



What's in the CARES Act for LeadingAge Members?

The Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act (H.R. 748) is the third bill to address the coronavirus pandemic. It unanimously passed the Senate on March 26 and the House on March 27 and was immediately signed into law.

This almost 900 page bill creates a large number of funding streams for businesses and individuals affected by the pandemic. We have advocated for many of the provisions in the bill and will continue advocating for increased access to funds for the programs that impact our members and the people we serve...as there is already a fourth bill in the works.

Here in summary form are the provisions that affect LeadingAge members directly and indirectly.

Money in your employees' pockets:

- The CARES Act provides direct financial help to individuals through a direct payment from the federal government based on the individual's income and family size; expansion of the ability to use FSA and HAS accounts to pay for non-prescription drugs; ensuring testing for COVID-19 is free; and other similar ways to help individuals survive this national emergency.

Charitable Deductions:

- Permits Americans to deduct \$300 of charitable contributions to charitable organizations regardless of whether they itemize their taxes during 2020; while small, this is an important step toward recognizing the value of non-profits.
- Increases the limit on charitable contributions for individuals and corporations who do itemize their taxes during 2020 by eliminating the 50% limitation for individual donors.

Stafford Act Disaster Relief Funds:

- \$45 Billion is allocated to FEMA for its Disaster Relief Fund.
- Distributed to states pursuant to the Stafford Act to reimburse states, localities and private nonprofits for expenses associated with responding to the emergency declarations.
- Can include expenditures for personal protective equipment, personnel, supplies, etc.
- Available for all nonprofits, not only healthcare providers, so housing and other service providers are eligible to apply.

Nursing Homes and other healthcare organizations:

- \$100 billion for the Public Health and Social Services Emergency Fund, a new program to provide grants to hospitals, public entities, nonprofit entities, and Medicare and Medicaid enrolled suppliers and institutional providers that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID–19, to cover unreimbursed health care related expenses or lost revenues attributable to the coronavirus public health emergency.
 - The funds can be used for medical supplies and equipment, including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, building or construction of temporary structures, leasing of properties, retrofitting facilities and surge capacity.
 - This program is available for SNFs, but should also be available for nonprofit home health, hospice, HCBS providers, and assisted living, whose clients/residents fall under the definition of having “possible or actual” diagnosis of COVID-19. We will be watching how this fund is distributed to address the needs of non-nursing home members.
- Sequestration suspended: reductions in Medicare payments because of sequestration has been suspended from May 1-December 31, 2020. Medicare providers should receive an increase in their rates based on how the 2% reduction was implemented.
- Extended Care Facility program: \$150 million for a construction program to create extended care facilities in existing nursing homes, domiciliary facilities and hospitals to prevent, prepare for and respond to coronavirus, including modifying or altering existing facilities.
- \$2 million for the Armed Forces Retirement Home Trust Fund to assist in responding to the coronavirus pandemic.

Business Loan Provisions available for LeadingAge members:

Small Business Administration (SBA) Paycheck Protection Program

- \$377 billion for a new program, The Paycheck Protection Program, to help small businesses meet operational costs during the COVID crisis. The Paycheck Protection Program would provide 8 weeks of cash-flow assistance through 100 percent federally guaranteed loans to small employers who maintain their payroll during this emergency.
- If the employer maintains its payroll, then the portion of the loan used for covered payroll costs, interest on mortgage obligations, rent, and utilities would be forgiven. The program is retroactive to February 15, 2020 and goes through June 30, 2020.

- The maximum amount of the loan is the lesser of the average total monthly payments by the applicant for payroll, mortgage payments, rent payments, and payments on any other debt obligations incurred during the 1 year period before the date on which the loan is made or 10 million dollars.
- Eligible businesses for the new program include any business concern, nonprofit organizations, veterans' organizations, or tribal organizations that employ:
 - 500 employees or fewer (includes full-time, part-time, and contract employees)
 - If applicable, the size standard in number of employees established by the SBA for the industry in which the entity operates.
- Thanks to our members' advocacy, a provision in an early version of the CARES Act prohibited Medicaid non-profits from participating in this program was eliminated from the final version, which is a great victory for all our members.

