



# Navigating Coronavirus Series

Tonight: Paycheck Protection Program Flexibility Act

June 9, 2020

# This series brought to you by

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# Today's Presenters

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- **L. Allen Dobson, Jr., MD**  
CEO, Community Care of North Carolina
- **Tom Wroth, MD**  
President, Community Care of North Carolina
- **Shawn Parker, Esq.**  
Attorney, Smith Anderson

# Timeline

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- **March 27, 2020** - Coronavirus Aid, Relief, and Economic Security Act (P.L. 116- 137) Created the Paycheck Protection Program \$350 billion
- **April 2, 2020**- Interim Final Rule-Paycheck Protection Program
- **April 16, 2020**- SBA stops accepting applications
- **April 24, 2020**- PPP and Health Care Enhancement Act P.L. (116-139) added \$320 billion to Program.
- **April 27, 2020**- SBA resumes taking applications
- **May 22, 2020**- Interim Final Rule on loan forgiveness
- **June 6, 2020**- Paycheck Protection Program Flexibility Act becomes law
- **June 30, 2020**- *Application deadline*

# Paycheck Protection Program

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## Summary of cumulative PPP data (June 4, 2020)

- Approximately \$100 billion dollars remains to be distributed
  - \$511 billion dollars have been approved
  - 4.5 million loans (average loan \$113,228)
  - 5,500 lenders participating

# PPP Flexibility Act of 2020

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## What is the same:

- Application Deadline- **June 30, 2020**
- Allowable use of PPP loan proceeds
  - Payroll vs. non-payroll costs
- Borrowers may elect to uses original terms

## What is different ...

# PPP Flexibility Act 2020 - Covered Period

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- Forgiveness Period (Covered Period) Expansion
  - Original 8 weeks from receipt of funding; or
  - 24 weeks from receipt of funding
  - December 31, 2020 for loans origination dates after July 13, 2020
- Intended to provide sufficient time to qualify for forgiveness
  - *Amount forgiven* still impacted by any reductions to FTEs or salaries (or wages) paid to employees

# PPP Flexibility Act 2020 - FTE/Salary Restoration

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- Restoration deadline moved from June 30 to December 31
- Original exception to FTE/Salary restoration
  - IFR Forgiveness- Good faith offer to rehire
    - Written offer; Same salary/hours; rejected by EE
- New exceptions
  - Inability to hire similarly qualified, **or**
  - Inability to return to same level of business activity
    - Based on compliance with HHS/CDC guidance for worker/customer safety



## PPP Flexibility Act 2020 - Percent attributed to payroll

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- Act requires at least 60% of forgivable expenses used towards payroll costs
- Definition for payroll costs remains unchanged
  - Employee bonuses and hazard pay allowed
- Does not technically change IFR requirement of 75%
  - SBA likely issue new guidance to conform
  - Unintended cliff scenario

## PPP Flexibility Act 2020 - Extends loan maturity date

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- Provides a minimum maturity of 5 years
  - Was 2 years
- One percent (1%) interest rate remains
- Deferral of principal and interest extended to date loan forgiveness amount is determined
  - Was six months from origination date
  - Can be required if haven't applied for forgiveness within 10 months of covered period

## PPP Flexibility Act 2020 - Payroll Tax deferral

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- Tax deferrals permitted under CARES Act available on same basis as employers not participating in PPP
  - Defer 50% of the employers' share of payroll taxes to 2021
  - And defer remaining 50% until 2022
- The original PPP prohibited employers from deferring employer Social Security taxes after any portion of the PPP loan was forgiven.

# PPP Flexibility Act 2020 - Practical Guidance

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- Legislative Intent to provide flexibility
- PPPFA significantly reduces borrower risks or repayment
  - Allowing time to use funds for forgivable expenses
    - Without huge bonuses or prepayments
  - Accounts for factors outside employer's control
  - If you have to repay a portion
    - 1% interest
    - 5 years to pay

# PPP Flexibility Act 2020 - Practical Guidance

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## Unintended/unanswered interpretations

- All or none repayment for failing to use 60% on payroll
- Covered period 8 weeks or 26 weeks
- IRS rules regarding 2020 deductible expenses
- SBA Interim Final rule inconsistency

# Enhanced Provider Portal, Relief Fund Targeted Payments for Medicaid & CHIP Providers

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- June 9, 2020- HHS announces additional distributions from the Provider Relief Fund
- \$15 billion to *eligible* providers that participate in state Medicaid and CHIP programs
- Payments will be based on annual patient review
  - Approx. 2% of reported gross revenue from patient care
  - Must apply through enhanced portal (06.10.2020)

# Enhanced Provider Portal, Relief Fund Targeted Payments for Medicaid & CHIP Providers

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## Eligibility

- Must not have received payments from the \$50 billion Provider Relief Fund General Distribution

## **And**

- Have directly billed their state Medicaid/Chip program between January 1, 2018 and May 31, 2020

# Questions?

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