

# The Business Impact Of COVID19 On Pediatric Practices

## Webinar #3

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## What We Are Not Going To Talk About

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1. COVID19 Testing Options
2. Amount of time providers/staff should self-isolate
3. Treatments for people affected
4. Predict how long this will last
5. Issues that are geographic-specific

Leaving it to the Pedi-ID nerds to guide that conversation ;)

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# Paulie's Updated Mantra

You thought credentialing was a PIA  
until you needed the SBA...

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# Agenda

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1. What have you done in the past week?
2. Cash Flow Planning
3. Data Report
4. Hospitals
5. SBA Loan Options
6. Legal Issues
7. Billing & Practice Management Issues
8. Telemedicine
9. Best Practices
10. Future Impact
11. Homework This Weekend
12. Q&A Session

*Adversity doesn't build character, it reveals it.... It also reveals our vulnerabilities!!*

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# What Have You Done Since Last Week?

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Forum.PediatricSupport.com

1,878 community members as of this morning...

The screenshot displays the forum interface for Pediatric Support. It features a search bar, navigation tabs (Latest, Top, Categories), and a list of topics. The topics are organized into categories such as Upcoming Events, Finance, Site Feedback, Humor, and Leadership. Each topic entry includes a title, a thumbnail image, a date, and the number of replies. The forum is active with various discussions related to COVID-19, including topics like 'Coronavirus stable for hours on surfaces', 'Telemedicine Disclaimer', and 'How To Handle COVID19 Infectious Waste'.

Category	Topic	Replies	Last Post
Upcoming Events	Coronavirus stable for hours on surfaces	1	7h
Finance	Telemedicine Disclaimer	5	13h
Finance	How To Handle COVID19 Infectious Waste	0	15h
Finance	COVID19 Waste Management	0	15h
Site Feedback	Carefirst - Covid19	0	15h
Humor	Empire BCBS (NY) - Covid19	0	15h
Humor	PCC's 2020-03 Pediatric Coding Web Lab (TELEMEDICINE CODING)	0	15h
Humor	Wellmark - Covid19	0	15h
Humor	Humana - Covid19	0	15h

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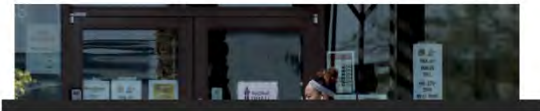
# Crazy Stuff Going On...

## POLITICO

EMPLOYMENT

### 'No words for this': 10 million workers file jobless claims in just two weeks

More than 6.6 million U.S. workers filed new claims for unemployment benefits last week, on top of 3.3 million a week earlier, marking unprecedented devastation across the labor market.



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# Crazy Stuff Going On...



- The governor's [Executive Order 2020-19](#), authorized by the Illinois Emergency Management Agency Act, covers hospitals, skilled and intermediate care nursing facilities under the Nursing Home Care Act, skilled and intermediate facilities under the ID/DD Community Care Act, skilled mental health rehabilitation facilities, kidney disease treatment centers, emergency medical service providers, outpatient surgery centers, and institutions that provide major medical diagnostic equipment, among others.

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CHASE  for BUSINESS™

Dear Business Client,

Chase wants to help you get the Small Business Administration (SBA) Paycheck Protection Program emergency funds you may need to continue paying your employees and support your business.

Financial institutions like ours are still awaiting guidance from the SBA and the U.S. Treasury. As a result, Chase will most likely not be able to start accepting applications on Friday, April 3rd, as we had hoped.

***Make no mistake*** – we will help you, our customer, with getting access to these emergency funds. And we will make it as easy as possible for you to get these funds quickly. We hope to have the guidance we need from the government soon so that we can begin assisting you.

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## What Have You Done Since Last Week?

- Telemedicine Workflows In Office
  - Triage / Scheduling / Billing
- Budget/Cash Flow Projections

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# Visits Needed Today For Revenue In Three Weeks

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If you are anticipating needing \$10,000 per week in three weeks, how many visits do you need to do per day to hit that number?

Account for reduced ancillary & vaccine revenue

Revenue Needed / Revised Revenue Per Visit

$$\begin{aligned} \$10,000 / \$95 &= 105 \text{ Weekly Visits} \\ & (21 \text{ Per Day}) \end{aligned}$$

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# How Long To Plan For?

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The screenshot shows a news article from Eyewitness News 7 (abc7NY) titled "Coronavirus Update: 'We're looking at another month of this,' Cuomo says". The article includes a video player showing healthcare workers in full protective gear in a clinical setting. A red banner at the bottom of the video reads "CORONAVIRUS PANDEMIC PRES. TRUMP AND MAYOR DE BLASIO SAY THE WORST OF PANDEMIC IS AHEAD". The article also features a Best Buy advertisement and social media sharing options (Share, Tweet, Email).



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Already Posted  
In The Forum

Forum.PediatricSupport.com  
(Finance Category)

Week Of	Estimated Weekly Deposits	Estimated Payroll Expense	Vaccine Invoices Due	Rent Payments	All Other Office Expenses	Running Balance
3/29/2020	\$ 20,000	\$ 15,000	\$ 5,500	\$ 5,000	\$ 1,500	\$ 8,500
4/5/2020	\$ 20,000	\$ -	\$ 2,500		\$ 1,500	\$ 24,500
4/12/2020	\$ 17,500	\$ 15,000	\$ 1,750		\$ 1,500	\$ 23,750
4/19/2020	\$ 7,500	\$ -	\$ 1,750		\$ 1,500	\$ 28,000
4/26/2020	\$ 7,500	\$ 15,000	\$ 1,500	\$ 5,000	\$ 1,500	\$ 12,500
5/3/2020	\$ 7,500	\$ -	\$ 2,000		\$ 1,500	\$ 16,500
5/10/2020	\$ 5,000	\$ 15,000	\$ 2,500		\$ 1,500	\$ 2,500
5/17/2020	\$ 5,000	\$ -	\$ 1,750		\$ 1,500	\$ 4,250
5/24/2020	\$ 5,000	\$ 15,000	\$ 1,500		\$ 1,500	\$ (8,750)
5/31/2020	\$ 5,000	\$ -	\$ 1,200	\$ 5,000	\$ 1,500	\$ (11,450)
6/7/2020	\$ 5,000	\$ 15,000	\$ 900		\$ 1,500	\$ (23,850)
6/14/2020	\$ 5,000	\$ -	\$ 850		\$ 1,500	\$ (21,200)

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How Long To Plan For?

