



## **Brief Summary of Provisions of Interest to PACE from the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act April 3, 2020**

### ***Provisions Directly Impacting PACE***

#### **Temporary Suspension of Medicare Sequester Reduction**

Section 3709 of the CARES Act suspends the Medicare two percent (2%) sequester reduction from May 1, 2020 – December 31, 2020. This action temporarily restores 2% to all PACE Medicare capitation payments during this time period.

#### **Paid Sick Leave and Expanded Family and Medical Leave**

Sections 3102 and 5102 of the FFCRA state that, private employers with fewer than 500 employees and certain public sector employers are required to provide for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons. In addition, employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for caring for a child whose school or place of care is closed (or whose child care provider is unavailable) due to COVID-19 related reasons.

These leave provisions apply from April 1, 2020 through December 31, 2020. Employers are required to post a notice of these rights or provide them directly to their employees. The required [notice](#) explains in plain English the qualifying reasons an employee may take leave. For more information, visit the [U.S. Department of Labor's Families First Coronavirus Response Act: Questions and Answers webpage](#).

#### **Paycheck Protection Program**

Section 1102 of the CARES Act created the Paycheck Protection Program (PPP) providing forgivable loans to small businesses with less than 500 employees that can be used for several types of expenses so that these businesses can continue to meet their payroll obligations. Covered expenses include payroll (and benefits), utilities, rent, and mortgage interest payments. The definition of small business includes 501(c)(3) non-profits. Applications for the PPP loans will be taken by Small Business Administration (SBA) lenders beginning on Friday, April 3 on a first-come, first-served basis. The total amount available under the PPP is \$349B, with individual loans of up to \$10M. Applications must be submitted no later than June 30. For more information, visit the [SBA PPP page](#).

#### **Emergency Economic Injury Disaster Loan Program Grants**

Section 1110 of the CARES Act established the Emergency Economic Injury Disaster Loan (EIDL) Program Grants. One of the longstanding disaster relief programs run by the SBA is the EIDL program, which provides lower interest loans not to exceed \$2 million to pay for expenses

that, were it not for a disaster, a small business ordinarily generated enough income to cover. Eligible loan recipients include small businesses and tribal small businesses with less than 500 employees, 501(c)(3) nonprofits, private foundations, sole proprietorships, and independent contractors. The CARES Act now permits the SBA to provide advance emergency grants for entities that have applied for an EIDL due to COVID-19. The grants may not exceed \$10,000 and must be distributed by the SBA within three days, which does not have to be repaid, even if the applicant subsequently is denied an EIDL. Visit the [SBA EIDL page](#) for more information.

### **Modifications to Confidentiality and Disclosure of Substance Use Disorder Records**

Section 3221 of the CARES Act modifies the existing regulations (42 CFR Part 2) concerning the confidentiality and privacy of those receiving substance use disorder treatment under a federal program to allow the following, among other changes, to make it more consistent with HIPAA: use and disclosure of contents of the medical record with prior written patient consent; such information to be disclosed for the purposes of treatment, payment, and health care operations; and such prior written consent applies to all future uses and disclosures in accordance with HIPAA protections until revoked by the patient. For more information on HIPAA requirements during the COVID-19 pandemic, please visit the [HHS HIPAA webpage](#).

### **Medicare Hospital COVID-19 Inpatient Payment Add-on During Emergency Period**

Section 3710 of the CARES Act directs CMS to increase the final rates by 20 percent (20%) for all hospital inpatient stays for beneficiaries diagnosed with COVID-19 for the duration of the emergency period. This section, while not directly applicable to PACE program Medicare capitation payments, will affect those PACE programs whose contracted hospital rates are tied to the Medicare fee-for-service payment amounts, known as the Hospital Inpatient Prospective Payment System (IPPS).

### **Medicaid Spousal Impoverishment Protections Extension**

Section 3812 of the CARES Act extends the current Medicaid spousal impoverishment protections until November 30, 2020. This provision also clarifies that states are not barred from applying resource or income criteria to beneficiaries qualifying for/or needing home and community based services (HCBS) and for disregarding a spouse's assets and income spent on medical care for those medically needy beneficiaries who need HCBS.

## ***Provisions That May Impact PACE***

### **Medicaid State Federal Medical Assistance Percentage Increase During Emergency Period**

Section 6008 of the FFCRA enables states to receive a temporary 6.2 percent (6.2%) increase in their customary Federal Medical Assistance Percentage (FMAP) matching rate during the emergency period. All states and U.S. territories are eligible for the FMAP increase if they meet the following conditions:

- i. No imposition of additional eligibility standards, methodologies, or procedures than what was in effect on January 1, 2020;
- ii. Premium amounts are not increased beyond those in place on January 1, 2020 (the CARES Act allows for states to receive the 6.2% FMAP increase for 30 days if premiums

are currently higher so that state action can be taken to reduce the premiums to the January 1, 2020 amount);

- iii. No cost-sharing for any testing services and treatments for COVID-19, including vaccines, specialized equipment, and therapies; and
- iv. No termination of beneficiaries enrolled at the beginning or during the emergency period, unless the beneficiary no longer is a state resident or requests to be disenrolled.

Each state has the ability to decide how to spend the additional funds provided through the 6.2% FMAP increase, thus any potential funding increase for PACE will be determined at the state level.

### **Public Health and Social Services Emergency Relief Fund**

Title VII allocates \$100 billion to the HHS Assistant Secretary for Preparedness and Response under this new program providing grants to entities including: hospitals, public entities, not-for-profit entities, and Medicare and Medicaid enrolled suppliers and providers. These grants are intended to cover health care related expenses or lost revenues due to COVID-19. Depending on further information not issued yet by the HHS Secretary clarifying which providers are eligible, PACE programs may be eligible.

### **Centers for Disease Control Funding to Support Federal, State, and Local Public Health Agencies to Prevent, Prepare For, and Respond to COVID-19**

Title VII appropriates \$4.3 billion to the Centers for Disease Control (CDC) for public health efforts to prevent, prepare for, and respond to COVID-19. Of the total, \$1.5 billion will go to states, local level, territories, and tribes for public health activities, including: purchase of personal protective equipment; COVID-19 surveillance, diagnostic laboratory testing to detect positive cases and contact tracing to identify additional cases, infection control and mitigation, and at the local level to prevent the spread of the virus; and other public health preparedness and response activities. Another \$1.5 billion is provided to fund efforts to contain and fight COVID-19 virus, including quarantine efforts, purchase/ distribution of diagnostic test kits, workforce training, battling antimicrobial resistance and antibiotic resistant bacteria as a result of secondary infections related to COVID-19. Depending on how federal, state and local public health entities receive and distribute the support provided in this section, PACE organizations may benefit.

### **State Grants for Child Care Development**

Title VII provides \$3.5 billion for Child Care Development Block Grants to states, which will enable states to fund child care programs. These funds that will be used by child care entities to meet COVID-19 emergency staffing needs of health care workers and first responders during the pandemic.

### **Health Resources and Services Administration Telehealth Funding**

Title VII provides the Health Resources and Services Administration with \$180 million dollars for telehealth grants for health care delivery, education and information under the existing Telehealth Network Grant Program. Eligible applicants may include not for profit and tribal entities, among others. Depending on the definition of eligible applicants when the grants are released, PACE organizations may be able to apply.

**Note: NPA will provide additional information as it becomes available.**