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NYS HEALTH FACILITIES ASSOCIATION

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## **COVID-19 Aid Programs for Small and Medium Sized Organizations**


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CPAs, Consultants & More

*April 30, 2020*



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## COVID-19 Aid Programs Created in Recent Weeks

1. Paycheck Protection Program (PPP)
2. Economic Injury Disaster Loan (EIDL)
3. Main Street Loan Program
4. Payroll tax deferral
5. Other Programs:
  - a. Mid-size Loan Program
  - b. Employee Retention Credit
  - c. Sick and FMLA Leave Credits
  - d. Other considerations
  - e. HHS Stimulus
  - f. FEMA

## **But First....quick resources!**

### **SBA**

<https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>

### **US Treasury**

<https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>

### **Bonadio & Co., LLP**

<https://www.bonadio.com/covid-19/>

# COVID-19 Aid Programs At-a-Glance

**Warning – Do NOT base decisions off of this “at-a-glance” summary!**

	Paycheck Protection Program (PPP)	Economic Injury Disaster Loan (EIDL)	Mid-Size Organization Loans	Main Street Loan Program (Proposed)	Employee Retention Credit	Sick and FMLA Leave Credits	Payroll Tax Deferral
<b>What is it?</b>	Loan program with forgiveness provisions	Loan program	Loan program from CARES Act not yet implemented	Proposed loan program as of 4/9/20; final rules awaited	Credit for payroll paid to retained employees	Credit for payroll paid to employees out of work for sick or FMLA leave	Deferral of remittance of payroll taxes
<b>Who can use it?</b>	Generally, orgs with less than 500 employees (exceptions apply); 501(c)(3) and (19) NFPs	Generally, orgs with less than 500 employees including most NFPs	Generally, orgs with 500 to 10,000 employees including most NFPs	Generally, orgs with up to 10,000 employees and 2019 revenue under \$2.5B. Proposal did not address NFPs' eligibility.	Orgs with operations fully or partially suspended causing a decline in gross revenue of >50% qtr over prior year qtr	Generally, <b>required</b> for orgs with less than 500 employees (exceptions apply for orgs under 50 and some others)	Orgs incurring payroll tax expense (OASDI 6.2%) between 3/27/20 and 12/31/20
<b>Main Benefits?</b>	Full or partial forgiveness if loan proceeds are spent on approved expenditures in prescribed time-frame <b>and</b> employee headcount maintained	Low interest loan with streamlined application process and favorable term up to 30 years	Allows Treasury to leverage Federal Reserve Bank lending capacity to amplify amounts available	Higher borrowing limits, unsecured, variable rate based on fed funds plus 2.5% to 4.0%	Refundable credit of 50% of eligible wages up to \$10,000 per employee kept on payroll but not working due to COVID-19 disruption	Credits for portion of normal pay maintained for up to 2 weeks of sick leave and up to 12 weeks of FMLA leave in 2020 if FMLA is due to COVID-19 disruption	Defer 2020 payroll taxes with payment required 50% on 12/31/21 and 50% on 12/31/22
<b>Other benefits?</b>	Loan rate 1.0%; can pre-pay without penalty anytime	An initial \$10,000 advance that is forgiven even if loan not taken	Details to be released soon	<i>Main Street Expanded Loans</i> allow even higher loan amounts with collateral	For orgs with < 100 employees, the credit is available whether or not employees are working	Covers portion of mandated leave costs	Interest and penalty-free payment deferral
<b>The downside?</b>	Maximum term 2 years	Direct loan through SBA; collateral may be requested for loans over \$25,000	Specific restrictions on activities including distributions to owners & management compensation	Specific restrictions on activities including distributions to owners & management compensation	Numerous detailed limitations and restrictions	Credit amounts limited based on each employee's normal pay and reason for leave	Relatively small near-term cash flow benefit
<b>How do you get it?</b>	Apply with participating bank or credit union	Apply on-line at SBA website	Details to be released soon	Apply with participating bank or credit union	Claim on Form 941 and deduct from payroll tax remittances	Claim on Form 941 and deduct from payroll tax remittances	Simply don't remit taxes and report on Form 941
<b>How much?</b>	Cap is 2 ½ times average monthly payroll or \$10M	Up to \$2 million	Details to be released soon	Up to the higher of \$25M or four times 2019 EBITDA	See above	Daily and aggregate per-employee limits	Generally, 6.2% of taxable payroll
<b>Interaction with other options?</b>	Cannot take a PPP loan and take the Employee Retention Credit	Companies can apply for and accept both PPP and EIDL loans	Details to be released soon	Can have both a PPP loan and a Main Street Loan	Must forego PPP loans to use this	Wages for which this is claimed not eligible for PPP forgiveness	Must forego forgiveness under PPP loan to use this
<b>Complicated details?</b>	Potentially quite complicated	Moderately complicated	Details to be released soon	Probably. We'll know when they are finalized on hopefully soon	Potentially quite complicated	Potentially quite complicated	Relatively simple