Geographically Variable

Prepare For At Least Four Months To Return To Normal Revenue

Charges Today Don't Get Paid For 20 - 35 Days

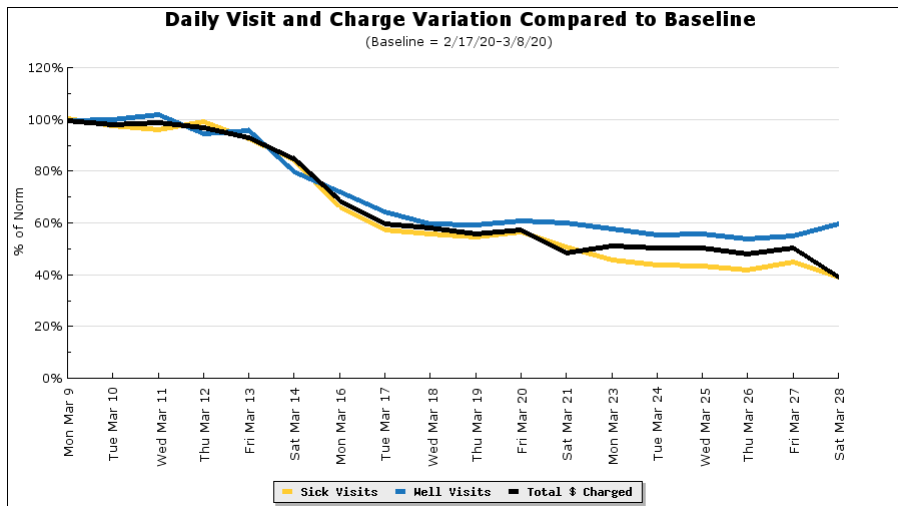
Date of Service	Patients per Day	Revenue / Encounter	Expected Payment	Total Revenue
Thursday, April 2, 2020	40.00	\$92.00	Monday, April 27, 2020	\$3,680
Friday, April 3, 2020	40.00	\$92.00	Tuesday, April 28, 2020	\$3,680
Saturday, April 4, 2020	40.00	\$92.00	Wednesday, April 29, 2020	\$3,680
Sunday, April 5, 2020	40.00	\$92.00	Thursday, April 30, 2020	\$3,680
Monday, April 6, 2020	40.00	\$92.00	Friday, May 1, 2020	\$3,680
Thursday, April 9, 2020	40.00	\$92.00	Monday, May 4, 2020	\$3,680
Friday, April 10, 2020	40.00	\$92.00	Tuesday, May 5, 2020	\$3,680
Saturday, April 11, 2020	40.00	\$92.00	Wednesday, May 6, 2020	\$3,680
Sunday, April 12, 2020	40.00	\$92.00	Thursday, May 7, 2020	\$3,680
Monday, April 13, 2020	40.00	\$92.00	Friday, May 8, 2020	\$3,680
Thursday, April 16, 2020	40.00	\$92.00	Monday, May 11, 2020	\$3,680
Friday, April 17, 2020	40.00	\$92.00	Tuesday, May 12, 2020	\$3,680
Saturday, April 18, 2020	40.00	\$92.00	Wednesday, May 13, 2020	\$3,680
Sunday, April 19, 2020	40.00	\$92.00	Thursday, May 14, 2020	\$3,680
Monday, April 20, 2020	40.00	\$92.00	Friday, May 15, 2020	\$3,680

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# Latest Data From The Data Nerd...

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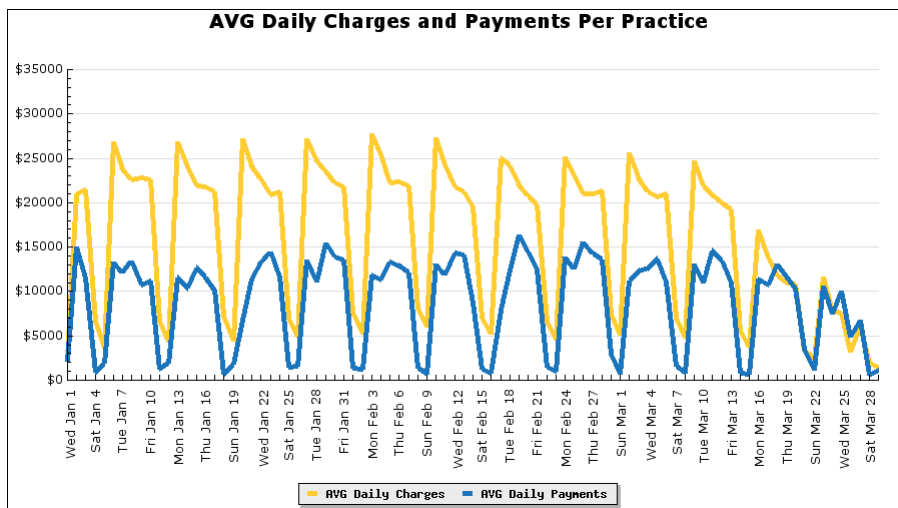
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# Latest Data From The Data Nerd...

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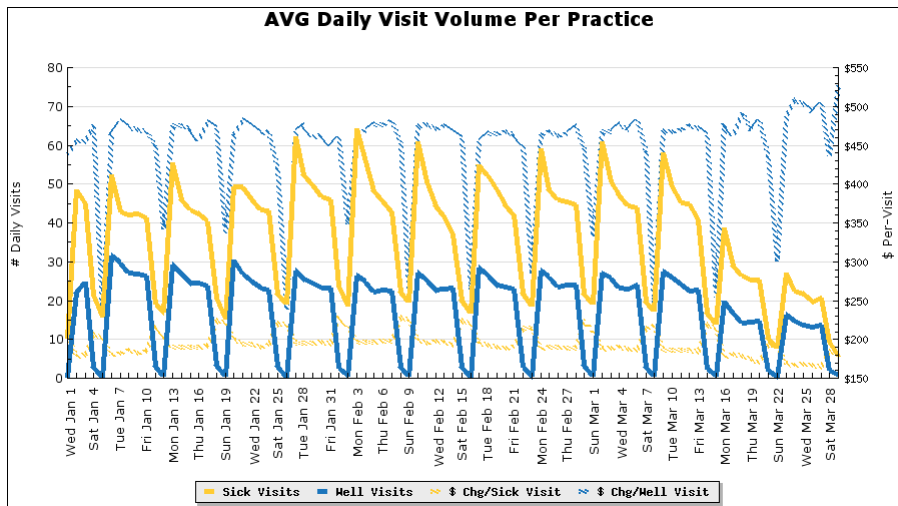


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# Latest Data From The Data Nerd...

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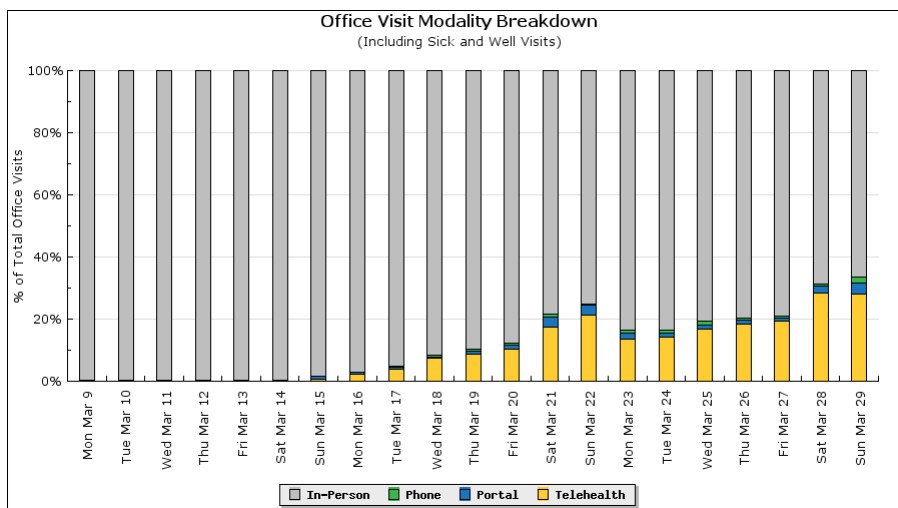
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# Latest Data From The Data Nerd...

