COMPLIANCE BULLETIN

April 3, 2020

COVID-19 and Group Benefits
Frequently Asked Questions (FAQ)
2nd Edition

On Friday, April 3, 2020, Governor Whitmer signed Executive Order 2020-36 that takes effect immediately for all Michigan residents in order to help mitigate community spread:

- Any and all individuals who test positive for COVID-19 or who display one or more of the principal symptoms, such as fever, atypical cough, and atypical shortness of breath, must remain in their home or place of residence. This includes Michiganders who are otherwise free to leave their homes under Executive Order 2020-21. People who test positive or who are experiencing symptoms must wait to leave their homes until three days have passed since their symptoms have resolved and seven days have passed since symptoms first appeared, or since they were swabbed for the test that yielded the positive result.
- In addition, any and all close contacts of a symptomatic individual or of someone who has tested positive for COVID-19 should remain in their home until 14 days have passed or the symptomatic individual receives a negative COVID-19 test.
- Individuals and household members who test positive for COVID-19 or who display one or more of the principal symptoms may leave their home or place of residence when necessary to obtain food, medicine, or supplies that are needed to sustain or protect life and when those items cannot be obtained via delivery. People may also engage in outdoor activities, including walking, hiking, running, cycling, or any other recreational activity consistent while remaining at least six feet from people from outside the individual's household.
- Health-care professionals, workers at a health-care facility, first responders (e.g., police officers, fire fighters, paramedics), child protective service employees, workers at child caring institutions and correctional officers are exempt from staying at home if a member of their household tests positive for COVID-19 or displays one or more of the principal symptoms provided that their employers' rules governing occupational health allow them to go to work.
- Prohibits all employers from discharging, disciplining, or otherwise retaliating against an employee for staying home from work if they or one of their close contacts tests positive for COVID-19 or has symptoms of the disease.

On Thursday, April 2, 2020, Governor Whitmer signed Executive Order 2020-35, which orders all K-12 school buildings to close for the remainder of the school year – unless restrictions are lifted – and ensures continuing of learning by setting guidelines for remote learning.

On Friday, March 27, 2020, Governor Whitmer signed Executive Order 2020-26 which pushes all April 2020 state and city income tax filing deadlines in Michigan to July 2020. State of Michigan and City of Detroit as well as other cities with income tax returns and payments due on April 15th are now due before midnight on July 15th. Cities with income taxes due on April 30th will now be due on July 31st.

On March 27, 2020, President Trump signed a $2 trillion stimulus bill, the **Coronavirus Aid, Relief, and Economic Security (CARES) Act**. This is the third aid package and is aimed at providing relief for individuals and businesses that have been negatively impacted by the coronavirus outbreak.

Q. What provisions are available to assist individuals?

The most significant provisions affecting individuals include:

- Single Americans will receive $1,200, married couples will get $2,400 and parents will receive $500 for each child.
- Unemployed individuals, including freelancers and furloughed employees, will get an extra $600 per week for up to four months, on top of state unemployment benefits.
- The package also calls for a new pandemic unemployment assistance program, which will provide jobless benefits to those who are unemployed, partially unemployed or unable to work because of COVID-19 and don't qualify for traditional benefits.
- The Department of Education will suspend payments for student loan borrowers without penalty through September 30.
- There will be housing protections against foreclosures on mortgages and evictions for renters. Anyone facing a financial hardship from the coronavirus will receive a forbearance on federally backed mortgage loans of up to 60 days. Those with federally backed mortgage loans who have tenants are not allowed to evict tenants solely for failure to pay rent for a 120-day period.