# Paycheck Protection Program

Increases the government guarantee of loans made for the Payment Protection Program under section 7(a) of the Small Business Act to 100 percent through December 31, 2020.

## Who is making the loans?

Banks and credit unions are making the loans, which are 100% guaranteed by the Small Business Administration (SBA). Lenders are not compelled to participate and some are not.

## How are lenders evaluating the borrower?

In evaluating the eligibility of a borrower for a covered loan, a lender can consider whether the borrower:

- was in operation on February 15, 2020;
- had employees for whom the borrower paid salaries and payroll taxes
- is a U.S. company.

# Paycheck Protection Program

In addition to small business concerns, any business concern, non-profit organization, veterans organization, or Tribal business is eligible to receive a covered loan if the business concern, non-profit organization, veterans organization, or Tribal business concern ***employs not more than the greater of—***

- 500 employees; or
- if applicable, the size standard in number of employees established by the Administration for the industry in which the organization operates.



# Paycheck Protection Program

## Affiliation Rules

For PPP, an applicant must consider not only its own activities but that of its affiliated entities to determine eligibility.

The consideration of “affiliates” for PPP is different than affiliate or related party considerations made in other contexts.

The guidance on this has evolved and may continue to evolve. The latest guidance includes four considerations to be affiliated:

1. Affiliation based on 50% or more ownership in the context of voting rights.
2. Affiliation based on one entity having the power to control another under contractual or other relationships.
3. Affiliation based on common management.
4. Affiliation based on identity of interest. This is where related entities (or individuals) operate similar businesses in common markets.



# Paycheck Protection Program

## Affiliation Rules

Despite the simple four bullet points on the previous slide, the affiliation rules can get quite complicated.

The SBA also has a “*totality of the circumstances*” consideration for determining affiliation that does not appear to be applicable to the PPP program specifically.

The applicant must certify that it is eligible including that the affiliation rules have been properly applied. Lenders are NOT responsible to adjudicate your affiliations.

## Document, Document, Document

Documenting affiliation considerations is critical if you have affiliated entities but believe you are not technically affiliated for PPP purposes.

# Paycheck Protection Program

## Maximum Loan Amount

The maximum PPP loan amount is:

- the *average total monthly payments* by the applicant for *payroll costs* incurred during the 1-year period before the date on which the loan is made *multiplied by 2.5*;
- plus the outstanding SBA loan amounts that were made beginning on January 31, 2020 and ending on the date you apply for this loan;
- PPP loans cannot exceed \$10,000,000.

Special rules exist for seasonal employers and businesses not in existence beginning 2/15/2019 and ending on 6/30/2019.

# Paycheck Protection Program

## Maximum Loan Amount

***Payroll Costs*** include:

- Gross salary, wage, commission, or similar compensation;
- Payment of cash tip or equivalent;
- Payment for dismissal or separation;
- Payment for the provision of group health care benefits, including insurance premiums (this includes health, dental, and vision insurance);
- Payment of retirement benefits; or
- Payment of state or local tax assessed on the compensation of employees;

# Paycheck Protection Program

## Maximum Loan Amount

***Payroll Costs*** do **NOT** include:

- The compensation of any individual employee in excess of an annual salary of \$100,000;
- Employer FICA;
- Benefits other than health insurance and retirement;
- Any compensation of an employee whose principal place of residence is outside the United States;
- Qualified sick leave or family leave wages for which a credit is allowed under the Families First Coronavirus Response Act (generally speaking, this will not apply at the parish level).

# Paycheck Protection Program

Are payments to independent contractors payroll?