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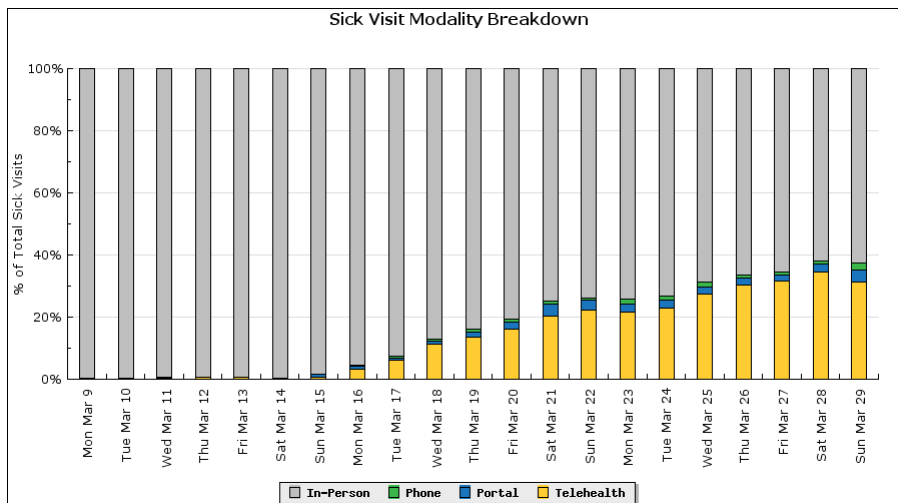
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# Latest Data From The Data Nerd...

19



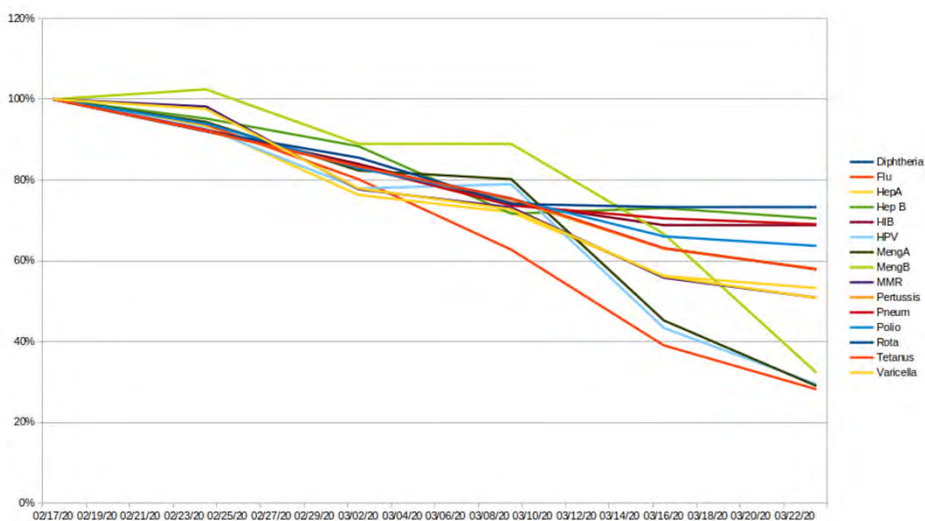
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# Latest Data From The Data Nerd...

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## Beware Of The Boogeyman....

**HSG** HOME ABOUT HSG HEALTHCARE CONSULTING THOUGHT LEADERSHIP COVID-19 UPDATES

### COVID-19 and Your Employed Physician Network (Checklist)

As health systems respond to the COVID-19 pandemic, a variety of challenges will arise with your employed physician network. Review HSG's checklist of short and long-term clinical and operational, financial, and strategic areas of evaluation.

Below is a list of key questions related to these issues, in checklist form. All will not be uniformly important to each employed network or hospital system, but we believe that these represent most of the important considerations.

Have you assessed your willingness to **acquire independent practices** or employ individual private practitioners who are in dire financial trouble?

Assessed the strategic importance of local practices and providers to health system success

Assessed their value to the community and meeting community need

Completed financial projections related to employing or losing these groups/providers

Developed templated term sheets and contracts


Identified resources to perform due diligence

Defined resources to onboard new acquisitions

[Download COVID-19 Response Checklist to Share With Your Team](#)

*HSG's 20+ years of experience in healthcare consulting proves that as Physician Networks evolve towards maturity in terms of growth and size, **the network must have a systematic plan** that is focused on evolving its management team's capabilities, infrastructure, governance, provider engagement and leadership to address the network's current and future needs. HSG partners with health systems to assess current performance and build plans to navigate the natural evolution of employed physician networks and guide future performance.*

[www.PediatricSupport.com](https://hsgadvisors.com/articles/covid-19-and-your-employed-physician-network-checklist/)

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## Beware Of The Boogeyman....



- Hospitals keep employed physicians?
- Cut them loose?
- No longer needed for referrals?
- ACO's funnel referrals

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**23**

**THE HILL**

# To save money, we're laying off pediatricians — this will put kids at risk

BY DRS NIRAN AL-AGBA AND MARION MASS. OPINION THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN

Chicago Tribune Web and site search Search

Mount Sinai Hospital to end pediatric trauma, inpatient services

Just In... **3,638** SHARES

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## 15 Doctors Fired From Chicago-Area Health System — Physicians "broad-sided" by their termination


by Kristina Fiore, Director of Enterprise & Investigative Reporting, MedPage Today November 26, 2019

At least 15 physicians have been fired from Edward-Elmhurst Health as the suburban Chicago-based health system moves to cut costs, sources told *MedPage Today*.

The doctors, who worked across its seven "Immediate Care" or urgent care sites, will be replaced by advanced practice nurses, according to an email sent by hospital leadership that was shared with *MedPage Today*. The physicians were informed late last week that they would be terminated as of April 1, 2020.

**Dozens Of Pediatricians Losing Jobs As Children's Health Clinics Close**

Program: CBS 11 News Evening Categories: News, Local News, KTVUTV



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# Beware Of The Boogeyman....

JDSUPRA® MENU

April 2, 2020

## CMS Issues Blanket Waivers from Physician Self-Referral Law Sanctions

Justin Chavez, Dawnmarie Matlock, Robert Stone  
Alston & Bird

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Our Health Care Group dives into the Centers for Medicare & Medicaid Services' Stark Law waivers for physicians and hospitals fighting the coronavirus (COVID-19) pandemic.

- COVID-19 Purpose and 18 blanket waivers explained
- 6 important things to know
- 6 key takeaways

On March 30, 2020, in response to the coronavirus (COVID-19) pandemic, the Centers for Medicare & Medicaid Services (CMS) announced blanket waivers of sanctions imposed by Section 1877(g) of the Social Security Act (and associated regulations), also known as the physician self-referral law. The physician self-referral law prohibits a physician from making Medicare or Medicaid patient referrals for certain designated health services (DHS) to an entity that physician (or the physician's immediate family member) has a financial relationship with, unless an applicable exception applies.


**CMS issued 18 blanket waivers, which are retroactively effective to March 1, 2020 and apply nationwide:**

- Waiver for personally performed services
- Waivers for certain rental rates
- Waivers for purchase of items and services
- Waivers for certain physician compensation arrangements
- Waivers based on type of facility
- Waivers for certain restrictions related to group practices
- Waiver for failure to satisfy written requirement

**Duration.** The blanket waivers terminate at the conclusion of the COVID-19 nationwide public health emergency declaration or on the date of any potential extension to the blanket waivers.

The remuneration and referrals covered by the blanket waivers must be "solely related to COVID-19 Purposes."



