reduced school meals may receive bag lunches and pandemic electronic benefits transfer • SNAP households that normally receive less than the maximum benefit amount may be eligible for emergency allotments • States may suspend time limits associated with Able-Bodied Adults without Dependents (ABAWDs) work requirements
How does it work?	• State agencies may request approval from USDA to waive certain WIC, SNAP and Child Nutrition Program requirements • FNS is providing up to $850M for states to distribute to food banks • Nationwide waiver established for states with the purpose of providing meals and meal supplements under a qualified program (student free-and-reduced-price meals and other associated programs)
Where can I find it?	• FNS Actions to Respond to COVID-19 • Child Nutrition Program Waiver Request Guidance and Protocol • USDA FNS List of Approved COVID-19 Waivers issued to states for child nutrition programs • SNAP Certification and State Administration Waivers

Sources: FFCR Act (HR 6201), Division B, The Families First Coronavirus Response Act: Summary of Key Provisions

Low-Income Home Energy Assistance Program (LIHEAP)

Covered Period: Through September 30, 2021

What is the program?	$900M in additional funding for the Low-Income Home Energy Assistance Program (LIHEAP) has been appropriated in response to the COVID-19 crisis and LIHEAP grantees have broad flexibility in interpretation of the federal LIHEAP law and may for example, choose to adjust their benefit matrices, program operations timelines, eligibility rules, coordination with heating and cooling shelters, and other related policies and procedures in light of changing need during the COVID-19 crisis. These changing needs may present as lost wages, jobs, increased home heating and cooling expenditures, temporary shelter needs, and so forth as people follow "social distancing" guidance from their local and state authorities, their places of employment close, and/or they are home recovering from the virus.
Who qualifies?	• LIHEAP grantees set their LIHEAP income eligibility cut off, but it can be up to the greater of 150% of the Federal Poverty Guidelines or 60% State Median Income (SMI). In response to the COVID-19 crisis, grantees can adjust up to the federal maximum and submit a revised FY2020 plan after implementing the change • LIHEAP grantees are encouraged to target crisis assistances to the elderly and those with underlying medical conditions who are most vulnerable to COVID-19
How does it work?	The Office of Community Services anticipates a release of funds, pursuant to the CARES Act, regarding supplemental funding for home energy assistance to help prevent, prepare for, and respond to the coronavirus.
Where can I find it?	Those in need should contact their local LIHEAP grantees.

Sources: LIHEAP DCL Initial COVID-19 Program Guidance, National Energy Assistance Directors Association Press Release

IV: Impact on Small Business and Human Services Providers

Small Business Administration Loans

The SBA will allow qualifying business access to zero-fee loans (with some forgiveness) and deferred principal and interest

E.1 Economic Injury Disaster Loans and Grants (HR 6074 and H.R. 748)

H.R. 6074 identified Coronavirus event as an eligible disaster recovery loan for small businesses and allocated $20M to administer the program. The Economic Injury Disaster Loan (EIDL) program provides small businesses with fewer than 500 employees with working capital loans of up to $2M that can provide economic support to small businesses to help overcome the temporary loss. Interest rates are 3.75% for small businesses and 2.75% for nonprofits. Collectively, H.R. 748 and H.R. 266 appropriated $50B for EIDL loans and an additional $20B to administer $10,000 grant advances to EIDL applicants within three days.

E.2 Paid Leave Tax Credits Granted (HR 6201)

The Families First Coronavirus Response Act (HR 6201) requires small businesses to expand paid sick-leave and family leave to individuals affected by the virus. Small businesses may collect a tax credit for the full value of qualified emergency sick-leave and family-leave payments. The legislation affects businesses smaller than 500 employees, but businesses with 50 employees or fewer may be exempt.

E.3 SBA 7(a) Loans and Paycheck Protection Program

The CARES Act (HR 748) includes an $350B in small business assistance through the SBA 7(a) program. The PPP/HCE Act (H.R. 266) appropriated an additional $310B.

E.4 Employee Retention Tax Credit

The Employee Retention Credit is a fully refundable tax credit for employers equal to 50 percent of qualified wages (including allocable qualified health plan expenses) that Eligible Employers pay their employees. This Employee Retention Credit applies to qualified wages paid after March 12, 2020, and before January 1, 2021.