Q. What provisions are available to assist businesses?

The most significant provisions include:

- $367 billion will be made available in loans for small businesses and $150 billion for state and local governments. The loans will be forgiven so long as businesses pledge not to lay off their workers.
- Small businesses forced to suspend operations or that have seen gross receipts fall by 50% from the previous year will be eligible for a tax credit worth up to 50% of wages paid during the crisis, so long as they keep their workers employed throughout.
- The Treasury Department will distribute $500 billion in loans to struggling industries (e.g., passenger airlines and businesses critical to maintaining national security). Additionally, an oversight board and inspector general will be created to oversee loans to large companies.
- Health care providers will receive $100 billion in grants to help fight the coronavirus and make up for revenue lost by delaying elective surgeries and other procedures.
- $200 million will be carved out for the Federal Communications Commission to provide health care providers with connected devices to facilitate telemedicine services, with the goal of freeing up hospital beds. Another $25 million will go to a grant program that helps rural communities purchase broadband equipment for telemedicine.
- The Commodity Credit Corporation, an institution that USDA uses to stabilize the farm economy, would see its spending authority increase to $14 billion. The package also sets up a $9.5 billion emergency fund for producers, including fresh fruit and vegetable growers, dairy farmers and cattle ranchers, along with local food systems like farmers markets.
- Colleges and universities, as well as school districts, will receive more than $30 billion.
- State and local governments will receive $150 billion, with $8 billion set aside for local governments.
- The package will provide the U.S. Postal Service with a $10 billion Treasury loan to stave off insolvency.
- Retailers, restaurateurs and hotels will be able to immediately deduct from their taxes what they spend on property improvements.
- Employers can defer the 6.2% tax they pay on wages used to fund Social Security.

Q. COVID-19 Tests were required to be covered under the Families First Coronavirus Response Act (FFCRA), what changes did the CARES Act make?

The FFCRA required that tests had to be FDA-approved. The CARES Act now allows tests by developers who have requested (or intend to request) an emergency use authorization from the FDA as well as tests developed under state authorization or tests deemed necessary by HHS.

For fully insured plans, the insurance company will cover it. Self-Funded plans should reach out to their TPA to ensure that the plan document is amended by the end of the plan year to add the covered diagnostic tests and services.

Q. Are health plans required to cover treatment at no cost share?

The CARES Act does not require plans to cover the treatment at no cost share. However, many carriers are opting to cover the treatment at no cost.

Q. Telehealth providers are finding it difficult or impossible to determine if the call is COVID-19 related so they are covering all services with no cost share. Does this jeopardize HSA eligibility for our HDHP participants?

The CARES Act allows HDHPs to cover all telehealth services without imposing the minimum deductible without jeopardizing the plan. This is in effect until plan years beginning on or after January 1, 2022.

Q. Did the CARES Act include any changes to eligible items under HSA, Archer MSA, HRA or FSA health benefit accounts?

- Effective 01/01/20, Over the Counter Drugs no longer require a prescription in order to be eligible
- Effective 01/01/20, menstrual care products are eligible

Q. Can employees now use their Debit Cards to purchase OTC drugs and menstrual products?

The Special Interest Group for IIAS Standards (SIGIS) is was formed in 2007 to create the standard for IIAS systems that control what items can be swiped on debit cards for benefit plans. SIGIS has made it a top priority to identify changes to the eligibility criteria and the Eligible Product List. This includes reviewing 19,111 OTC Drugs and Medicines and 913 Feminine Care categories. They expect to have the new list published by 04/15/20.

Once the list is published, merchants must process the changes in their point of sale systems then consumers will be able to proceed through normal checkout lanes and use their benefit debit cards.

Q. What if people need OTC items now?

People can purchase OTC Medicines and / or menstrual care products using other forms of payment and submit claims to their claims administrator for reimbursement. This includes all purchases of these items made since January 1, 2020.

Q. Will our Plan Document need to be updated to allow to these items to be eligible?

The coverage of these additional items is optional and required. Plan sponsors that choose to allow them will need to revise their Plan Documents and issue a Summary of Material Modifications (SMM). It is a benefit enhancement so the notice must be issued within 210 days after the end of the plan year. However, if you issue a new SPD at open enrollment, it will cover the requirement.

Q. Is this considered a significant improvement and subject to opening the plan up to the employees to adjust elections or enroll in the plan?

Treasury Reg §1.125-4(f) states that election changes for significant improvements are not allowed with respect to Health FSAs.

Q. Can we provide our employees with any assistance on their student loan payments?

The CARES Act temporarily (until the end of this year) allows for tax-free reimbursement of student loan payments for a "qualified education loan" which means the proceeds of the loan were only used for:

- Tuition and Fees
- Room and Board
- Books, supplies, transportation and miscellaneous expenses

It only includes loan payments made between March 27, 2020 and December 31, 2020 and is subject to the calendar limit of $5,250 in combination with any other tuition expenses reimbursed under the Employer's Educational Assistance Plan.