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April 2, 2020

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- *Waivers for certain rental rates...*
  - Rental charges **paid by a physician** to an entity that are **below fair market value for the physician's lease of office space** from the entity.
  - Rental charges **paid by a physician** to an entity that are below fair market value for **the physician's lease of equipment** from the entity.
- No Reporting Requirement. Health care providers need not submit documentation or notice to the HHS Secretary or CMS before the use of or reliance on the blanket waivers.
- AKS Requirements Not Waived: Sanctions for noncompliance are waived with the blanket waivers, provided there is no determination by the government of fraud or abuse. This means that the use of the waiver may later be analyzed under the Anti-Kickback Statute.



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## Beware Of The Boogeyman....

April 2, 2020

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- Still Some Difficult Calls: Use of the blanket waivers may be an easy call in some situations, such as **reducing rent for physicians in a hospital-owned medical office building** when the physicians and physician practices have experienced a significant reduction in patient volume due to the coronavirus pandemic and they provide services in a COVID-19-related practice area. Other situations may be more complex, such as **determining what level of compensation to provide to employed physicians who are not directly involved in treatment of COVID-19** patients and who do not participate in the care of COVID-19 patients. Hospitals should seek legal counsel to further analyze complex or marginal requests.

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## Beware Of The Boogeyman....

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If I go looking for a hospital truly aligned with the mission of private pediatric practices, I'm going to find a dozen leprechauns riding three-legged unicorns before I find that hospital...

*-Paul D. Vanchiere, MBA*

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## Federal Stimulus Package

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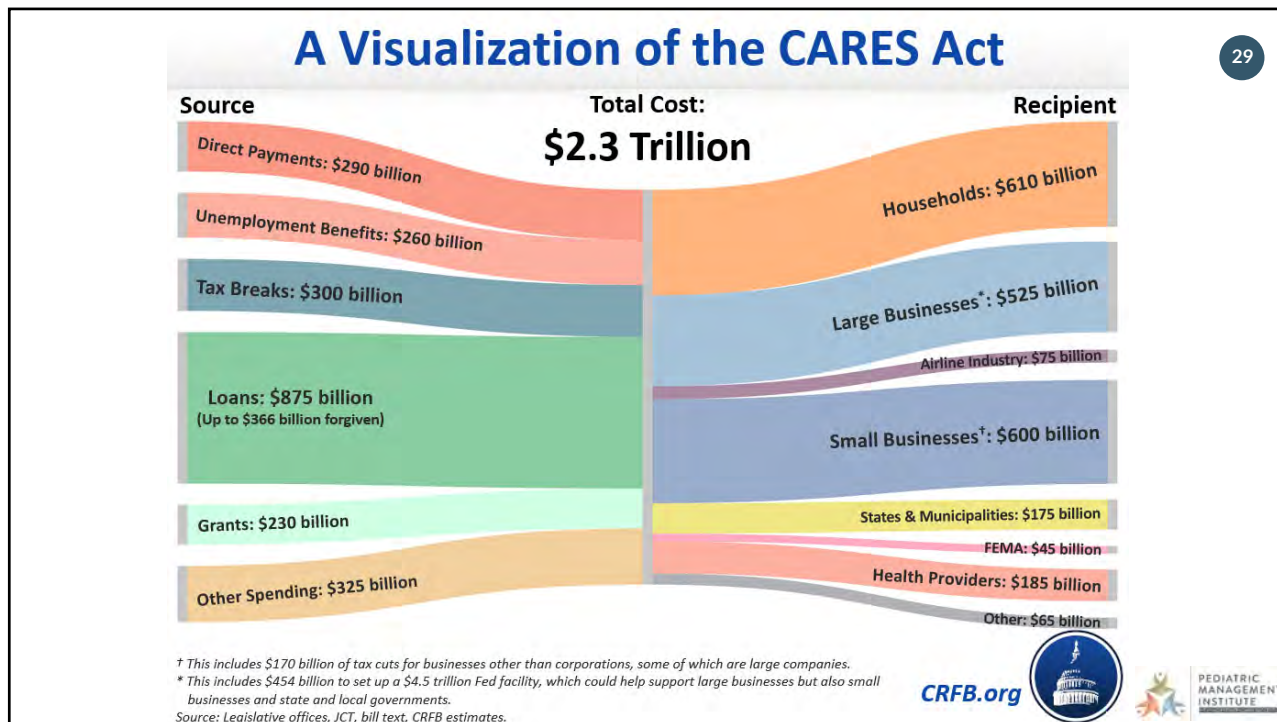
### CARES Act

- Paycheck Protection Program (PPP)
- Economic Injury Disaster Loan (EIDL)
  - \$10,000 Cash Advance
  - Long Term Loans

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## Contractor's Guide to SBA Loans & Cash During COVID-19

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Name/Type	Description	Amount	Who qualifies	Repayment Terms	How to apply	Other notes
<b>SBA Payroll Protection Loan (Forgivable)</b>	Loan/grant program created by the coronavirus relief bill, known as the CARES Act.	2.5x average monthly payroll costs; max \$10 million.	Small businesses with fewer than 500 employees, or who meet SBA's size standards for small business.	Money used for approved expenses is forgivable. Non-forgiven amount capped at 4% interest.	Through SBA approved bank	Approved expenses: Payroll, rent, mortgage, utilities
<b>SBA Economic Injury Disaster Loans (EIDL) Loan</b>	Loan program operated by the US Small Business Administration (SBA)	\$2 million	Small businesses with fewer than 500 employees, or who meet SBA's size standards for small business.	3.75% APR for small businesses; repaid over a maximum of 30 years.	Through SBA directly	Provides a loan advance of up to \$10,000 within 3 days of application, which does not need to be repaid
<b>SBA Express Bridge Loans</b>	Express Bridge Loan Pilot Program allows small businesses who currently have a business relationship with an SBA Express Lender to access up to \$25,000 with less paperwork.	Up to \$25,000	Small businesses located in any state, territory and the District of Columbia that have been adversely impacted by the COVID-19 emergency.	Lender may charge up to 6.5% over the Prime rate, regardless of the maturity of the loan. The maximum EBL loan term is 7 years. Will be repaid in full or in part by proceeds from the EIDL loan	Through Express Bridge Loan Lender	Find an Express Bridge Loan Lender by connecting with your local SBA District Office.
<b>Employee Retention Credit Tax Credit</b>	Tax credit against payroll tax liability equal to 50% of the first \$10,000 in wages per employee	50% of the first \$10,000 in wages per retained employee	Employers with more than 100 full-time employees, if: 1) business operations fully or partially suspended due to orders from a governmental entity limiting commerce, travel, or group meetings; or, 2) business has a year-over-year (comparing calendar quarters) reduction in gross receipts of at least 50% - until gross receipts exceed 80% year-over-year. Only counts employees who are not providing services for the employer due to COVID-19 causes AND ARE STILL BEING PAID.	None - Tax credit		
<b>SBA Debt Relief</b>	The SBA Debt Relief program will provide a reprieve to small businesses as they overcome the challenges created by this health crisis.		The SBA will also pay the principal and interest of new 7(a) loans issued prior to September 27, 2020. The SBA will pay the principal and interest of current 7(a) loans for a period of six months.			Other: 7(a) program offers loan amounts up to \$5,000,000 and is an all-inclusive loan program deployed by lending partners for eligible small businesses within the U.S. States and its territories. The uses of proceeds include: working capital; expansion/renovations; new construction; purchase of land or buildings; purchase of equipment; fixtures; leasehold improvements; refinancing debt for compelling reasons; seasonal line of credit; inventory; or starting a business.