Sources: SBA Updated Criteria for EIDLs, National Law Review - Economic Relief For Small Businesses, Marketwatch - Families First Coroniavirus Response Act, National Law Review – CARES Act Provisions

Small Business Administration Loans

The SBA will allow qualifying business access to zero-fee loans (with some forgiveness) and deferred principal and interest

E.5 Payroll Tax Deferral

Employers can defer the employer's share of the Social Security payroll taxes (6.2% on income up to $137,700) for the remainder of 2020. While this will increase liquidity in the short-term, organizations will be required to pay the deferred tax over two years, with at least 50% due by the end of 2021 and the remainder due by the end of 2022.

E.6 SBA Programs and CMS Appendix K

States have been given the option to file Appendix K under their §1915(c) or §1115 LTSS waivers, which gives states a chance to stabilize their revenues and providers new paths to alternative funding.

Sources: Appendix K

Economic Injury Disaster Loans and Grants (HR 6074 and H.R. 748) - Funding

Coverage Period: January 31 to December 31, 2020

What is the program?	• Within 3 days of an Economic Injury Disaster Loan (EIDL) Loan application, small businesses can receive up to $10,000 from an emergency grant advance • H.R. 6074 identified Coronavirus event as an eligible disaster recovery loan for small businesses and allocated $20M in administrative expenses for the program. The SBA's Economic Injury Disaster Loan program provides small businesses with working capital loans of up to $2M that can provide vital economic support to small businesses to help overcome the temporary loss of revenue they are experiencing • $70B has been appropriated for this program ($10B in the CARES Act for Disaster Loans & Grants, $50B in the PPP/HCE Act for Disaster Loans, and $10B in the PPP/HCE Act for Grants)
Who qualifies?	• Eligible entities: Includes small business concerns, private nonprofit organizations, and small agricultural cooperatives and expands eligibility to tribal businesses, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or independent contractor • The PPP/HCE Act expands eligibility to allow agricultural enterprises as defined by section 18(b) of the Small Business Act (15 U.S.C. 647(b)) with not more than 500 employees to receive EIDL grants and loans
How does it work?	• Qualified businesses can apply for an emergency grant advance of up to $10,000 within 3-days of applying to be used for payroll, paid sick leave, meeting increased costs to obtain materials, make rent or mortgage payments, and repay obligations that cannot be made due to revenue losses • Applicants are not required to pay back the advance, even if they are denied the loan • For initial qualification for the grant advance, applicants accept a self-certification under penalty of perjury
Where can I find it?	• The disaster loan and grant application page can be found here

Sources: CPRSA Act (HR 6074) Title II, CARES Act (HR 748) Section 1110 Emergency EIDL Grants Subsection (e), SBA EIDL Loan Info, PPP/HCE Act (HR 266) Section 101

Economic Injury Disaster Loans and Grants (HR 6074 and H.R. 748) - Employer Eligibility

The CARES Act expands SBA EIDL Program coverage to the following applicants:

1. Any business or cooperative <500 employees
2. An individual operating under a sole proprietorship, with or without employees,
3. An independent contractor;
4. An Employee Stock Ownership Plan (ESOP)
5. A tribal small business concern

In addition, applicants must also prove economic harm or injury such that:

1. A business concern is unable to meet its obligations as they mature or to pay its ordinary and necessary operating expenses
2. A comparison between the financial information from the period in the prior year to the injury period of the current year (this period must be associated to the disaster and cannot be attributed to a downturn in local economy or other unrelated issues) proves economic harm

Sources: COVID-19 Related SBA Economic Injury Disaster Loan Program, NY State EIDL Fact Sheet

Paid Leave Tax Credits Granted (HR 6201)