Q. How does the CARES Act affect unemployment?

- Section 2102 - Provides State Unemployment Insurance benefits to individuals that normally cannot receive unemployment benefits
    - Pandemic Unemployment Assistance Program – "Unemployment for people not normally eligible for unemployment"
        - Sole proprietors, independent contractors, gig workers, certain agriculture workers, LLC members, partnerships and church employees
            - Must not eligible for normal state UI benefits
            - Must be able to work
            - Must be available for work
            - Must Self-Certify that their unemployment or partial unemployment is related to COVID-19 which includes:
                - Diagnosed with or experiencing symptoms of COVID-19
                - Member of the household has been diagnosed with COVID-19
                - Caring for a family member or household member diagnosed with COVID-19
                - Caring for a child that is unable to attend school due to a COVID-19 public health emergency, and sending the child to school is required for the individual to work
                - Individual cannot reach work because of a quarantine due to COVID-19
                - Individual advised by health care practitioner to self-quarantine due to COVID-19 concerns
                - Individual was scheduled to commence employment and does not have job or cannot reach it due to COVID-19
                - Individual has become breadwinner in the home because previous breadwinner died due to COVID-19
            - Basically, if an individual's unemployment or partial unemployment is – in any way – related to COVID-19 – he/she will receive an enhanced unemployment benefit
            - Does NOT include an individual with the ability to "telework" with pay or receiving paid sick or other paid leave

        - Amount of benefit is state unemployment benefit amount + $600 (In MI, up to $962 per week)
            - Additional $600 kicker may expire on July 31, 2020 (it isn't clear)
        - Benefit lasts up to 39 weeks and until December 31, 2020
        - It is retroactive back to January 27, 2020
- Section 2104 - Provides an additional $600 per week in addition to State Unemployment Insurance benefits to everyone
    - All individuals that are eligible for state UI benefits and not disqualified in accordance with state law
    - NOT linked to COVID-19
    - Maximum benefits are state UI benefits + $600 week (In MI, up to $962 per week)
    - Lasts until July 31, 2020
- Section 2107 - Provides an additional 13 weeks of benefits once individuals have exhausted their State Unemployment Insurance Benefits
    - Individuals that have exhausted regular unemployment compensation are eligible if:
        - Have no right to other compensation during a particular week under any state or federal law
        - Are not receiving Canadian compensation
        - Are able to work, available to work and actively seeking work (and are not disqualified)
    - Not linked to COVID-19
    - Maximum benefits are state UI benefits + $600 week (In MI, up to $962 per week)

Q. How is the state handling the increased number of unemployment applications?

The State of Michigan is having trouble managing the volume of claims and has had their system crash this week. They ask that people apply online at Michigan.gov/UIA and follow this schedule:

Economic Impact Payments

Single Americans will receive up to $1,200, married couples will get up to $2,400 and parents will receive $500 for each child. The Treasury Department and the Internal Revenue Service announced on Monday, March 30th that distribution of economic impact payments will begin in the next two weeks and will be distributed automatically, with no action required for most people. However, some seniors and others who typically do not file returns will need to submit a simple tax return to receive the stimulus payment.

Q. Who is eligible for the economic impact payment and how much will people receive?

Tax filers with adjusted gross income up to $75,000 for individuals and up to $150,000 for married couples filing joint returns will receive the full payment. For filers with income above those amounts, the payment amount is reduced by $5 for each $100 above the $75,000/$150,000 thresholds. Single filers with income exceeding $99,000 and $198,000 for joint filers with no children are not eligible.

Eligible taxpayers who filed tax returns for either 2019 or 2018 will automatically receive an economic impact payment of up to $1,200 for individuals or $2,400 for married couples. Parents also receive $500 for each qualifying child.

Q. What do people need to do to receive the payment and how will the IRS know where to send the payments?

The vast majority of people do not need to take any action. The IRS will calculate and automatically send the economic impact payment to those eligible.