***Do Independent contractors count as employees for purposes of PPP loan calculations?***

***NO. Independent contractors have the ability to apply for a PPP loan on their own so they do not count for purposes of a borrower's PPP loan calculation.***

# Paycheck Protection Program

## Faith-Based Organizations

The SBA issued specific guidance related to faith-based organizations, primarily answering the following two questions:

***Are faith based organizations, including houses of worship, eligible to receive SBA loans under the PPP and EIDL Programs?***

***Yes. There is no restriction based on religion.***

**“Is my faith-based organization disqualified from any SBA loan programs because it is affiliated with other faith-based organizations, such as a local diocese?”**

***No, so long as the affiliation is based on religious reasons and not operating or non-religious legal reasons.***

# Paycheck Protection Program

What documentation will I need to apply?

***Lenders have discretion to ask for what they want from PPP applicants.***

***The information required will vary from lender to lender. Therefore inquiring with your lender and following their instructions is critical.***



# Paycheck Protection Program

## What do I need for an application?

- 1: Clarify with lender if they want payroll cost data for calendar 2019 or the 12 month period through the date of the application. (Some will take either.)***
- 2: Form 941s or reports from payroll company for the desired period.***
- 3: Documentation of health and retirement benefit cost for the desired period.***
- 4: A spreadsheet or schedule summarizing this information, calculating average monthly payroll costs, and multiplying by 2.5 to arrive at loan amount.***

# Paycheck Protection Program

## Example Application Calculation:

Example Company Payroll - 2019		
Total Renumeration paid per NYS-45		
	NYS-45	941
Q1, 2019	151,413	129,761
Q2, 2019	130,316	112,187
Q3, 2019	143,534	122,433
Q4, 2019	<u>122,033</u>	<u>104,115</u>
	547,296	<u>468,496</u>
Benefits		
Pension	65,676	
Health	85,231	If you started with gross payroll, and the employee pays for some of these benefits, only add the employer portion here.
Dental	2,206	
Life	<u>2,433</u>	
Total	<u>702,841</u>	
Average	<u>58,570</u>	
x 2.5	<u>146,425</u>	

# Paycheck Protection Program

## What else must I commit to in the application?

- 1: Current economic uncertainty makes the loan request necessary to support on-going operations.***
- 2: You are eligible for the PPP program.***
- 3: PPP loan funds will be used to pay four things: payroll, mortgage interest, rent, and utilities.***
- 4: You are only applying for one PPP loan.***
- 5: Everything included with the application is true and accurate.***
- 6: Everything included with the application can/will be shared with the SBA.***
- 7: You understand you will be required to provide more information after 8 weeks related to requesting loan forgiveness.***



# Paycheck Protection Program

**Is my application subject to public disclosure?**

***The bank or credit union you are submitting your application to has an obligation to keep your information secure and confidential. But they also are required to share all of that information with the SBA.***

***As a federal agency, the SBA is subject to Freedom of Information requests. All applicants should understand that their application, and the ultimate disposition of the loan, whether forgiven or repaid, can/will become public information at some point in the future.***

# Paycheck Protection Program

## Loan Forgiveness

An individual or entity that is eligible to receive a covered loan is eligible for forgiveness of indebtedness on that loan in an amount equal to the sum of the following costs incurred and payments made during **the 8-week period beginning on the date of the origination of a covered loan:**

- payroll costs;
- any payment of interest on any covered mortgage obligation
  - any indebtedness or debt instrument incurred in the ordinary course of business that is a liability of the borrower, is a mortgage on real or personal property and was incurred before 2/15/2020;
- any payment of a rent obligation made under a leasing agreement in force before 2/15/2020;
- any utility payment related to the distribution of electricity, gas, water, transportation, telephone or internet access for which service began before 2/15/2020.

# Paycheck Protection Program

## Loan Forgiveness- other considerations

1. Funds spent outside the 8 week period will not be forgiven. The 8 week 'covered period' starts on the loan origination date, which is the date you receive the funds.
2. Keep in mind the forgiveness (and the original loan amount) must exclude any annual compensation above \$100,000.
3. **Forgiveness Reduction**- The SBA has stated that 25% of the forgiven amount may be for non-payroll costs such as mortgage interest, rent, and utility costs. If less than 75% of your claimed costs are payroll costs (as defined), your forgiveness will be limited.
4. **Forgiveness Reduction**- may be reduced if there is a reduction in full time equivalent employees at June 30, 2020 when comparing to the lesser of the average number of full time equivalent employees per month employed by the eligible recipient during the period beginning February 15, 2019 and ending on June 30, 2019 OR January 1, 2020 and ending on February 29, 2020.

# Paycheck Protection Program

What happens if some of the loan balance is not forgiven?