**Other financing options:**

<p><b>Line of Credit:</b> Credit extended by a bank that allows you to withdraw cash when you need it.</p> <p><b>Receivables/Asset Based Financing:</b> Receivables or other asset used as collateral for loan</p>	<p><b>Invoice Factoring:</b> Customer sells invoices/receivables at a discount in exchange for immediate payment</p> <p><b>Materials Financing:</b> Suppliers get paid for materials and contractors can finance their materials purchase</p>	
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Apply for SBA loans & other financing options with one application: [levelset.com/covid-sba](https://levelset.com/covid-sba)

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# Paycheck Protection Program (PPP)

- Two Parts
  - Determine Maximum Loan Amount
  - Approved Expenses That Can Be Forgiven
- Apply with your bank

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## SBA Payroll Protection Program Preliminary Document Checklist

The application for the Payroll Protection Program has not yet been developed, and even the SBA requirements are still to be determined. However, we expect the requirements and documentation to be similar to existing SBA programs, and Pinnacle financial advisors are experienced with the typical SBA processes.

Based on the intent of the loan program and the help it will provide, we recommend you start collecting this information and documentation now so you will be ready to apply. When the application becomes available, this will help us take action immediately. If you need help collecting this information, reach out to your financial advisor. Depending on when you last worked with us, we may have some of it on file.

### Needed to help you calculate the eligible loan amount:

- Payroll reports for 2019 and 2020 year to date showing the following broken down by employee and/or officers:
  - Gross wages
  - Paid time off
  - Paid vacation
  - Pay for family medical leave
  - State and local taxes (form 940, 941 or 944)
  - 1099s for independent contractors (if applicable)
- Completed 2019 tax return OR 2019 Profit and Loss Report and Balance Sheet
- Filed 2018 Business Tax Return
- Documentation showing:
  - Funds received in the form of an Economic Injury Disaster Loan since Jan. 31, 2020, if any
  - Payments for group health care benefits including premiums paid in 2019 to 2020 year to date
  - Payment of any retirement benefits paid in 2019 and 2020 year to date

### Needed for verification of forgiveness amount:

- Quarterly IRS forms 940, 941 or 944 for the following dates:
  - March 31, 2019 and June 30, 2019
  - March 31, 2020 and June 30, 2020, when available
- Documentation in the form of canceled checks, payment receipts and bank statements showing payment of the following items from Feb. 15, 2020 to June 30, 2020:
  - Mortgage Interest
  - Rent payments
  - Utilities



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# Determine Maximum Loan

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	A	B	C	D
1	<b>PPP Loan Amount Calculation</b>			
2				
3	A	Total Wages	\$ 1,000,000	12 Months Ending March 31, 2020
4	B	EmployER Paid Health Insurance	\$ 15,000	Actual Paid
5	C	EmployER Paid Retirement Contributions	\$ 5,000	Actual Paid
6	D	Salary Cap Reduction	\$ (150,000)	Dr. Smith made \$185k. Dr. Jones Made \$165k. We have to comply with \$100k limit
7	E	State Payroll Taxes	\$ 30,000	Actual Paid
8	F	Allowable Amount For Calculation	\$ 900,000	Sum (A:E)
9	G	Monthly Average	\$ 75,000	F / 12
10	H	Multiplier	2.50	
11		<b>Max Loan Estimate</b>	<b>\$ 187,500</b>	F * G

**QUESTION: What costs are eligible for payroll?**

- Answer:
- Compensation (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
  - Payment of State or local tax assessed on the compensation of employees

**QUESTION: What costs are not eligible for payroll?**

- Answer:
- Employee/owner compensation over \$100,000
  - Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code
  - Compensation of employees whose principal place of residence is outside of the U.S.
  - Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the [Families First Coronavirus Response Act](#)



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# Economic Injury Disaster Loan (EIDL)

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- Two Parts
  - Cash Advance
  - Long Term Loans (Not Forgivable)
- Apply through SBA

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	SBA		IRS		
	EIDL Loan	PPP Loan	Employee Retention Credit	FICA Deferral	FFCRA Tax Credit
	\$10,000 grant up front; <=\$2M @ <=4% for <=30 yrs; not forgiven; most legit business expenses (online)	2.5x avg monthly payroll; 8 wks of payroll + rent + utilities forgiven (your bank)	50% wages each employee (max \$5000/person) refunded from employer's share of SS taxes (6.2%); if credit > taxes, employer gets cash refund	Employers and self-employed pay half of 2020 FICA on 12/31/2021 and the other half 12/31/2022	1:1 Federal payroll tax credit against ePSL and emergency FMLA leave paid to staff
Reference	<a href="https://bit.ly/2UBFM3f">https://bit.ly/2UBFM3f</a>	<a href="https://bit.ly/39B1HM7">https://bit.ly/39B1HM7</a>	<a href="https://bit.ly/2wMTUx8">https://bit.ly/2wMTUx8</a>	<a href="https://bit.ly/2wMXyYj">https://bit.ly/2wMXyYj</a>	<a href="https://bit.ly/3aDRUGu">https://bit.ly/3aDRUGu</a>
EIDL Loan		Yes	Yes	Yes	Yes
PPP Loan	Yes		No - mutually exclusive	No - mutually exclusive	Yes, but tax credits for qualified leave wages aren't eligible for PPP "payroll costs"
Employee Retention Credit	Yes	No - mutually exclusive		Yes (apply credit first, then defer whatever remains)	Yes, but not for the same wage payments
FICA Deferral	Yes	No - mutually exclusive	Yes (apply credit first, then defer whatever remains)		Yes (apply credit first, then defer whatever remains)
FFCRA Tax Credit	Yes	Yes, but tax credits for qualified leave wages aren't eligible for "payroll costs"	Yes, but not for the same wage payments	Yes (apply credit first, then defer whatever remains)	



# Applying For SBA Loan

Last week: Upload pdf Documents  
 This week: Online form (with confirmation number provided)



Expiration Date:  
09/30/2020

## Disaster Loan Assistance

Federal Disaster Loans for Businesses, Private Non-profits, Homeowners and Renters

COVID-19 ECONOMIC INJURY DISASTER LOAN APPLICATION

**Application Submitted**

Your application number is



You will be notified through the email address you submitted [Paul@PediatricSupport.com](mailto:Paul@PediatricSupport.com) for any additional information needed once your application has been processed.

Please write down your application number or print this page for your records.



# Legal Issues

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**KERIN E. STACKPOLE, SPHR**  
DIRECTOR

Kerin Stackpole leads the Employment + Labor Law Group. She provides practical and proactive advice to senior leaders and management teams regarding a wide range of labor and employment issues, including workforce planning, hiring and onboarding, performance management, legal and recordkeeping compliance, leave management, employee engagement, policy development and implementation, union avoidance, and discipline and discharge. Kerin firmly believes that the best defense against legal claims begins well before those claims are made – with positive and continuous employee engagement, good education for supervisors and managers, fair and consistent practices, and solid documentation.

**Practice Areas**

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- International Business
- Litigation
- Municipal Law + Public Finance

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- Washington College of Law, The American University, J.D. (cum laude)
- Member, Washington College Law Honor Society
- Recipient of the International Academy of Trial Lawyers' Advocacy Award for Outstanding Ability in Courtroom Advocacy
- Note and Comment Editor, The Administrative Law Journal

**Bar Admissions**

- State of Vermont
- U.S. District Court, District of Vermont
- District of Columbia (inactive)
- State of Maryland (inactive)

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## EMPLOYMENT ISSUES IN THE COVID-19 ENVIRONMENT

Kerin E. Stackpole, Esq., SPHR  
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### NOTE TO READER

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The paper is presented with the understanding that the author does not render any legal, accounting, or other professional service. Due to the rapidly changing nature of the law, information contained in this paper may become outdated. In no event will the author be liable for any direct, indirect, consequential or other damages resulting from and/or related use of this material.

