

LUGPA UPDATE ON CARES ACT AND ASSISTANCE FOR PHYSICIAN PRACTICES DURING THE COVID-19 CRISIS

March 26, 2020



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Comprehensive Care

LUGPA POLICY and ADVOCACY

- **Over the past 10 days, much has changed for everyone in America, including healthcare providers.**
- **Some are in the trenches fighting COVID-19. Other providers have—understandably—had their practices essentially shut down as the public is urged to stay at home and physicians are instructed not to perform elective surgery.**
- **DC policy makers were well-aware of the operational and financial stress hitting the hospitals.**
- **However, DC policy makers were much less aware of the economic impact the crisis is having on independent medical practitioners, whose survival is critical to the nations' healthcare infrastructure.**
- **Increasingly alarmed at the lack of attention to the threat facing independent medicine, LUGPA swung into action in DC this past week.**

LUGPA POLICY and ADVOCACY

- **LUGPA team worked with Senators Barrasso (R-WY), Bennet (D-CO) and Rep. Ruiz (D-CA), Dr. Roe (R-TN) to draft a bill that would provide grants and loans to independent physician practices and ASCs to provide immediate emergency relief during this crisis.**
- **LUGPA worked closely with key legislators to provide policy assistance to those drafting legislation to make certain that healthcare funds and resources could be accessed by not just hospitals but providers as well.**
- **At critical moments over the past week, LUGPA practices engaged in grassroots efforts into Senate and House offices to urge inclusion of these critical economic tools and ensure independent physicians could access them.**
- **LUGPA political affairs and health policy teams leveraged relationships with Senators and staff to ensure independent physician practices can access critical economic stimulus measures.**

Telehealth Provisions

- **Previously, Medicare reimbursement for telehealth was highly restricted both in terms of eligibility and reimbursement rates**
- **CARES Act codifies in statute prior Executive Order which allows patients to receive any approved telehealth service from any Medicare approved provider, including APPs (1135 waiver)**
 - Includes E&M services, mental health counseling, and preventative screenings
 - Telehealth services must be conducted through audio and video communication
 - Telehealth services are paid the same as in-office visits for the duration of the emergency
 - NO INCIDENT-TO SERVICES FOR APPs
- **Appropriates \$27 billion to HHS and \$200 million to the FCC to expand telehealth services**
- **Allows high deductible plans pay for telehealth services before the deductible is met**

Telehealth Provisions: Medicare Telehealth Visits

- These visits are considered the same as in-person visits and are paid at the same rate as regular, in-person visits.
 - Standard E/M codes apply for both new and established patients
- The Medicare coinsurance and deductible generally applies to these services.
 - However, the HHS Office of Inspector General (OIG) is providing flexibility for healthcare providers to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs.
- To the extent the 1135 waiver requires an established relationship, HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency.

Telehealth Provisions: Virtual Check-Ins

- Virtual check-in services can only be reported when the billing practice has an established relationship with the patient.
- This is not limited to only rural settings or certain locations.
- Individual services need to be agreed to by the patient; however, practitioners may educate beneficiaries on the availability of the service prior to patient agreement.
- May use audio only if no images reviewed
- Two codes
 - HCPCS code G2012: 5-10 minutes of medical discussion.
 - HCPCS code G2010: Includes remote evaluation of recorded video and/or images submitted by an established patient

Telehealth Provisions: E-Visits

- These services can only be reported when the billing practice has an established relationship with the patient.
- There are no geographic or location restrictions for these visits.
- Patients communicate with their doctors without going to the doctor's office by using online patient portals.
- Individual services need to be initiated by the patient
 - practitioners may educate beneficiaries on the availability of the service prior to patient initiation.
- The services may be billed using CPT codes 99421-99423 and HCPCS codes G2061-G206, as applicable.
- Medicare coinsurance and deductibles would generally apply to these services.