Department of Treasury Exchange Stabilization Fund

- \$500 billion dollars to the Department of Treasury's Exchange Stabilization Fund. Critically for LeadingAge members who have more than 500 employees but up to 10,000 employees, the Treasury Department is instructed to ensure that these mid-size businesses, particularly nonprofits, have access to loans not higher than 2% per year and no payments due on the loan within the first 6 months.
- In order to qualify, the borrower must self-certify:
 - that the loan is necessary to support ongoing operations;
 - that the borrower will maintain 90% of its workforce until September 30, 2020; and
 - that the borrower will not outsource or offshore jobs for a period of two years after repayment of the loan.

Medicaid:

6.2% FMAP Increase:

- Each state's Medicaid matching rate is increased by 6.2 percentage points for 2020. So, if a state's matching rate were to be 50%, under Families First its matching rate is now 56.2%. The increased federal share of Medicaid does not apply to the expansion population. By law, the federal government covers at least 50% of Medicaid costs in each state, with poorer states receiving a higher match rate.
- The idea behind increasing the federal share of Medicaid spending is to help free up state budget dollars during the pandemic. Throughout the pandemic most states will see significant decreases in revenue due to decreased economic activity. While the federal government likely will too, many state governments have balanced budget laws

that will require significant cuts to spending as a result of the loss of revenue. The federal government does not. Raising the federal share of Medicaid spending allows states to take their budgets further and help stave off cuts within Medicaid and to other programs.

- Just a caveat – the FMAP increase does not increase provider reimbursement, it is designed to avoid decreasing Medicaid access because of loss in revenue.
- And it is expected that more FMAP funds will be requested in the next set of coronavirus bills, because 6.2% is probably not enough.

States Must Maintain Eligibility Criteria

- The increased FMAP is conditioned on states maintaining the current eligibility criteria and premium policies they had set as of January 1.
- States are not allowed to impose more restrictive eligibility criteria (e.g., functional eligibility) or charge higher premiums (or introduce premiums if they did not have them before January 1).
- The funds are conditioned on continuous eligibility for all enrollees as of March 18. If a person was enrolled in Medicaid on that date, their state cannot dis-enroll them from Medicaid until the national emergency period ends.
- The increased funds do not prevent states from expanding Medicaid or making it easier for people to qualify. Current eligibility criteria serve as a floor, not a ceiling, for the purposes of these funds.
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Housing Members:

Housing provisions in the third stimulus package include resources for HUD-assisted housing to pay for COVID-19-related costs as well as a 120-day moratorium on all evictions from federally-assisted housing, including in all HUD, USDA Rural Housing, and Low Income Housing Tax Credit programs.

Funds for HUD Housing

- \$50 million for Section 202 Housing for the Elderly to make up for reduced resident rent payments as a result of the coronavirus, maintain housing stability, and to help communities pay for costs associated with the coronavirus.
 - The funds are to be used to prevent, prepare for, and respond to the coronavirus. This includes funds to “maintain normal operations” and take “other necessary actions” and for “assistance to owners or sponsors” of the Section 202 program. The bill allows up to \$10 million of the Section 202 account’s \$50 million to be used for Service Coordinators and the continuation of existing congregate service grants. The Section 202 funds will remain available until September 30, 2023.
- \$1 billion for Project-Based Rental Assistance to prevent, prepare for, and respond to the coronavirus, including to provide additional funds to “maintain normal operations and take other necessary actions.” The bill’s PBRA funds will remain available until they are expended.
- \$685 million to help public housing,
- \$1.25 billion for tenant-based rental assistance (Housing Choice Vouchers),
- \$4 million for homeless assistance, and
- \$15 million for the Section 811 Housing for Persons with Disabilities program, among resources for other HUD housing programs.
- \$5 billion for Community Development Block Grants, very flexible dollars that go to state and local governments. State and local governments can use these funds for a long list of things, including services for senior citizens, people currently experiencing homelessness, and public health services.
- The bill’s language authorizes the HUD Secretary to waive or specify alternative requirements for any statute or regulation that the Secretary administers for these programs, except for those related to fair housing, nondiscrimination, labor standards, and the environment. HUD is working on a list of potential waivers.

Distribution of Funds

- It is not yet clear how these funds will be distributed. In its March 25 call with stakeholders, HUD’s Office of Multifamily Housing said that HUD will put out guidance soon on how these funds will be accessed. For now, HUD officials said while noting they will not have any solid plan until the bill is enacted, it looks like HUD-assisted owners may be able to access these funds via the normal voucher process.