### Families First Coronavirus Response Act (FFCRA)

- The law takes effect on April 1st and expires on December 31, 2020.
- It requires that employers with less than 500 employees (with certain exceptions) do two things:
  - Provide partially or fully paid sick leave to their employees for COVID-19 related reasons for 2 weeks (80 hours)
  - Provide employees with partially paid leave to care for children (under 18 years of age) due to school or daycare closures caused by COVID-19 for as much as 10 weeks (for a total of 12 weeks if used with the 2 weeks of paid time off).
- Employers may recoup the amounts paid out to employees for paid leave through quarterly payroll tax credits. There are also no payroll taxes due from the employer or employee.

## PAID SICK LEAVE

All employers with **less than 500** employees must provide **80 hours of paid sick leave (at current rate of pay, subject to caps)** to employees who are unable to work (or perform telework) because of one of the following reasons:


1. The employee is subject to a federal, state, or local isolation or quarantine order related to COVID-19;
2. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms consistent with COVID-19 **and** is seeking a medical diagnosis;

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## PAID SICK LEAVE UNDER FFCRA

4. The employee is caring for an individual who is subject to a federal, state, or local isolation or quarantine order;
5. The employee is caring for a child for whom the school or childcare has been closed or is unavailable due to COVID-19 precautions; or
6. The employee is experiencing a substantially similar condition specified by the Department of Health and Human Services Secretary (unclear as of yet what this means).

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## QUARANTINE OR ISOLATION ORDER

Reason #1: The employee is subject to a federal, state, or local isolation or quarantine order related to COVID-19...


This includes a shelter-in-place or stay-at-home order, as passed in some states, if the order causes the employee “to be unable to work even though his or her Employer has work that the Employee could perform but for the order.”

Any Employee Subject to a Quarantine or Isolation Order may take Paid Sick Leave for the reason described in paragraph (1)(i) of this subsection **only if the employee can show that “but for” being subject to the order, he or she would be able to perform work that is otherwise allowed or permitted by his or her Employer, either at the Employee’s normal workplace or by Telework.**

An Employee Subject to a Quarantine or Isolation Order **may not** take Paid Sick Leave where the Employer does not have work for the Employee as a result of the order or other circumstances.

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## Q. How Many Hours of New Federal Paid Sick Leave is Available?

For full-time employees, employers must provide up to **80 hours of paid sick leave.**

This federal paid leave **is in addition to** any other paid sick leave or PTO that the employee is entitled to take under the employer’s existing policies. Employees have the right to use this federal paid leave **first before exhausting any of their available PTO.**

For part-time employees, employers must provide paid sick leave **in an amount equivalent to the number of hours the employee would work in an average two-week period.**

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## PAID LEAVE

Paid sick leave can only be taken where the employer has work for the employee, but the employee is unable to perform it because of one of the listed reasons.

## **If the leave is less than 80 hours...**

- **Then, paid sick leave ends on the next scheduled shift of that employee after the need for leave ends. For example:**
  - An employee is instructed by a healthcare provider to self-quarantine pending a test for COVID-19.
  - The employee begins paid sick leave.
  - After three days, the employee gets the test results and they are negative.
  - The paid sick leave would end on the fourth day, which is the employee's next regularly scheduled shift.

### Q. How much do we have to pay?

Employers must pay the **full regular rate of pay** subject to caps for reasons (1)-(3):

- Total payment is capped at \$511 per day or \$5,111 in the aggregate if the employee is home due to any qualifying reason other than school closure or care for an ill family member under specific circumstances.

Employers must pay the **two-thirds the employee's regular rate of pay** subject to caps for reasons (4) and (6):

- Payment is capped at \$200 per day or \$2,000 in the aggregate if the employee is home caring for a family member with the virus or due to a child's school closure.

### Q. Do Health Care Providers Have to Follow This New Law or Are They Exempt?

- ✓ There is an “opt-out” for employers who employ **healthcare providers or emergency responders.**
- ✓ Those employers **MAY** follow the law, but they **MAY ELECT TO EXCLUDE** employees from paid sick leave under this law.

## Who Is a Healthcare Worker?

Wouldn't it be great if there were only 1 definition?

“Health Care Provider”

- **For Purposes of Advice to Self-Quarantine**
- One qualifying need for paid sick leave under FFCRA is if employees have been advised by a health care provider to self-quarantine due to concerns related to the coronavirus. For these purposes, “health care provider” means **“a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.”**

## Who is a Healthcare Worker?

- *For Purposes of **Exclusion from FFCRA Leave***
- An employer of an employee who is a health care provider may elect to exclude such employees from the FFCRA leave requirements. For these purposes, “health care provider” is defined broadly, as:
- Anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity.
- This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

## Who Is a Healthcare Worker?

- This definition includes **any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility.**
- This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of coronavirus-related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.
- This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state's or territory's or the District of Columbia's response to coronavirus.
- **The DOL also encourages employers to “be judicious” when trying to exclude employees from the coverage of the Act.**

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## Emergency Family & Medical Leave Expansion Act

- The federal Family and Medical Leave Act (FMLA) normally applies to companies with 50 or more employees in a 75 mile radius.
- The new law, which applies for the limited time period of April 2 through December 31, 2020, covers **all employers with less than 500 employees.**
- Eligible employees also include those who have worked for the company for **30 days** (not the 12 months under the old FMLA rules).

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## SMALL BUSINESS EXEMPTION

- Employers who have 50 or fewer employees may seek an exemption if complying with the Act would **“jeopardize the viability of the business as a going concern.”**
- To be entitled to this exemption, an authorized officer of the business has to determine that:
  - (i) the requested leave would result in expenses exceeding revenues and cause the business to cease operating at a minimal capacity;
  - (ii) absence of employees requesting leave would entail a substantial risk to the business because of specialized skills, knowledge of the business, or responsibilities; or
  - (iii) there are not sufficient workers able, willing, qualified and available to perform the services, and the services are needed for the business to operate at a minimal capacity.

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## Basics of FMLA Expansion (Reason 5 under FFCRA)

- Added a new reason to FMLA qualifying reasons:
  - If employee is unable to work (or telework) due to need to care for employee’s son or daughter under age of 18 if school or place of care has been closed or child care provider is unavailable due to a public health emergency.
- Total of 12 weeks of leave in the employer’s measuring period of 12 months.
- Paid at 2/3 regular rate and subject to the cap of \$200 per day or \$12,000 in the aggregate.

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### Intermittent Leave

- An employee can take either type of leave intermittently if the employer and the employee both agree.
- If employee reports to worksite: intermittent leave only available for the child care reason. Other reasons require leave to be taken consecutively until there is no longer a reason to take leave.
- If employee is teleworking: employer and employee can agree to intermittent leave in any agreed increment of time for any qualifying reason.

### Payment for Expanded FMLA

- First 10 days may be unpaid. If employees don't want unpaid time, they can elect to use accrued PTO (including new federal paid sick time).
- After initial 10 days, paid leave of at least 2/3 of employee's regular rate of pay.
- Not to exceed \$200/day or \$12,000 in the aggregate.

