**CARES ACT: Paycheck Protection Program**

**Prepared by David Silbert MD FAAP 03-29-20**

**Please note that this was compiled with publically available resources and by reading the bill itself. There will be additional regulations and clarifications made over the next 2 weeks. I cannot guarantee the accuracy of this but hopefully it is helpful.**

These loans are available for businesses and non-profits of 500 employees or less. Sole proprietorships, independent contractors and self-employed individuals are eligible. Employees can be employed full-time, part-time or on other basis (contractors).

**Loan Amount:**

The maximum loan amount is 2.5 times the average total monthly payroll costs and other covered costs incurred during the 1-year period before the loan is originated. There are no personal guarantees or collateral required. The intent is to cover 2.5 months of business expenses not to exceed 10 million dollars. It does not cover **employee pay** above $100,000.

Employees who are paid over $100,000 salary, may only receive up to $100,000 during the covered period (February 15, 2020 through June 30, 2020). [Source](https://www.natlawreview.com/article/summary-cares-act)

There is loan forgiveness if certain criteria are met. The purpose of the legislation is to allow businesses to stay open, retain employees and encourage them not to reduce wages for employees making less than $100,000 annually. The amount that is forgivable is the sum of the payroll costs, mortgage interest payment, rent and utilities incurred or paid by the borrower during the 8-week period beginning on the loan origination date. The portion of the loan not forgiven converts to a 10-year loan at no more than 4% interest. There is no interest or principal due for 6-12 months. There is no prepayment penalty.

**The loan is intended for:**

* Payroll costs
* 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
* Interest on any other debt obligations that were incurred before the covered period.

**Certification:** Must certify that:

* Due to the uncertain economic conditions the loan is necessary to support ongoing operations
* Funds will be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments

**Reduction in Forgiveness:**

* The amount of loan forgiveness may not exceed the principal

**Reduction based on reduction of employees:**

* The amount of loan forgiveness is the loan amount
  + Multiplied by:
    - The average number of full-time equivalent employees per month during the covered period (February 15 - June 30, 2020)
  + And divided by:
    - 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
    - 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
  + In essence there is less loan forgiveness if fewer employees are employed after than were employed before COVID-19 Pandemic as determined above.

**Reduction Relating to Salary And Wages**

* For the employees earning less than $100,000, the amount of loan forgiveness will be reduced by any average salary reduction of more than 25%
  + This is intended to support the salary of lower paid workers
* It appears that workers with salary of $100,000 or more (highly paid workers) can have their salary reduced without a decrease in loan forgiveness (This needs further clarification)
  + There is some lack of clarity on employees who make $100,000 or more. I believe they are covered by the program but only for an annualized income up to $100,000, so for 2.5 months $20,833 of their pay could be covered by the program (this needs further clarification)

**Exemption for rehires:**

“To encourage workforce stabilization, the CARES Act takes into account that many businesses might already have or are planning to lay off personnel or cut salaries. If those changes were made between February 15, 2020 and April 26, 2020, those changes are not counted if the business rehires the number of personnel or returns the adjusted salary, as applicable, by June 30, 2020.” [Source](https://www.natlawreview.com/article/summary-cares-act)

**Application for Loan Forgiveness**

Must submit to the lender the following In June

* Documentation verifying the number of full- time equivalent employees on payroll and pay rates
* Payroll tax filings reported to the Internal Revenue Service
* 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—
  + The documentation presented is true and correct; and
  + The amount for which forgiveness is re- quested 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.

**Below Courtesy of Eric Packwood MD**

1. Paycheck Protection Loan- Highlights
   1. Principal of qualifying loan amount forgiven (becomes a grant)
   2. Maximum interest rate: 4%
   3. Maximum loan amount: 2.5x avg total monthly payroll cost for the previous year.
   4. Fees: Waived
   5. SBA guarantee: 100% of loan amount
   6. Loans through SBA-certified lenders
      1. Check with your local bank as Banks, Credit Unions, and other financial institutions will be able to originate loans
   7. Term: 10 years, with payments deferred for 6-12 months after the loan is issued
   8. No collateral or personal guarantee
   9. Faster processing as lenders do not have to wait for SBA approval
   10. Other criteria: No requirement to prove you tried and failed to get credit elsewhere
2. Key Detail of PPL
   1. Covers expenses between Feb 20, 2020 and June 30, 2020
   2. Eligible expenses
      1. Employee salaries, commissions or compensation
      2. Other payroll costs
      3. Healthcare insurance premiums
      4. Paid sick, medical and family leave
      5. Rent Interest payments on mortgages Interest on other debt issued before February 15, 2020
      6. Utilities
   3. In addition to Small Business Association lenders, some Banks (TBD) will be able to offer these loans.
   4. If you reduce your employees’ wages or salaries over 25%, you will lose that amount in loan forgiveness as well.
   5. This does not include salaries over $100,000 per employee.
   6. Any remaining balance after forgiveness turns into a loan with a 10-year term. But there are no prepayment penalties, so you can pay this off as fast as you want to save on interest.