Telehealth Provisions - Summary

TYPE OF SERVICE	WHAT IS THE SERVICE?	HCPCS/CPT CODE	Patient Relationship with Provider
MEDICARE TELEHEALTH VISITS	A visit with a provider that uses telecommunication systems between a provider and a patient.	Common telehealth services include: <ul style="list-style-type: none"> • 99201-99215 (Office or other outpatient visits) • G0425-G0427 (Telehealth consultations, emergency department or initial inpatient) • G0406-G0408 (Follow-up inpatient telehealth consultations furnished to beneficiaries in hospitals or SNFs) For a complete list: https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes	For new* or established patients. *To the extent the 1135 waiver requires an established relationship, HHS will not conduct audits to ensure that such a prior relationship existed for claims submitted during this public health emergency
VIRTUAL CHECK-IN	A brief (5-10 minutes) check in with your practitioner via telephone or other telecommunications device to decide whether an office visit or other service is needed. A remote evaluation of recorded video and/or images submitted by an established patient.	<ul style="list-style-type: none"> • HCPCS code G2012 • HCPCS code G2010 	For established patients.
E-VISITS	A communication between a patient and their provider through an online patient portal.	<ul style="list-style-type: none"> • 99421 • 99422 • 99423 • G2061 • G2062 • G2063 	For established patients.

Overview of Key Provisions Relevant to Physician Practices

- **\$349B Small Business Paycheck Protection Program**
 - Loans that can convert into grants for businesses up to 500 employees for businesses adversely impacted by COVID crisis
- **\$100B in Grants from Health Emergency Fund**
 - Funding for health infrastructure and medical supplies related to treating COVID cases
- **Physician reimbursement provisions**
 - Telehealth and sequestration suspension

Paycheck Protection Program

Appropriates \$349 billion for to the Small Business Administration (SBA) for loans to help business impacted by coronavirus

Who qualifies?

- A business or contractor impacted by coronavirus with no more than 500 employees, except for certain industries as specified by the SBA (not relevant to physicians or ASCs)

How much is available per firm?

- Lesser of \$10 million; or
- Average monthly payroll of previous year multiplied by 2.5

Duration:

Covered loan period of Feb 15 2020 to June 30, 2020

The SBA will release guidance within 30 days of enactment

How can SBA Loan Be Forgiven?

The following criteria must be met:

- 1. Loan recipient spends all funds on “Qualified Expenses”**
 1. Payroll up to \$100k per person, prorated
 2. Other business operation expenses: Rent, mortgage, utilities, independent contractors, interest on other debt obligations, health benefits, interest on debt, family, paid sick or medical leave
- 2. For full loan forgiveness you must have no employee-based reduction (reduction formula on next slide)**
- 3. Salaries per employee cannot decrease by more than 25% compared to the most recent full quarter of employment**

To encourage firms to rehire your laid-off employees, they will not be penalized for having a reduced payroll at the beginning of the period so long as they hire back as the same # employees 2/15 by June 30th

Partial Loan forgiveness

1. All spending must be for "Qualified Expenses"
2. Reduces loan forgiveness proportionately to the reduction in number of full-time employees retained compared to last year and reduced by the reduction in pay of any employee greater than 25% compared to last year.
 - Average monthly full-time employees from 2/20-6/20 divided by either:
 - Average number of monthly full-time employees from 2/19-6/19; OR
 - Average number of monthly full-time employees from 1/20-2/20

Example:

- Firm has payroll of 100 employees in 2019 and 150 in 2020, it can pick the lower number as the base (100)

Examples of Loan Forgiveness

Full Forgiveness Example

- Firm had 100 employees February 15, 2020
- Firm laid off 25 employees in March 2020 but rehires them within 30 days of bill enactment and maintains a monthly average of 100 employees through June 30th
- Firm will get full loan forgiveness

Partial Forgiveness Example

- Firm had 100 employees February 15, 2020
- Firm laid off 25 employees in March 2020 and did not rehire
- Firm received a \$1 million loan
- Only \$750,000 of that loan would be forgiven