**Q. Am I required to restore the employee back to his or her position or an equivalent position at the expiration of the leave (as with regular FMLA)?**

Generally yes. Same or equivalent position, benefits and pay.

**Q. Are there any exceptions?**

Yes, there is a **small business exception**:

For employers with less than 25 employees, there is no obligation to return an employee to the same or equivalent position at the expiration of the leave period under certain circumstances.

**Small Business Exception to Reinstatement of Employees**

**No reinstatement is required if:**

- The position does not exist at the expiration of the leave because there are changes in operating conditions due to COVID-19;
  - Example: the company eliminated the position held because of business conditions changing.


AND

- The employer makes a reasonable effort to restore the employee to an equivalent position within one year of the employee's leave;


AND

- If reasonable efforts to reinstate the employee fail, the employer makes reasonable efforts to contact the employee if an equivalent position becomes available within a year after his or her leave ended.





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## Some Frequently Asked Questions

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### Q. Can my employer ask for documentation of my need for FFCRA leave?

**A. Yes, but it is more limited than normal FMLA documentation. You can require: (1) the employee's name; (2) the dates for which leave is requested; (3) the qualifying reason for the leave; and (4) oral or written statement that the employee is unable to work because of the qualified reason for leave.**

**Depending on the reason, you can also ask for: the name of the government entity that issued the quarantine/isolation order; the name of the health care provider who advised the employee or the individual being cared for to self-isolate; the name of the child being cared for, the name of the school/child care provider that has closed; and a representation that no other suitable person will be caring for the child during the leave time.**

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**Q. What does it mean to be “unable to work,” so that I can be eligible for FFCRA leave and paid time off?**

**A. You are unable to work if your employer has work for you and one of the reasons set forth in the Act PREVENTS YOU FROM BEING ABLE TO WORK OR TELEWORK.**

**FFCRA does not apply if you and your employer agree that you can work from home, even if you are working a different schedule.**


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**Q. What does it mean to be subject to a quarantine or an isolation order for the purposes of Reason 1 of the FFCRA eligibility requirements.**

**A. The DOL looks at this Reason 1 in a very NARROW way. “The question is whether the employee would be able to work or telework “but for” being required to comply with a quarantine order.**

**B. Example: If a coffee shop was closed because fewer customers show up because of an order of the Governor to stay home, Reason 1 would NOT apply. The reason the cashier lost her job was business loss, not that she is subject to an order.**


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**Q. If the employer closes the worksite but before you go out on leave, can the employee get paid sick leave?**

**A. No. If your employer closes after April 1, you will not get paid sick leave or expanded sick leave, but you may be eligible for unemployment insurance benefits.**

**B. This is true “whether your employer closes your worksite for lack of business or because it was required to close pursuant to a federal, state or local order or directive.**

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**Q. If my employer closes my worksite while I am on paid sick leave or expanded FMLA, what happens? See Questions 24-30 of DOL 3/30/2020 guidance.**

**A. Your employer must pay for any paid sick leave or medical leave you used BEFORE the employer closed.**

**B. As of the date they close – you are no longer entitled to this paid leave or expanded FMLA. You may be eligible for unemployment insurance.**

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**Q. If my employer reduces my scheduled work hours, can I use paid sick leave or expanded FMLA for the hours I am not longer working? See Questions 24-30 of DOL 3/30/2020 guidance.**

**A. No. If your employer reduces your work hours because it does not have work for you to perform you are not covered. This is because “you are not prevented from working those hours due to a COVID19 qualifying reason, even if your reduction in hours was somehow related to COVID19.” (Question 28).**

**Q. May I take my paid sick leave or expanded FMLA Intermittently?**

**A. Yes. For example: if you are teleworking or working at the job site, but also need some time to go home an relief your spouse or partner or to take care of your child, you may take the leave intermittently**

**Q. May I use my own accrued CTO to supplement my pay if I am taking time off for qualifying reasons?**

**A. Yes. You may use your own accrued time off to supplement your paid leave, but your employer cannot force you to do so. And in some states, you may be allowed to specifically save your accrued paid time off for FMLA reasons.**

**B. Note: tax credits are only available for employer payment of FFCRA leave.**

**Q. Who is an “individual” for the purposes of Reason 4 of the FFCRA eligibility standards?**

**A. According to new regulations, published April first, this term means someone with whom the employee has a personal relationship. Examples – immediate family member, roommate, person with whom you have a relationship that creates an expectation that the employee would care for that person if they needed it.**

## Q. Can an employee refuse to work because he or she is afraid of contracting the virus?

A. Potentially, yes.

**Under OSHA, an employee is entitled to refuse to work if they believe they are in “imminent danger.”**

**OSHA defines** “imminent danger” to include “any conditions or practices in any place of employment which are such that a danger exists which can reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated.”

Whether or not certain conditions pose an “imminent danger” would depend upon the facts. Consult counsel if someone makes this claim.

## Q. Can an employee refuse to work because he or she is afraid of contracting the virus?

- A. Potentially yes.
- Section 7 of the National Labor Relations Act (NLRA) also protects employees (in union and non-union workplaces) to engage in “protected concerted activity for mutual aid or protection.”
- The NLRB has upheld an employee’s right to participate “in a concerted refusal to work in unsafe conditions.”
- If employees are complaining about working in conditions that are “unsafe because of potential exposure,” address their concerns as reasonably as possible.
- If the employees remain unsatisfied with the employer’s efforts, contact counsel before you discipline employees for refusing to work.

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## WHAT ABOUT UNEMPLOYMENT BENEFITS?

**Q: What if I am forced to shut down my business due to COVID-19 impact? Are my employees eligible for unemployment benefits?**

A: Likely, yes. If you are forced to temporarily shut down business operations, your employees will likely be eligible for unemployment benefits. Under this circumstance, unemployment insurance claims made by impacted employees will be charged against the employer's account. Individual states may address this on a state government level to provide relief to employers.

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## What about Unemployment Benefits?

**Q: What if I need to temporarily reduce my employees' hours due to slow-down in business as a result of COVID-19? Are my employees eligible for unemployment benefits?**

A: If you experience a slow-down in business, causing a reduction in available work hours for employees, your employees may be eligible for partial unemployment benefits.

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## Interaction between FFCRA and UI

- **If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but before I go out on leave, can I still get paid sick leave and/or expanded family and medical leave?**
- No. If your employer closes after the FFCRA's effective date (even if you requested leave prior to the closure), you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility.
- For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

## KEY TAKE AWAY

- The COVID-19 crisis is rapidly evolving.
- New laws, state and federal, and new regulations, are coming online rapidly.
- Stay tuned and keep in touch.