For people who have already filed their 2019 tax returns, the IRS will use this information to calculate the payment amount. For those who have not yet filed their return for 2019, the IRS will use information from their 2018 tax filing to calculate the payment. The economic impact payment will be deposited directly into the same banking account reflected on the most recent return that was filed.

Q. If the IRS does not have the direct deposit information. What can be done?

In the coming weeks, the Treasury plans to develop a web-based portal for individuals to provide their banking information to the IRS online, so that individuals can receive payments immediately as opposed to checks in the mail.

Q. For those people that are not typically required to file a tax return. Can they still receive a payment?

Yes. People who typically do not file a tax return will need to file a simple tax return to receive an economic impact payment. However, people already receiving Social Security who do not file a tax return, do not have to file a return.

Low-income taxpayers, senior citizens, Social Security recipients, some veterans and individuals with disabilities who are otherwise not required to file a tax return will not owe tax.

Q. How can I file the tax return needed to receive my economic impact payment?

IRS.gov/coronavirus will soon provide information instructing people in these groups on how to file a 2019 tax return with simple, but necessary, information including their filing status, number of dependents and direct deposit bank account information.

Q. If a person has not filed their tax return for 2018 or 2019, can they still receive an economic impact payment?

Yes. The IRS urges anyone with a tax filing obligation who has not yet filed a tax return for 2018 or 2019 to file as soon as they can to receive an economic impact payment. Taxpayers should include direct deposit banking information on the return.

Q. If a person needs to file a tax return, how long are the economic impact payments available?

For those concerned about visiting a tax professional or local community organization in person to get help with a tax return, these economic impact payments will be available throughout the rest of 2020.

Keep in mind that the tax filing deadline for individuals, trusts and estates, corporations and other non-corporate tax filers has been automatically extended from April 15, 2020 to July 15, 2020. Taxpayers can also defer federal income tax payments due on April 15, 2020 to July 15, 2020, without penalties and interest, regardless of the amount owed.

Q. Where can I get more information on the Economic Impact Payments?

The IRS will post all key information on IRS.gov/coronavirus as soon as it becomes available.

The IRS has a reduced staff in many of its offices but remains committed to helping eligible individuals receive their payments expeditiously. Check for updated information on IRS.gov/coronavirus rather than calling IRS assistors who are helping process 2019 returns.

Retirement Plans

Q. What provisions are in the CARES Act for Retirement Plans?

Guidance has not been released yet to clarify the details, but the CARES Act provides provisions in the following areas:

- Voluntary Distributions
  - Employer can choose to opt out of this provision and not amend their plan to accommodate them
  - Allows distributions of up to $100,000 until 12/31/20 as a result of COVID-19, even if the participant does not satisfy the usual hardship distribution rules
    - The Participant must be a “qualified individual” and certify that he, his spouse or one of his dependents tested positive for COVID-19 or suffered adverse financial consequences from COVID-19 as a result of being quarantined, furloughed, laid off, having reduced hours, being unable to work due to lack of child care, the closing or reduction of hours of a business owned or operated by the individual, or other factors as determined by the Department of Treasury
    - The distribution is not subject to mandatory income tax withholding or the 10% penalty tax even if the participant is less than 59 ½
    - May repay the distribution to the plan (or an IRA) within three years without being taxed on it
      - If not repaid, it is treated as regular income spread equally over the three year period from the date of the distribution for Federal income tax purposes
    - No requirement to have to take a loan before the hardship withdrawal
  - Can be made from 401(k), 403(b) and 457(b) plans as well as IRAs
  - It is not clear if they can be made from defined contribution plans
  - It went back to 01/01/20, so people might have already taken a distribution that qualifies
- Loans
  - Participants may receive loans of up to $100,000 (or, if balance is less, 100% of the vested balance) between March 27, 2020 thru September 23, 2020
    - The $100,000 limit is reduced by outstanding plan loan balances
  - Payments due between March 27, 2020 and December 31, 2020 on existing or new COVID-19 loans currently may be put on hold for one year
    - We are waiting on additional guidance to determine if this is a mandatory or optional requirement for Plan Sponsors
  - Five year repayment period is extended to 6 years
    - Interest continues to accrue on the loan during the one year grace period on repayment
    - 10% penalty tax is not generally waived if participant later defaults (a distribution may be a better option due to this)