Coverage Period: Effective April 1, 2020 through December 31, 2020

What is the program?	Employers with fewer than 500 employees (with certain exceptions) must provide FMLA leave and paid sick leave to qualified employees under the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act enacted under the FFCR Act (H.R. 6201).
Who qualifies?	• Employers with fewer than 500 employees are subject to the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act • Small employers with fewer than 50 employees may qualify for an exemption from the requirements if the leave payments would jeopardize the viability of the business as a going concern
How does it work?	• Employers are eligible for a credit against withheld Federal income taxes ("Aggregate Taxes") equal to 100% of qualified sick leave wages paid by the employer with respect Federal income taxes and the employers and employees share of Social Security and Medicare taxes to each quarter as described by FFCR Act (HR 6201), Section 7001 • Credit is increased by certain of the employer's health plan expenses properly allocable to the qualified sick leave wages • To the extent the amount of the credit exceeds the Aggregate Taxes due/paid, the employer is entitled to a refund • The amount of paid sick time eligible is 80 hours for full-time employees and a number of hours equal to the number of hours that such employee works on average over a 2-week period for part-time employees
Where can I find it?	• Credits may be claimed through quarterly payroll tax filings • Department of Treasury is allowing employers to apply for the employer tax credits before the quarterly payroll tax fillings are due. Employers should use the IRS Form 7200 (Advance Payment of Employer Credits Due to COVID-19)

Sources: FFCR Act (HR 6201), Section 7001, IRS Guidance

Paid Leave Tax Credits Granted (HR 6201) - Employer Recognition

Employee counts are an important consideration in eligibility. Joint and Integrated Employer status may cause counts to exceed eligible employer thresholds.

If an employer qualifies as either a Joint or Integrated employer, that status applies for both Emergency Paid Sick and FMLA coverage, and employee counts should be calculated the same for both programs.[1] The illustrations below detail potential employer status and employee count variations, however, applicant businesses should consult with their respective legal professionals to make the joint or integrated status qualification determination.

- A business is considered a single employer if it is a single entity with multiple establishments or divisions
- If a corporation has an ownership interest in a separate corporation and is classified as a Joint Employer per the Department of Labor Final Rule on Joint Employer Status, the joint employees must be counted in each entity's employee count
- If separate entities qualify as an Integrated Employer under FMLA standards, the integrated employer counts as a single employer and the employee count from both entities should be summed

Considerations for Joint Employer and Integrated Employer status as follows:

Joint Employer Test:
- Hires and fires the employee
- Supervises and controls the employee's work schedule or conditions of employment to a substantial degree
- Determines the employee's rate and method of payment
- Maintains the employee's employment records

Integrated Employer Test:
- Common management
- Interrelation between operations
- Centralized control of labor relations
- Degree of common ownership or financial control

[1] The employee count measurements for Emergency Paid Sick and FMLA expansion differ from the employee count measures for SBA programs.

Sources: FFCR Act (HR 6201) Section 5101, Department of Labor Fact Sheet, FSLA Joint Employer Final Rule, FMLA Integrated Employer Test

SBA 7(a) Loans and Paycheck Protection Program

Coverage Period: March 1, 2020 to June 30, 2020

What is the program?	• The 7(a) loan program is the SBA's primary program for providing financial assistance to small businesses. There are nine types of loans that small businesses can qualify for, with expanded benefits under the new COVID-19 legislation.
	• $659B has been appropriated to carry out this loan program:
	  • $349B through the CARES Act
	  • $310B through the PPP/HCE Act

Who qualifies?	• Any business, private or public nonprofit organization which employs not more than 500 employees or if applicable, the size standard established by the administration for the specific industry (specific eligibility language)
	• Extends eligibility to certain non-profits and tribal businesses
	• Extends eligibility to sole-proprietors, independent contractors, and other self-employed as well as businesses with multiple locations (extended eligibility language)
	• Waivers of the SBA Affiliation Rules extend eligibility to NAICS Code 72: Accommodation and Food Services, franchises, and any business that receives financial assistance from a company licensed under the Small Business Investment Act
	• Under the PPP/HCE Act, $60B of PPP funding is specifically designated for community banks and lenders, including Insured Depository Institutions, Credit Unions, and Community Financial Institutions
	  • $30B for loans made by Insured Depository Institutions and Credit Unions that have assets between $10B and $50B
	  • $30B for loans made by Community Financial Institutions, Small Insured Depository Institutions, and Credit Unions with assets less than $10B
	  • *Community Financial Institutions are defined as minority depository institutions, certified development companies, microloan intermediaries, and State or Federal Credit Unions*
	• The SBA has explicitly disqualified businesses undergoing bankruptcy, hedge funds, and private equity (PE) funds from receiving PPP funds. Moreover, PE portfolio companies must apply affiliation rules to determine eligibility[1]
	• The SBA has provided additional guidance that companies must in good faith certify that economic uncertainty makes this loan request necessary. In its April 23 Q&A, the SBA stated that "it is unlikely that a public company with substantial market value and access to capital markets" would qualify
	  • In its April 24 interim final rule, the SBA stated that this test also applies to PE-owned companies
	  • Any borrower issued PPP funds prior to the issuance of the guidance may return funds by May 7 with no penalty