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# SBA Paycheck Protection Program Loans

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## Paycheck Protection Program

- \$349 billion authorized for CARES PPP Loans
- Generally available for businesses that employ less than 500 and self employed
- In operation as of February 15, 2020
- Suffered a business loss from COVID
- 501(c)(3)s and veterans organizations also eligible
- Some nuances with respect to food organizations (NAICS 72)

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## Loan Terms

- Up to \$10 million
- 250% of average monthly “payroll costs”
  - 1 year period prior to the loan
    - If seasonal employer, 12 week period beginning 2/15/19 (or 3/1/19 and ending 6/30/19)
    - If not in business in 2019, period is 1/1/20 through 2/29/20
- Unsecured loans
- No personal guaranties required; non-recourse to owners
- Guaranteed by the federal government

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## “Payroll Costs”

- Salary, wages, commissions
- Cash tips or equivalent
- Payments for vacation, parental and sick leave
- Payment of retirement benefits
- State or local taxes assessed on compensation
- Does NOT include
  - “Compensation of an individual employee in excess of an annual salary of \$100,000”
  - Non-US employees
  - Employment taxes
  - Family First credits for sick and family leave

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## Lenders

- Existing SBA 7(a) lenders, plus others approved by Treasury.
- Call your banker!
- Banks make underwriting decision (limited underwriting required)
  - In existence as of 2/15/20
  - Had employees and paid salaries and payroll taxes

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## Use of Proceeds

- Payroll costs
- Certain group healthcare costs
- Salaries, commissions, etc.
- Rent
- Mortgage interest
- Utilities

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## Certification of Borrower

- That the uncertainty of current economic conditions makes necessary the loan request to support the ongoing operations of the eligible recipient;
- That funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments;
- Eligible recipient does not have an application pending for a loan under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan;
- During the period beginning on February 15, 2020 and ending on December 31, 2020, that the eligible recipient has not received amounts under this subsection for the same purpose and duplicative of amounts applied for or received under a covered loan

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## Forgiveness

- Tax free forgiveness (state tax issues to consider)
- Forgiven amount—payments made during the 8 week period beginning on the date of the loan for:
  - Payroll costs
  - Mortgage interest
  - Rent
  - Utilities
- Based on guidance, at least 75% should be spent on payroll cost to maximize forgiveness
- Borrower certification

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## Reductions in Forgiven Amounts

- Reduced if a reduction in FTE employees
- Reduced if salary is reduced greater than 25% (compared to most recent full quarter)

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## Other SBA Loan Items

- Talk to your banker about:
  - Economic Injury Disaster Loan
  - Deferment of Existing SBA Loans

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# COVID-19 TAX MATTERS

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## Federal Income Tax

- The deadline for filing federal income tax returns that are due on April 15, 2020 has been extended to July 15, 2020.
- The deadline for making federal income tax payments that are due on April 15, 2020 has been extended to July 15, 2020.
- Those extensions apply without regard to the amount of federal income tax owed.
- This extension does not apply to returns and taxes due on a day other than April 15, 2020. In particular, income tax returns for most partnerships and S corporations were due in March.
- This extension does not apply to taxes other than federal income tax.

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## State Income Tax

- In the vast majority of states, the federal extension does not automatically apply to state income tax returns and payments.
- Many states are taking steps to offer extensions that correspond to the federal extensions, but it is possible that not all states have done so yet.

## Federal Payroll Tax Credits for Paid Employee Leave

- Available to all employers with fewer than 500 employees.
- Credit against quarterly payroll taxes
  - Employee Income Tax Withholding
  - Social Security Tax (both employer and employee portions)
  - Medicare Tax (both employer and employee portions)
- Refundable to the extent the credit exceeds the employer's payroll tax obligations. Under the CARES Act, advance refunds of these credits may soon be available.
- These credits apply only to leave payments that are required under the Families First Coronavirus Response Act that are made between April 1, 2020 and December 31, 2020. Payments beyond those that are required are not eligible for these tax credits.



## Federal Payroll Tax Credits for Paid Employee Leave

- These credits constitute taxable income for the employer.
- Employers may be required to retain documentation to substantiate these tax credits.

## Federal Payroll Tax Credits for Paid Employee Leave

- Paid Sick Leave Credit
  - sick leave paid to an employee who is unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis
    - the credit is equal to the sick leave paid to the employee at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for up to 10 days per quarter
  - sick leave paid to an employee who is caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus
    - the credit is equal to two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days per quarter
  - there is an additional tax credit for costs to maintain health insurance coverage for the eligible employee during the leave period

## Federal Payroll Tax Credits for Paid Employee Leave

- Child Care Leave Credit
  - Sick leave paid to an employee who is unable to work because of a need to care for a child whose school or child care facility is closed or whose child care provider is unavailable due to the Coronavirus
    - The credit is equal to two-thirds of the employee's regular rate of pay, up to \$200 per day with a maximum of \$10,000 in the aggregate for all calendar quarters for the year
    - there is an additional tax credit for costs to maintain health insurance coverage for the eligible employee during the leave period

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## Employee Retention Payroll Tax Credit

- 50% of wages paid by eligible employers to certain employees
- Eligible employers:
  - operations have been fully or partially suspended as a result of a government order limiting commerce, travel, or group meetings or
  - a greater than 50% reduction in quarterly receipts, measured on a year-over-year basis
- Eligible employees
  - Employers with average of 100 or fewer employees in 2019: all employees are eligible
  - Other employers: only employees who are furloughed or face reduced hours as a result of their employers' closure or reduced gross receipts are eligible for the credit
- Wages include health benefits and are capped at \$10,000 for purposes of this credit.
- This credit is not available to employers that receive PPP loans.

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## Deferment of Payment of Employer Payroll Taxes

- Payment of the employer portion of Social Security Taxes accruing between March 27, 2020 and December 31, 2020 can be deferred.
- 50% of the deferred tax must be paid by December 31, 2021, and 50% must be paid by December 31, 2022.
- This is not available for employers that receive PPP loans.



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How can we "employ" our staff in order to fulfill PPP when there is not enough to do? What are the parameters for trimming my staff AND qualifying for PPP?

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What are the guidelines for working with employed physicians who do not want to come to work (legitimately compromised, self-perceived as compromised, etc.)? How about partners? What if they will "work" but it's only to do telemedicine?

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Does paid leave for COVID purposes have to be taken consecutively (i.e., can it cover 3 days a week for child care)?

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What are the rules for reducing exempt employees?

- cut them to part time?
- flip them to hourly?
- furlough them, one week on, one week off?
- when do they collect unemployment?
- what about CONTRACTED employees (namely, clinicians)?

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What kind of legal exposure do we have because of limited or improper PPE use?

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How do I get out of having to participate in emergency sick leave and emergency FMLA?

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## Can I get a PPP loan and still get FICA deferral?

[www.PediatricSupport.com](http://www.PediatricSupport.com)



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## Billing & Practice Management Issues

- Clean Up Old A/R
- Close Claim Filing TAT
- Medicare PoS Change For Telemedicine (Cigna)
- Care Coordination Plan Updates

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# Telemedicine Update

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Medicare changing PoS numbers 02 vs 11  
National Payors Follow Suit?

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# Best Practices Update

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- Well Visits
  - Now
  - Summer
- Vaccine Ordering
- Don't Sell Your Inventories
- Follow Up With Chronically Ill Patients
- Remote Workers
  - Triage
  - Appointments

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## Future Impact



- Unprecedented revolution in any service industry
  - 99% in-person interaction to <60%
- Future Space Needs
- Flu Shot Orders
- More patients on Medicaid-shift in revenue and cost structure (vaccine)

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## Follow Up Items

- Copy of this webinar (video & podcast) will be posted tomorrow.
- Slide deck with list of items covered
- Visit [Forum.PediatricSupport.com](http://Forum.PediatricSupport.com) for follow up items
- Practice good medicine...keep an eye on finances...stay healthy

[www.PediatricSupport.com](http://www.PediatricSupport.com)



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# Homework

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- Join [Forum.PediatricSupport.com](http://Forum.PediatricSupport.com)
- Cash flow projections
- Support local AAP Chapters & State's Pediatric Council
- Letters To Elected Officials
- Internet Options?
  
- Apply for SBA loan (even if you think you don't need or qualify)

[www.PediatricSupport.com](http://www.PediatricSupport.com)