1. Whatever is not forgiven becomes a loan with deferred payments for six months at 1% interest, payable over 2 years.
2. These loans can be pre-paid at any time without penalty.



# Paycheck Protection Program

## How do I ensure full forgiveness of a PPP loan?

1. Spend all the loan proceeds on payroll (as defined), rent, mortgage interest, and utilities in the 8 week period starting on the day you receive the loan proceeds.
2. Make sure your expenditure of the loan proceeds is at least 75% for payroll (as defined).
3. Maintain or re-establish your FTE complement:
  - a. If you reduced FTE between 2/15/20 and 4/26/20, get back to your 2/15/20 FTE level before 6/30/20, **OR**
  - b. Maintain your FTE level during the 8-week spend period at the FTE level you had during a pre-COVID-19 time period (either from 2/15/19 to 6/30/19 or from 1/1/20 to 2/29/20).
4. Talk to your lender in advance about what documentation they will require related to the forgiveness process and make sure you have that documentation.

# Paycheck Protection Program

**If I take the PPP or EIDL loan can I also receive the employee payroll tax retention credit (Sec 3606)?**

**A: NO, the payroll tax credit is not available to an employer who receives a loan under section 7(a) of the Small Business Administration, including SBA Economic Injury Disaster Loan (EIDLs) or a CARES Paycheck Protection Program loan.**

# Paycheck Protection Program

If I take the PPP loan can I also defer the payment of my payroll taxes (Sec. 2302)?

A: The ability to defer payroll taxes is available to employers who take a PPP loan ***but only through the date the forgiveness amount is determined.***

# Paycheck Protection Program

**What if a business already had a layoff or furlough, can they still qualify for loan forgiveness under PPP CARES?**

A: The CARES Act specifies that loan forgiveness under PPP shall be determined without regard to a reduction in the number of full-time equivalent employees of an eligible recipient or a reduction in the salary of 1 or more employees of the eligible recipient, during the period beginning on February 15, 2020 and ending on the date that is 30 days after the enactment of the Act (April 26, 2020).

**HOWEVER, it is important to note that amount of loan forgiveness will be determined without regard to the employee reduction noted above if no later than June 30, 2020 the employer has eliminated the employee reduction that occurred in the period between February 15, 2020 and April 26, 2020.**

# Paycheck Protection Program

**Any other questions on PPP loans?**

# Economic Injury Disaster Loan (EIDL)

## Who Qualifies?

Small businesses as defined by the SBA at

<https://www.sba.gov/document/support--table-size-standards>

Available to small businesses, small agricultural cooperatives, small aquaculture businesses and most private non-profit organizations (tax exempt organizations under Section 501(c),(d), or (e))

The definition is expanded for the period beginning on January 31, 2020 and ending December 31, 2020 to include

1. A business not more than 500 employees
2. An individual who operates as a sole proprietorship (with or without employees) or an independent contractor
3. A cooperative with not more than 500 employees
4. An ESOP with not more than 500 employees or
5. Tribal small business concern with not more than 500 employees

Must have a physical presence in the declared disaster area (All of NYS is a declared disaster area). A listing of currently declared disaster areas is available at <https://disasterloan.sba.gov/ela/Declarations/Index>

# Economic Injury Disaster Loan (EIDL)

## Maximum Loan Amount and Collateral

1. May qualify for loans up to \$2 Million
2. Eligibility for these working capital loans are based on the size and type of business and its financial resources.
3. For the period beg. January 31, 2020 ending December 31, 2020, removed the requirement that the applicant must be able to obtain credit elsewhere.
4. For the period beg. January 31, 2020 ending December 31, 2020, personal guarantee only required on loans in excess of \$200,000.
5. SBA takes real estate as collateral
6. SBA will not decline for lack of collateral but requires borrowers to pledge what is avail.



# Economic Injury Disaster Loan (EIDL)

## Key Terms of EIDL loans

1. During the period beg. Jan. 31, 2020 ending Dec. 31, 2020, a loan received by an eligible entity due to COVID-19 may request an advance of not more than \$10,000 after receipt of application.
2. An applicant is NOT required to repay any amount of the advance provided, even if subsequently denied a loan.
3. 2.75% interest rate is charged for nonprofit organizations with terms up to 30 years. Rate for for-profit applicants is 3.75%
4. SBA can defer principal payments up to 1 year.