[1]More information on ineligible entities can be found in the SBA's Interim Final Rule

Sources: CARES Act (HR 748)- Section 1102. Paycheck Protection Program, Types of 7(2) Loans, PPP/HCE Act (HR 266) - Section 101

SBA 7(a) Loans/Paycheck Protection Program

Coverage Period: March 1, 2020 to June 30, 2020

How does it work?

- For loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) the maximum loan is the lesser of[1]—
  1. The sum of:
     (A) 2.5 times the average total monthly payments by the applicant for payroll costs[2] during the 1-year period before the date on which the loan is made, or for seasonal employees the average monthly payroll for a 12 week period between February and June 2019; and
     (B) the outstanding balance of an EIDL loan (made under subsection (b)(2)) that was made up until covered loans are made available to be refinanced under as a PPP loan, if the business decides to refinance the loan; or
  2. $10M
- The SBA will increase the 7(a) loan guarantee from 75-85% to 100%
- Up to two year loan with a **fixed interest rate of 1%** with deferral of payment for up to 6 months (interest will accrue)
- Allowable uses: A loan recipient made under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) **may use the proceeds of the loan for**:
  - Payroll support, including paid sick, medical, or family leave, and costs related to the continuation of group health care benefits during those periods of leave
  - Employee salaries
  - Mortgage payments, rent, and utilities
  - Any other debt obligations incurred before the covered period
- **At least 75% of PPP loan proceeds must be used to fund payroll costs, which leaves only 25% of the PPP loan proceeds to fund other permissible uses**
- Self-employed and independent contractors may claim income up to $100K (additional guidance here)

Where can I find it?

Through local lenders. Additional information, including the Interim Final Rule, can be found here.

[1]Information for eligible recipients that were not in business from 2/15/19 – 6/30/19; recipients may use avg. monthly payroll for the period of 1/1/20 to 2/29/20.
[2]Payroll costs in excess of $100,000 per individual employee are excluded when determining the aggregation of annual payroll expenses. The five steps for calculating payroll costs and uses of PPP loans can be found in the SBA's Interim Final Rule of the CARES Act implementation.
Sources: CARES Act (HR 748)- Section 1102. Paycheck Protection Program, Types of 7(2) Loans, PPP/HCE Act (HR 266) - Section 101

SBA 7(a) Loans/Paycheck Protection Program - Loan Forgiveness

Coverage Period: the 8-week period beginning on the date of the origination of a covered loan

What is the program?	Loan forgiveness for qualified small businesses under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by section 1102.
Who qualifies?	Eligible participants in receipt of a covered 7(a) loan, which includes business concerns, private or public nonprofit organization which employs not more than 500 employees or if applicable, the size standard established by the administration for the specific industry (specific eligibility language). (See SBA 7(a) Loan Program/PPP Slide).

How does it work?	• An eligible recipient will be eligible for forgiveness of indebtedness on a covered loan in an amount **equal to the sum of the following costs incurred and payments made during the covered period:** payroll costs, 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), any payment on any covered rent obligation, any covered utility payment
	• Amounts which have been forgiven under this section shall be considered canceled indebtedness by a lender authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a))
	• Exemptions exist for re-hires that occur on or before June 30, 2020
	• Loan forgiveness is excluded from federal taxable income
	• Limits:
	    ▪ The amount of loan forgiveness under this section shall not exceed the principal amount of the financing made available under the applicable covered loan
	    ▪ Reduction based on reduction in the # of full-time equivalent employees per month: The amount of loan forgiveness under this section shall be reduced, but not increased
	    ▪ Reduction relating to salary and wages: The amount of loan forgiveness under this section shall be reduced by the amount of any reduction in total salary or wages of any employee described in subparagraph (B) during the covered period that is in excess of 25 percent of the total salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period
	• Forgiveness prohibited without documentation and a decision will be provided within 60 days of receipt of application

Where can I find it?	The loan forgiveness process is applicable only via the 7(a) SBA program, but is available for both current and new loans.