Moratorium on Eviction from Federally-Assisted Housing

- The bill also includes a sweeping, 120-day moratorium on all evictions from HUD-, RHS-, and LIHTC-assisted communities and FHA-insured multifamily properties. The bill also stipulates that no late fees, charges, or penalties can be imposed on residents for nonpayment of rent or other fees. The bill also codifies policies put in practice by the Federal Housing Finance Agency and HUD's Federal Housing Administration to protect their programs' single family homeowners from foreclosure and evictions, as well as foreclosure and eviction suspensions for certain multifamily buildings with Fannie Mae and Freddie Mac-backed mortgages.

No Funding for Non-HUD Housing Programs

- The bill provides no resources to assisted USDA Rural Housing Service multifamily programs address COVID-19 related costs or for RHS communities to withstand reductions resident incomes because of the coronavirus. Nor does the bill provide any such assistance directly to residents of Low Income Housing Tax Credits whose rents will remain the same even if their incomes decrease or evaporate because of quickly rising unemployment. LeadingAge is already working with House and Senate offices on a fourth COVID relief bill to address these and other large shortcomings in this bill.

Home Health and Hospice:

Telehealth Flexibility

- The CARES Act provided some enhanced telehealth flexibility for home health and hospice providers. Both flexibilities are for the duration of the emergency period so we will advocate with CMS for them to issue guidance as quickly as possible.
 - The bill would allow the hospice face to face recertification to take place via telehealth during the emergency period.
 - The HHS Secretary is instructed to encourage the use of telecommunications systems in home health during the emergency period, including remote patient monitoring that is consistent with the plan of care. The Secretary is encouraged to do so with guidance or conducting outreach.
- CMS has said that the home health face to face certification is allowable under the telehealth waiver enacted under the March 6th "Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020."

Home Health Care Planning

- Nurse practitioners, clinical nurse specialists, and physician assistants can now order home health. This change is permanent -- implementation must be within 6 months of the passage of the CARES Act though we will advocate for regulatory action sooner.

Other:

Community Programs through the Administration for Community Living

- \$955 million for Aging and Disability Services Programs. \$820 million shall be for activities authorized under the OAA to provide direct services such as home delivered and prepackaged meals, and supportive services for seniors and disabled individuals, and their caregivers, including:
 - \$500 million for Senior Nutrition – which includes \$20 million for nutrition services for Title VI for Native Americans)
 - \$200 million Home and Community Based Support Services;
 - \$100 million for Family Caregivers Supportive Services;
- Combating Hunger for Older Americans During Coronavirus Crisis.
 - This provision relaxes the definition of “home-bound” so that individuals who are quarantined/staying home due to COVID-19 can receive home-delivered meals and other home-based service such as congregate meals, home meals, preventive services and National Family Caregiver Support Program.
 - This will ensure that there is an inherently flexible funding streams that ensures local agencies and service providers can adjust their home and community-based services and supports to meet the unique and urgent needs resulting from the coronavirus pandemic.

Health Professions Programs

- Extension of the Health Profession Opportunity Grant program until November 2020 to allow current grantees to be able to finish out their grant cycle. The grants provide funding for job training to support entry-level health profession trainings for CNAs, home health aides and other allied health professionals.
- Reauthorizes health professions workforce programs including geriatrics training. Provides a five-year reauthorization for HRSA’s Geriatrics Workforce Enhancement Program (GWEPs) and reauthorization for the Geriatric Academic Career Awards (GACA), for training in clinical geriatrics, at \$41 million for each fiscal year, 2021 through 2025.

Telehealth:

- **Telehealth Network and Telehealth Resource Centers Grant Programs.** Awards 5-year grants through the Department of Health and Human Services (HHS) Telehealth Resource Center to allow long-term care, home care and other preventive health care providers to utilize telehealth technologies, through telehealth networks. The program will receive an appropriation of \$29 million for FY 2021 through 2025. The grants will allow nursing facilities to enable residents to participate in “virtual visits” with loved ones while the health risk of in-person visits remain high during the pandemic.

What’s next?

We expect regulations from Department of Labor, Treasury, HHS, HUD, and other agencies responsible for administering this bill and the previous coronavirus bills, including the Families First Response Coronavirus Response Act, which contained the new paid sick and FMLA requirements. Where we have the opportunity, we will provide comments. We already are in daily contact with HUD and HHS/CMS.