# Economic Injury Disaster Loan (EIDL)

## Loan Use / Forgiveness / Where do I apply?

1. Pay for fixed debts, payroll, rent, accounts payable, and other bills that could have been paid had the disaster not occurred.
2. Cannot claim costs against EIDL loan that were included in a forgiveness claim under PPP program.
3. NOT intended to replace lost sales or profits or for expansion.
4. \$10,000 advance does not need to be repaid, but it does reduce forgiveness of a PPP loan by \$10,000 if you also have one of those.
5. No other forgiveness of debt.
6. Apply at: <https://covid19relief.sba.gov/#>

# Economic Injury Disaster Loan (EIDL)

**Any other questions on EIDL loans?**

# Main Street Lending Program

## Current status of this program:

- This loan program was established by the CARES Act for employers with up to 10,000 employees.
- This will be administered through the Federal Reserve Banks.
- The CARES Act allotted \$75B to fund the program, and the Fed is kicking in an additional \$525B to establish a \$600B fund.
- Banks and credit unions will originate these loans and the Fed will buy 95% of the balance without recourse.

# Main Street Lending Program

## Current status of this program:

- On April 9, 2020, the Fed issued “term sheets” describing this loan program.
- They are seeking comment and input from stakeholders through April 16.
- After that, detailed terms and conditions will be issued for this program. As of 4/25, these terms and conditions have not been issued.

# Main Street Lending Program

## Eligibility:

- To be eligible for a Main Street loan, the proposal indicates you must:
  - Have fewer than 10,000 employees
  - Have 2019 gross revenue under \$2.5B
  - Be a U.S. business with most of your employees in the U.S.
  - There is no mention of not-for-profit organizations being “in” or “out” for this program.

# Main Street Lending Program

## Proposed financial terms:

- The proposal indicates these loans will carry the following terms:
  - Variable rate of Fed Funds rate (currently 0.01%) plus 2.5% to 4.0%.
  - Four year term
  - 12 months deferred payments
  - Minimum loan \$1M
  - Maximum loan \$25M or four times 2019 EBITDA, whichever is higher
  - Unsecured
  - No pre-payment penalties



# Main Street Lending Program

## Proposed restrictive terms:

- The proposal indicates these loans will carry the following restrictions:
  - Cannot use this loan to repay other loans
  - Certify you need this loan due to the financial effects of the COVID-19 disruption
  - Must agree to restrictions on dividends, executive compensation, stock buy-backs, and other elements similar to the Mid-Sized Loan Program.

# Main Street Lending Program

## The Main Street Expanded Loan Facility:

- The proposal includes this “sister” loan program
  - Basically the same terms and conditions as the Main Street Lending Program except:
  - This allows for the expansion of existing loan agreements from before 4/8/20
  - Loan amounts up to \$150M or six times 2019 EBITDA, whichever is higher
  - Collateral required

# Main Street Lending Program

## Other provisions:

- No forgiveness with these loans.
- A borrower can have a PPP loan and a Main Street Lending Program loan.
- These loans will also be originated through the same banks and credit unions originating the other loan programs.

# Main Street Lending Program

**Questions on Main Street Lending Program?**

**We will find out more when the Fed issues the promised guidance.**

# Delay of Payment of Payroll Taxes

## What is it?

- Deferral of payment ***applicable employment taxes*** for the ***payroll tax deferral period*** until the ***applicable date***. ***The applicable employment taxes are OASDI taxes or FICA taxes.***
- Deferral of 50% of self-employment taxes under IRC Sec. 1401(a) for the ***payroll tax deferral period*** until the ***applicable date***; additionally, 50% of self-employment taxes are not treated as taxes subject to estimated tax payment requirements.

# Delay of Payment of Payroll Taxes

## What is the payroll tax deferral period?

- The period beginning on the date of enactment of the CARES act and ending before January 1, 2021.

## What is the applicable date?

- December 31, 2021 with respect to 50% of the amounts delayed, and
- December 31, 2022 for the remainder.

# Delay of Payment of Payroll Taxes

## What is the fine print?

- This section is not applicable to any taxpayer who had indebtedness forgiven under the PPP Loan Program.
- If an employer directs a CPEO or other third-party pay agent to defer payment of employer payroll taxes under this section, the employer, and not the CPEO or other third-party pay agent, is solely liable for payment of the deferred payroll taxes before the applicable dates.



