American Society for Gastrointestinal Endoscopy

Coronavirus Aid, Relief, and Economic Security Act (CARES) Paycheck Protection Program

Summary:

The CARES Act amends Section 7(a) of the Small Business Act by creating the Paycheck Protection Program. Congress allocated $349 billion to the Program which provides direct incentives for small businesses, including physician practices, to keep their workers on payroll by providing each small business a loan up to $10 million for payroll and certain other expenses.

The Paycheck Protection Program will be available through June 30, 2020. Lenders may begin processing loan applications as soon as April 3, 2020.

Information about the Paycheck Protection Program is available from the Small Business Administration.

A sample application form can be found here.

This summary constitutes the best available information at the date of publication.

What is the Covered Period for an Eligible Participant to Receive a Loan?

February 15, 2020 through June 30, 2020

Who is Eligible?

During the period of February 15, 2020 through June 30, 2020, a small business, including a physician practice, of not more than 500 employees may receive a loan under the program. Eligibility also extends to any business concern, 501(c)(3) nonprofit organization, veterans' organization, or Tribal business concern, as well as individuals who operate under a sole proprietorship or as an independent contractor, and self-employed individuals.

Businesses in certain industries may have more than 500 employees if they meet the SBA's size standards for those industries.

How Are Employees Defined?

Individuals employed on a full-time, part-time, or other basis.

What is the Maximum Loan Amount?

The loan amount is determined by multiplying the average total monthly payments for payroll costs incurred during the 1-year period before the date on which the loan is made (except in the case of an applicant that is seasonal employer) by 2.5.

Loans made to an applicant for period beginning on Jan. 31, 2020 can be refinanced and added to the new 7(a) Payroll Protection Program loan.

The amount of the loan cannot exceed $10 million.

What Constitutes Payroll Costs?

The sum of:

- salary, wage, commission, or similar compensation;
- payment of cash tip or equivalent;
- payment for vacation, parental, family, medical, or sick leave;
- allowance for dismissal or separation;
- payment required for the provisions of group health care benefits, including insurance premiums;
- payment of any retirement benefit; or
- payment of State or local tax assessed on the compensation of employees.

Does not include:

- the compensation of an individual employee in excess of an annual salary of $100,000, as prorated for the covered period;
- federal tax withholdings;
- compensation of an employee whose principal place of residence is outside of the United States;
- qualified sick leave wages for which a credit is allowed under section 7001 of the Families First Coronavirus Response Act (Public Law 116–127); or
- qualified family leave wages for which a credit is allowed under section 7003 of the Families First Coronavirus Response Act (Public Law 116–127).

How Can the Loan be Used?

- payroll costs (per definition above);
- costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums;
- employee salaries, commissions, or similar compensations;
- payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation);
- rent (including rent under a lease agreement);
- utilities; and
- interest on any other debt obligations that were incurred before the covered period.

What are the Borrower Requirements?

An eligible applicant must make a good faith certification that:

- the uncertainty of current economic conditions makes the loan necessary to support ongoing operations;

- funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; and
- the loan or loan application is not duplicative.

Is a Personal Guarantee Required?

No. A personal guarantee and collateral is not required.

What Happens to the Portion of the Loan that isn't Forgiven?

The SBA has stated this loan has a maturity of 2 years and an interest rate of .5 percent. Payment on the loan, including principal, interest, and fees, will be deferred for at least 6 months.

Are there Penalties for Prepayment?

No.

How Must the Loan be Used to be Deemed Forgivable?

An eligible recipient shall 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;
- payments of interest on any covered mortgage obligation (which shall not include any prepayment of or payment of principal on a covered mortgage obligation), defined as a mortgage on real or personal property incurred before February 15, 2020;
- payments on any covered rent obligation defined as rent obligated under a leasing agreement in force before February 15, 2020; and
- covered utility payments defined as electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.

For the purpose of loan forgiveness, the covered period is the 8-week period beginning on the date of the origination of a covered loan.

The SBA has indicated that due to likely high subscription, at least 75 percent of the forgiven amount must have been used for payroll costs.

What are the Limits on the Amount of Forgiveness Amount?

The amount of forgiveness cannot exceed the principal.

The amount of loan forgiveness is reduced as a result of a reduction in employees during the covered period. Any reduction is determined by multiplying the sum of amounts eligible for forgiveness (payroll costs, mortgage obligations, rent, utilities) by the number obtained by:

- dividing the average number of full-time equivalent employees per month employed by the loan recipient during the covered period by (at the election of the borrower) the:

a) the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on February 15, 2019 and ending on June 30, 2019; or

b) the average number of full-time equivalent employees per month employed by the eligible recipient during the period beginning on January 1, 2020 and ending on February 29, 2020.

(The average number of full-time equivalent employees is determined by calculating the average number of full-time equivalent employees for each pay period falling within a month.)

Furthermore, the amount of loan forgiveness will be reduced by the amount of any reduction in total salary or wages of any employee [defined as an employee who did not receive, during any single pay period during 2019, wages or salary at an annualized rate of pay in an amount more than $100,000] 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.

The law creates an exemption for re-hires by June 30, 2020. Meaning, there will be no reduction in the amount of loan forgiveness if the employer eliminates the reduction in full-time equivalent employees and eliminates any reduction in salary or wages by June 30, 2020.

Will the Amount of the Loan Forgiven be Taxed?

No. It will be excluded from gross income.

What is Needed to Apply?

- Documentation verifying the number of full-time equivalent employees on payroll and pay rates during the 8-week covered period including: a) payroll tax filings reported to the Internal Revenue Service; and b) State income, payroll, and unemployment insurance filings;

- documentation, including cancelled checks, payment receipts, transcripts of accounts, or other documents verifying payments on covered mortgage obligations, payments on covered lease obligations, and covered utility payments;

- a certification from a representative of the eligible recipient authorized to make such certifications that: a) the documentation presented is true and correct; and b) the amount for which forgiveness is requested was used to retain employees, make interest payments on a covered mortgage obligation, make payments on a covered rent obligation, or make covered utility payments; and

- any other documentation the Administrator determines necessary.

How to Apply

Those eligible can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. Consult with your local lender as to whether it is participating in the program.

Sense of the Senate

The law carries a “Sense of the Senate” which does not carry the force of law which states, “the Administrator should issue guidance to lenders and agents to ensure that the processing and disbursement of covered loans prioritizes small business concerns and entities in underserved and rural markets, including veterans and members of the military community, small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C)), women, and businesses in operation for less than 2 years."