Sources: CARES Act (HR 748) Section 1106 Loan Forgiveness

Employee Retention Tax Credit

Covered Period: For wages paid or incurred from March 13, 2020 to December 31, 2020

What is the program?

- The provision provides a refundable payroll tax credit for 50 percent of wages paid by employers to employees during the COVID-19 crisis
- This provision will cost $55B based on an estimate from the Joint Committee on Taxation

Who qualifies?

- 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, until the calendar quarter in which gross receipts are greater than 80% of the same calendar quarter of the prior year
- The credit is not available to employers receiving Small Business Loans under 7(a) of SBA

How does it work?

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.[1] For eligible employers with 100 or fewer full-time employees[2], 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 (or up to a $5,000 credit per employee).

Where can I find it?

The Secretary of the Treasury is granted authority to advance payments to eligible employers. The IRS has instructed employers to use the IRS Form 7200 to apply.

[1]Due to recent IRS statements conflicting with previous interpretations, exact interpretation of this provision is pending.
[2]In determining the employee number, current interpretation is that the count should only include US employees of all 50% or greater owned US entities in the company group.

Sources: CARES Act (HR 748), Sec. 2301, IRS Guidance

Payroll Tax Deferral

Covered Period: March 27, 2020 through December 31, 2020; 50% of payments due December 31, 2021, remaining 50% due December 31, 2022

What is the program?	• Employers may defer payment of the employer share of Social Security Payroll tax (6.2% on the first $137,700 of an employee's wages) for the period starting on the date of enactment of H.R. 748, the CARES Act, through the end of 2020. • This provision will cost $12B based on an estimate from the Joint Committee on Taxation
Who qualifies?	• All employers qualify for the Employer Social Security Payroll Tax Deferral except for employer receiving debt forgiveness through SBA 7(a) loans provision in the CARES Act • The Social Security deferral amount includes only those amounts that are otherwise payable by the employer—thus, the amount subject to deferral may be reduced or eliminated for employers that qualify for the employee retention credit or credit for sick pay and FMLA paid under the FFCR Act
How does it work?	• Employers may choose to defer their regular remittance of the employer's share of the Social Security Payroll Tax to the IRS through the end of December 2020, providing employers with extra liquidity to meet their needs • Employers will be responsible for paying the IRS at least 50% of the deferred amount by December 31, 2021 and the remaining amount by the December 31, 2022
Where can I find it?	Contact your internal or third-party payroll services to defer payments.

Sources: CARES Act (HR 748), Sec. 2302

SBA Programs and CMS Appendix K

An Overview of Appendix K

The majority of states have or will file an Appendix K under the §1915(c) or §1115 LTSS waivers. The Appendix K allows states to waive requirements under their waiver program during "normal" operations to address pandemic or other natural disasters. In doing this, many states have elected to add or increase retainer days for services – meaning that even if an individual is unable to participate in a specific service, the provider may still be paid at up to 100% the reimbursement. In other instances, states are increasing reimbursement rates to handle home quarantines for service participants and other extraordinary occurrences.

With retainer days and increased rates, providers may be able to maintain stabilized revenues. However, given the changing circumstances these historic revenues may not cover all current costs, in which case an SBA loan may be an option. Medicaid-funded disability providers may apply for Federal SBA loans. For additional information on Appendix K see Slide B.2.

Considerations for Providers on Alternative Funding

- If an agency utilizes the deferred payroll tax option, they cannot also have a 7(a) PPP loan forgiven. PPP loans that are not forgiven would have to be paid back over 2 years at 1% interest
- If an agency utilizes the Employee Retention Tax Credit, they cannot also apply for the PPP loan
- PPP loan forgiveness is based on employee retention. If an agency is unable to retain workers after receiving the PPP would impact their potential for loan forgiveness
    - *PPP loans may be eligible for forgiveness if furloughed or laid-off employees are rehired by June 2020*
- Additional guidance is still being developed and forthcoming related to loan forgiveness. Agencies considering SBA loans during the COVID-19 pandemic should consider:
    - What is the agencies ability to take on debt if the loan has to be paid back?
    - Can the agency leverage existing reserve funds, supplemented with state policies under an Appendix K to supplement revenues?
    - Are operational structures able to be modified to reduce administrative costs in the short-term to more efficiently leverage current reimbursements?
    - Has the agency considered furloughing non-essential staff to reduce operation costs?
        - *What's the difference between furlough and lay-off? Typically a furlough is deemed a temporary layoff from work versus a layoff which is typically permanently letting someone go from their position*