# Delay of Payment of Payroll Taxes

**Questions on Payroll Tax Deferrals?**

# Mid-size Organization Loans

## Current status of this program:

- This loan program was established by the CARES Act for employers with 500 to 10,000 employees.
- The CARES Act calls for it to allow for the following loans terms:
  - 2% fixed interest
  - 12 months payment deferral
  - Terms up to 30 years
- This program includes restrictive terms including restrictions on dividend payments, stock buy-backs, executive compensation, and other items.

# Mid-size Organization Loans

## Current status of this program:

- It is likely that these loans will be administered through the same lenders currently administering PPP loans. These lenders have capacity constraints right now.
- Regulatory guidelines detailing how these loans will work are not available.
- There is roughly \$300B allocated for these programs in the CARES Act.
- We all need to stay tuned on how this program will work.

# Mid-size Organization Loans

Questions on Mid-Sized Organization Loans?

# Employee Retention Credit

## Who is an eligible employer?

Any employer which was carrying on a trade or business during calendar year 2020 AND

With respect to any calendar quarter for which:

- The operation of the trade or business is fully or partially suspended during the calendar quarter due to orders from an appropriate government authority limiting commerce, travel, or group meetings due to the coronavirus; or
- The calendar quarter is within a period showing a significant decline in gross receipts; defined as for the first calendar quarter beginning after December 31, 2019 for which **gross receipts (defined in IRC Sec. 448(c)) for the calendar quarter are less than 50% of gross receipts for the same calendar quarter in the prior year.** This period ends with the calendar quarter following the first quarter for which gross receipts are 80% of gross receipts for the same calendar quarter in the prior year;.
- **Cannot take this credit if you take a PPP loan.**

# Employee Retention Credit

## What is it?

- Credit against **applicable employment taxes** for each calendar quarter of 50% of **qualified wages** paid by **an eligible employer** to an employee for such calendar quarter, up to a maximum of \$10,000 of wages per employee.
- Applies to wages paid after March 12, 2020 and before January 1, 2021.
- Credit limited to employment taxes paid to all employees during the quarter (taking into account credits, including credits under Sections 7001 and 7003 of the Families First Coronavirus Response Act).
- Excess credit claimed is refundable.
- The Treasury Secretary may prescribe guidance to allow for advance payment of the credit.
- Failure to make deposits of employment taxes in reasonable anticipation of the credit is grounds for having penalties under IRC Sec. 6656 waived.

# Employee Retention Credit

## What are applicable employment taxes?

- **Taxes imposed on employer under IRC Section 3111 (a) (OASDI taxes also known as FICA tax.**
- **Tier 1 Railroad Retirement Taxes imposed on employer under IRC Sec. 3221 (a).**



# Employee Retention Credit

## What's the fine print?

- Rules similar to those in IRC Sec. 51(i)(1) (which limits availability of employment credits for wages paid to certain related parties) and IRC Sec. 280C(a) (which disallows a deduction for wages for which an employment credit is claimed) apply.
- The credit is not available to Federal, state, or local government employers.
- Employees taken into the account for the Work Opportunity Tax Credit are not taken into account for purposes of the credit.
- Wages taken into account for the Employer Credit for Paid Medical Leave are not taken into account for purposes of the credit.
- If an eligible employer receives a “covered loan” under para. 36, Section 7(a) of the Small Business Act (i.e., a “Paycheck Protection Loan”), the employer is not eligible for the credit.
- If a “customer” uses a CPEO, the “customer” is eligible for the credit.

# Employee Retention Credit

## What are qualified wages?

- Eligible employers with average number of full-time employees >100: wages paid with respect to which an employee is not providing services due to circumstances described on the preceding slide; may not exceed the amount such employee would've been paid for working an equivalent duration during the 30 days immediately preceding such period.
- Eligible employers with average number of full-time employees of 100 or less: all wages paid to employees.
- Aggregation rules under 52(a), 52(b), 414(m) and 414(o) apply to determine employer size.
- Wages taken into account under Section 7001 or Section 7003 of the Families First Coronavirus Response Act are NOT qualified wages.
- Qualified wages DO include so much of the eligible employer's qualified health plan expenses as are properly allocable to such wages (to the extent excludible from income pursuant to IRC Sec. 106).

# Employee Retention Credit

Questions on Employee Retention Credit?

# Sick and FMLA Leave Credits

## What are they?

If you are offering the expanded sick and Family Medical Leave Act Leaves passed by Congress in March 2020, you can claim credits against the costs of keeping individuals on your payroll who are not working under the terms of these leaves.