- Plans Sponsors are permitted, but not required, to allow waivers of Required Minimum Distributions for defined contribution retirement plans and IRAs for the 2020 plan year. Designed to provide relief to retirees. Suspending the RMDs gives many Americans the ability to leave their investment portfolios alone to recover over the next year.
    - Includes 401(k), 403(b) and 457(b) plans as well as IRAs
        - Includes inherited IRAs or 401(k)s
    - Required Minimum Distribution age had changed from 70 ½ to 72
        - Allows someone who turned 70 ½ in 2019 to skip both their 2019 RMD if it was their first year and had not yet made an RMD by April 1, 2020 and their 2020 RMD
- Sponsors of defined benefit pension plans receive some relief from the minimum funding requirements for 2020
    - Minimum required contributions are not due until January 1, 2021 (but interest will accrue)
    - The defined benefit plan's Adjusted Funding Target Attainment Percentage (AFTAP) for 2019 can be used for 2020

For both Loans and Distributions, retroactive plan amendments can be delayed until the last day of the first plan year beginning on or after January 1, 2022 (2024 for governmental plans), but employers will want to determine if they will allow any of these voluntary provisions to be available to their employees and notify the employees of the new rules to the extent the employer makes them available.

Keep in mind if an employer allows these options, participants will be selling assets at the worst possible time, whether the participant takes a distribution or a loan. Encouraging participants to pull money out of their retirement plan accounts now will only make their future retirement income deficit worse and these options should be seen as a last resort in most cases.

Amending plans to allow these options, may make participants more comfortable continuing to contribute to their plan for the remainder of 2020, since they will know that if things get worse before the end of the year and they need access to the money in their account, they will be able to get it without the penalty.

For a plan that includes a Roth option, counseling participants who can afford it should consider a Roth conversion. The taxes due on the conversion will be significantly less as a result of the decline in the value of the participant's account and the future growth in the assets will be income tax free.

Employee Retention Credit

Q. What is the Employee Retention Credit and does my business qualify to receive it?

The Employee Retention Credit is designed to encourage businesses to keep employees on their payroll. The refundable tax credit is 50% of up to $10,000 in wages paid by an eligible employer whose business has been financially impacted by COVID-19.

The credit is available to all employers regardless of size, including tax-exempt organizations. There are only two exceptions: state and local governments and their instrumentalities and small businesses who take small business loans.

Qualifying employers must fall into one of two categories:

1. The employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter.
2. The employer's gross receipts are below 50% of the comparable quarter in 2019. Once the employer's gross receipts go above 80% of a comparable quarter in 2019, they no longer qualify after the end of that quarter.

Q. How is the Employee Retention Credit calculated?

These measures are calculated each calendar quarter.

The amount of the credit is 50% of qualifying wages paid up to $10,000 in total. Wages paid after March 12, 2020, and before Jan. 1, 2021, are eligible for the credit. Wages taken into account are not limited to cash payments, but also include a portion of the cost of employer provided health care.

Q. Which wages qualify?

Employers with less than 100 employees: If the employer had 100 or fewer employees on average in 2019, the credit is based on wages paid to all employees, regardless if they worked or not. If the employees worked full time and were paid for full time work, the employer still receives the credit.

Employers with more than 100 employees: If the employer had more than 100 employees on average in 2019, then the credit is allowed only for wages paid to employees who did not work during the calendar quarter.

Q. How does an employer receive the credit and where can I obtain more information?

Employers can be immediately reimbursed for the credit by reducing their required deposits of payroll taxes that have been withheld from employees' wages by the amount of the credit.

Eligible employers will report their total qualified wages and the related health insurance costs for each quarter on their quarterly employment tax returns or Form 941 beginning with the second quarter. If the employer's employment tax deposits are not sufficient to cover the credit, the employer may receive an advance payment from the IRS by submitting Form 7200, *Advance Payment of Employer Credits Due to COVID-19*.