V: Ending the Public Health Emergency

End of Public Health Emergency – What to Consider

State agencies must be cued into actions that signal the end of available funding related to the emergency and how to plan for the future

Continuation of increased Medicaid funding and flexibilities are predicated by the date in which the Secretary of Health and Human Services revokes the declaration of a public health emergency (under § 6008(a) of the FFCRA). Specifically:

- Increased FMAP: States will receive increased FMAP through the last calendar date of the quarter in which the public health emergency was revoked
- 1135 Waivers: States are able to continue utilization of 1135 waivers until the date in which the public health emergency is revoked
- Appendix K: States who submitted and received approval under Appendix K can work in consultation with CMS to continue to offer approved flexibilities beyond the revocation of the public health emergency to meet state specific mitigation efforts

Given this, State government agencies should consider plans for how they will scale back the afforded flexibilities once the public health emergency declaration has ended. Specifically:

- What duration of enhanced flexibilities will be provided to service providers? Will flexibilities end on the last calendar day of the quarter in which the public health emergency has been revoked to reduce increased payment liabilities without the enhanced FMAP?
- How will states communicate to stakeholders about how flexibilities are being pulled back, and what lead time is needed to ensure things like staffing ratios and service location flexibilities can be removed and normal operations can start back up?
- What processes are in place to ensure providers are billing in a timely manner so that applicable claims are recorded for enhanced FMAP?
- Given the shift in many state policies, how does the impact of COVID-19 change the “new normal” for health and human service agencies?

Sources: Families First Coronavirus Response Act – Increased FMAP FAQs

VII: Appendix - Disclaimer & Bios

Disclaimer

Disclaimer: A&M does not assume any responsibility or liability to any third parties in connection with the contents of this document. There is no assurance that all matters of significance will be disclosed within this document. A&M has not made any warranties or guarantees of any nature with respect to the results, outcome or final developments in this matter or with respect to the economic, financial or other results which the Company may experience.

A&M's work did not include an analysis of the potential impact of any unexpected sharp rise or decline in local or general financial markets or economic conditions or technological changes.

Again, the guidance in this document is based on A&M research that might not be all-encompassing and not reflecting all current developments concerning government support plans to counteract the global COVID-19 crisis and is based on public information available as of the date and time on the cover page.

PSS – Health and Human Services Team Leaders

A&M Public Sector Services' leaders have significant senior-level finance, intellectual and developmental disabilities and child welfare services experience

Tom Shaffer
Managing Director

- Project executive supporting A&M's Child Welfare work for Oregon Governor K. Brown
- 20+ years of experience as an interim financial executive and key advisor to commercial entities and government
- Has served as *de facto* CFO for a multi-billion agency in the Northeast and as interim CFO of two private-sector organizations
- Driving transformation of Maryland Department of Health's Developmental Disabilities Administration
- Led A&M's work with North Carolina's Medicaid Office to support its $8B appropriations request
- Led A&M's assessment of and public report on the operational efficiency of the $70B United States Postal Service
- Certified Project Management Professional
- M.B.A, Harvard Business School

Wanda Seiler
Managing Director

- Project leader supporting A&M's Child Welfare work for Oregon Governor K. Brown
- 30+ years of state government and commercial experience
- Specializes in human and social services program assessment and restructuring
- Has provided expert witness and trial consultation to four states on *Olmstead* class action lawsuits
- Former state director for developmental disabilities services and assistant director for mental health services
- Provided service system stabilization and transformation support to over a dozen state agencies
- M.P.A., University of South Dakota

Daniel Harlan
Senior Director

- 10+ years of state and federal consulting experience
- Leading teams supporting Maryland's Developmental Disabilities Administration (DDA) - a $1B Medicaid program - to establish a path for the transformation of its operations and Rhode Island's Child Welfare agency to transform private agency foster care reimbursement systems
- Key member of a team that identified $100 mm+ in efficiencies across heath care expenditures in a territory
- Prior to A&M, worked with multiple federal agencies to replace legacy IT systems and refine business processes
- B.A. in Systems Engineering, University of Virginia