These are claimed as credits against employer payroll taxes.

The eligibility rules and limits are complex and must be coordinated through your Human Resources function and payroll provider.

Keep in mind that wages for which this credit is claimed are not eligible for PPP loan forgiveness.

# Sick and FMLA Leave Credits

**Questions on Sick and FMLA Leave Credits?**

# Enhanced Unemployment Benefit

- Additional \$600 per week unemployment benefit for laid-off/ furloughed workers **cannot** count against the employer in terms of unemployment costs or experience rating.

# HHS Provider Relief Fund

- The CARES Act created a \$100 billion provider relief fund to address the economic harm to healthcare providers due to the suspension of elective procedures, increase in the number of uninsured, and expense of treating COVID-19.
  - General Allocation to Medicare Providers
    - \$30 billion initial distribution based on 2019 Medicare Net Reimbursement released electronically 4/10/2020.
    - \$20 billion second round starting 4/2/2020 that when added to the initial payment results in a total payment equal to 2% of 2018 Net Patient Revenue as reported on the 2018 Medicare Cost Report.
    - Providers must attest to receiving both payments and to terms and conditions.



# HHS Provider Relief Fund

- \$10 billion targeted to hospitals in COVID-19 high impact areas. Based on proportion of COVID-19 positive admissions between 1/1 - 4/10/2020.
- \$10 billion allocated for rural health clinics and hospitals based on operating expenses and using a methodology that distributes payments proportionally to providers & clinics.
- \$400 million for Indian Health Service and distributed based on operating expenses.

# HHS Provider Relief Fund

- Additional funds for treatment of the uninsured.
  - Treatment for uninsured COVID-19 patients on or after 2/4/2020 can submit claims and will be reimbursed at Medicare rates.
  - Register here: [coviduninsuredclaim.hrsa.gov](https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html).
- Remaining funds will be reserved for skilled nursing facilities, dentists, and providers that solely take Medicaid.
- Further information can be found here: <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html>

# HHS Provider Relief Fund

Questions on HHS Provider Relief Fund?

# FEMA – DR-4480 (COVID-19)

**\*\*ONLY AVAILABLE FOR PRIVATE NON-PROFIT (PNP's) ORGANIZATIONS\*\***

**NYS – Disaster Recovery Website for all Resources:**

<http://www.dhSES.ny.gov/recovery/public/active-declarations.cfm>

- Declaration Date: March 20, 2020
- Incident Period: January 20, 2020 – TBD
- FEMA will provide financial assistance for eligible expenses that are a direct result of COVID-19.
  - All 62 counties in NYS have been declared for DR-4480
- Eligible expenditures for activities conducted on or after January 20<sup>th</sup> can be submitted to FEMA for reimbursement.
  - There are four “Tiers” of Eligibility (Cost, Work, Facility, Applicant) that must all be eligible to obtain FEMA Funding.

# FEMA – DR-4480 (COVID-19)

## FEMA's COVID-19 PUBLIC ASSISTANCE DELIVERY MODEL



● Currently at this step of the process

The first step is for Applicants to have FEMA Grants Portal accounts established. Once your account is established, DHSES will submit your Request for Public Assistance (RPA) in Grants Portal. Once FEMA approves your RPA, you will be able to submit projects in Grants Portal.

- FEMA Grants Portal – <https://grantee.fema.gov>

# FEMA – DR-4480 (COVID-19)

## REQUEST FOR PUBLIC ASSISTANCE (RPA)

- Declaration Date: March 20, 2020
  - Currently no deadline (usually within 30 days, but given the circumstances, currently open)
- Recommend submission ASAP for review and approval by FEMA
- RPA for Governmental Entities:  
<http://www.dhSES.ny.gov/recovery/public/documents/DR4480-RPA-Packet.pdf>
- RPA for Public Non-Profits:  
<http://www.dhSES.ny.gov/recovery/public/documents/DR4480-PNP-RPA-Packet-Private-Not-for-Profit.pdf>
- Email completed form to:  
[Patricia.debboli@dhSES.ny.gov](mailto:Patricia.debboli@dhSES.ny.gov) or fax to (518) 322-4984
- Once RPA is approved, training on the Grants Portal will be provided. The Grants portal contains useful resources, guides, policy, etc.

# FEMA – DR-4480 (COVID-19)

Questions on FEMA DR-4480 (COVID-19)?

# Thank You!

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