FAQs and Updates on the implementation of this credit can be found at irs.gov. IRS also has a page of Frequently Asked Questions on Tax Credits for Required Paid Leave and other information can be found on the Coronavirus page of IRS.gov.

Paycheck Protection Program (PPP) Loans:

The program went live on April 3, 2020 and will provide cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loans would be forgiven, which would help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis. PPP has a host of attractive features, such as forgiveness of up to 8 weeks of payroll based on employee retention and salary levels, no SBA fees, and at least six months of deferral with maximum deferrals of up to a year. Small businesses and other eligible entities will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. This program would be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. **Loans are available through June 30, 2020.**

Q. What type of businesses are eligible for a PPP loan?

- Businesses and entities must have been in operation on February 15, 2020.
- Small businesses including 501(c)(3) nonprofit organizations, a 501(c)(19) veterans organization, or Tribal business concerns described in section 31(b)(2)(C) that has fewer than 500 employees
- Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries . Additional information can be found here.

- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- The SBA's affiliation standards are waived for small businesses (additional guidance may be released as appropriate)
    - In the hotel and food services industries that employ less than 500 employees per physical location and is assigned an NAICS code beginning with 72
    - Franchises in the SBA's Franchise Directory
    - Receive financial assistance from Small Business Investment Companies licensed by the SBA

Q. What are affiliation rules?

Affiliation rules become important when SBA is deciding whether a business's affiliations preclude them from being considered "small." Generally, affiliation exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Please see this resource for more on these rules and how they can impact your business's eligibility.

Q. What types of non-profits are eligible?

In general, 501(c)(3) and 501(c)(19) non-profits with 500 employees or fewer as most non-profit SBA size standards are based on revenue, not employee number. You can check here.

Q. How is the loan size determined?

Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan size is always **$10 million**.

- **If you were in business February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs. If your business is a seasonal employer, the max loan is equal to 250 percent of your average monthly payroll costs between February 15, 2019 – June 30, 2019; you can also opt to choose March 1, 2019 as your time period start date.
- **If you were not in business between February 15, 2019 – June 30, 2019:** Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020.
- **If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020** and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.

Q. How long will this program last?

Although the program is open until June 30, 2020, employers are encouraged to apply as quickly as they can because there is a funding cap and lenders need time to process the loan.

Q. What is the interest rate and when do I need to start paying interest on my loan?

The interest is 1.00% fixed rate. All payments are deferred for 6 months; however, interest will continue to accrue over this period.

Q. When is my loan due and can I pay it early?

The loan is due in 2 years, but there are no prepayment penalties or fees.

Q. Do I need to pledge any collateral or personally guarantee this loan?

No collateral or person guarantee is required. However, if the proceeds are used for fraudulent purposes, the U.S. government will pursue criminal charges against you.

Q. What costs are eligible for payroll?

- Compensation (salary, wage, commission, or similar compensation)
- Cash tips 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

Q. What costs are not eligible for payroll?

- Employee/owner compensation over $100,000 (prorated for the relevant period)
  - Amount below $100,000 still counts as “payroll costs”
- 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*

Q. What are allowable uses of loan proceeds?

- Payroll costs (as noted above)
- 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 (see exclusions above)
- 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

Q. What are the forgivable Uses of the loan?

Forgivable uses are a subset of permitted uses . The PPP loans are forgivable and become a grant that does not have to be paid back to the extent the loan is used during the eight week period after loan receipt for the following specified purposes:

- Payroll costs (as noted above)
  - Excluding the portion of any employee’s compensation in excess of an annualized salary of $100,000 (prorated for the covered period)
- Mortgage Interest
- Rent obligations
- Utility Payments

Q. How is the forgiveness amount calculated?

Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over $100,000):

- Payroll costs plus any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation plus and any covered utility payment.

You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

You will also owe money if you do not maintain your staff and payroll:

- Number of Staff: Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
- Level of Payroll: Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than $100,000 annualized in 2019.
- Re-Hiring: You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

Q. How do I request forgiveness on my PPP loan?

You must apply through your lender for forgiveness on your loan. In this application, you must include:
- Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and state income, payroll and unemployment insurance filings.
- Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities.
- Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.

The lender must make a decision on the forgiveness within 60 days.