Applying for a loan

- **Businesses can apply for covered loans through private lenders including credit unions until June 30, 2020**
 - Borrowers make good faith certification that coronavirus-related business concerns make loan necessary, funds will be used to retain workers and/or make mortgage/rent payments
 - Qualifying business concerns include staffing challenges, decrease in sales or customers, closures, or supply chain disruptions
- **Any remaining balance after loan forgiveness will have a maximum maturity of 10 years and maximum interest rate of 4%**
- **Loans will be deferred for at least 6 months and up to 1 year**

Loan Amount Calculation

- **The maximum loan amount shall be the lesser of:**
 - Average total monthly payroll during 12 months before the the loan is made * 2.5 = loan amount
 - For new companies⁺, average total monthly payroll payments for 1/1/20 and 2/29/20 * 2.5 = loan amount
 - \$10 million
- **Payroll costs include the sum of any compensation to an employee:**
 - Salaries or wages (includes full-time, part-time, and contractors)
 - Payment for vacation, parental, family, medical, or sick leave
 - Allowance for dismissal or separation
 - Payment for group health care benefits
 - Payment for retirement benefits
 - Payment of state and local tax on compensation of employees
 - Does NOT include compensation for employees making more than \$100,000 annual salary and qualified sick or family leave covered under the Families First COVID Bill

⁺This is only applicable for businesses not in business between February 15, 2019 to June 30, 2019

Applying for Loan Forgiveness

- **Borrowers can apply directly to their lenders for loans to be forgiven so long as the funds were used for qualifying expenses**
 - Borrowers must show documentation (including voided checks, payroll tax filings with the IRS, or receipts) that loans were used for qualifying expenses
- **There is no deadline to apply for loan forgiveness and lenders must make a qualification determination within 60 days of receiving an application**
- **The amount of loan forgiveness is not taxable**

Prioritization

- **Prioritizes loans for:**
 - Entities in underserved areas
 - Businesses in rural markets
 - Veterans and members of the military community
 - Minority owned businesses
 - Women
 - Businesses in operation for less than 2 years

\$100B Public Health Emergency Fund

- **Grants to help health care providers:**
 - “Prevent, prepare for, and respond to the coronavirus and to reimburse providers for health care related expenses loss of revenue attributable to coronavirus”
- **Use of Funds:**
 - “Building or construction of temporary structures, leasing of properties, medical supplies and equipment (including PPE), increased worker training, emergency operations centers, retrofitting facilities and surge capacity.”
 - Cannot be expenses or losses that are reimbursed through other sources

Application Process

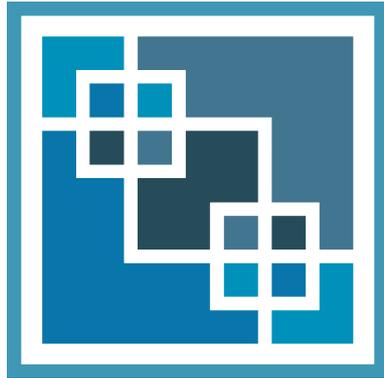
- **Providers must submit an application, which includes a statement of justification for need and amount requested, Medicare eligibility and the tax ID number**
- **HHS will hire a third-party claims processor (similar to Medicare Administrative Contractor) to handle distribution**
 - The processor will use criteria provided by HHS to determine if the provider is eligible and if the amount is justifiable
- **Guidance from HHS expected shortly**

Distribution of Grant Funds

- **Depending on what Secretary determines is most efficient and practicable, could be made**
 - Pre-payment,
 - Prospective payment; or
 - Retrospective payment
- **Wide latitude is provided to HHS, with many unknowns, including more specific criteria and appeals process**
- **HHS shall conduct audits of the program and send its findings to Congress**

Sequestration Suspension

- **Section 3709 suspends Medicare sequestration from May 1 to December 31, 2020**
 - Removes 2% pay cut on all physician services, including Part B drugs
- **Extends sequester from 2029 sunset to 2030**



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