Q. Can I get more than one PPP loan?

No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.

Q. Where should I go to get a PPP loan from?

All current SBA 7(a) lenders are eligible lenders for PPP. The Department of Treasury will also be in charge of authorizing new lenders, including non-bank lenders, to help meet the needs of small business owners. Application for Borrower

Q. How does the PPP loan coordinate with SBA's existing loans?

Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from Small Business Investment Corporations (SBICs). However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

Q. How does the PPP loan work with the temporary Emergency Economic Injury Grants and the Small Business Debt Relief Program?

Emergency Economic Injury Grant and Economic Injury Disaster Loan (EIDL) recipients and those who receive loan payment relief through the Small Business Debt Relief Program may apply for and take out a PPP loan as long as there is no duplication in the uses of funds.

Q. What are some resources for additional information on the PPP loan?

Fact Sheet
Full Details
Emergency Loans Small Business Guide and Checklist

Follow-up Questions on Families First Coronavirus Response Act (FFCRA)

Q. What do I do if an employee tests positive for COVID-19?

- Keep the employee information confidential
- Communicate with employee, leadership and local health officials to determine other employees who had close contact in the last 14 days
    - Local health department may require names and contact information
- Notify impacted employees and send home for 14 days from last contact
- Notify all employees writing
    - Ensure them that safety is paramount
    - Reiterate why operations are critical and important
    - Discuss all precautions being taken
- Clean and disinfect if employee has been in the workplace in the last 7 days
    - CDC Guidance –
        - https://www.cdc.gov/coronavirus/2019-ncov/prepare/disinfecting-building-facility.html
    - Close off areas used by employee until cleaned
    - Consider stopping operations until completed if feasible
- Consider additional screening measures of all employees
    - COVID-19 Symptoms
        - Temperature checks
        - Questionnaire before employees and visitors enter facilities (currently required by some counties in Michigan (e.g., Oakland, Washtenaw, Ingham)
            - Exposure to confirmed cases
            - Travel from areas with high infection rates

Q. When should be let an employee that is either confirmed or suspected of having COVID-19 return to work?

Confirmed or Suspected:

- CDC Guidelines: https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html
    - No fever for at least 72 hours (that is 3 full days of no fever without the use of medicine that reduces fever); AND
    - Other symptoms have improved AND
    - At least 7 days have passed since their symptoms first appeared

Just Symptoms:

- CDC Guidelines: https://www.cdc.gov/flu/business/stay-home-when-sick.htm
    - Symptom free for 24 hours

Q. Should we require a Medical Certification to Work before they return to work?

Yes, if out of work for confirmed / suspected case or had symptoms

- EEOC now supports any medical inquiry needed to protect workforce against COVID-19
- Employee safety concerns are extremely high
- Medical offices appear willing to provide information to employers
- The Certification should state that the it is safe for the individual to return to the workplace

Q. What safety precautions are needed if my workplace is a critical business under Executive Order 2020-21 and must remain open?

- Review the Guidance on Preparing Workplaces for COVID-19
- Restrict number of employees on premises to no more than necessary
- Promote remote work to the fullest extent possible
- Keep employees and patrons or visitors at least 6 feet apart to maximum extent possible
    - Including breaks and coming to / departing workplace
- Increase cleaning and disinfection standards
- Adopt policy to prevent employees from entering if they display symptoms OR have contact with known / suspected COVID-19 case
- Possibly stagger shifts to keep employees separate
- Zone the work space to keep employees from entering areas not needed to perform their duties
    - This will assist determining what areas to clean and / or shut down if someone is diagnosed
- Promote handwashing, encourage respiratory etiquette, discourage shared use of phones, desks, equipment, have sanitize & wipes, etc.
- Consider engineering controls – high-efficiency air filters, increase ventilation rates, physical barriers (e.g., sneeze guards)
- Employees health assessment prior to entry
    - Required by some counties (e.g., Oakland, Washtenaw, Ingham)
- Personal Protective Equipment
    - Employers required to provide PPE necessary to keep employees safe at work
    - Depends on hazard to worker and ability to follow social distancing requirements
    - Masks
    - Gloves

Q. We have less than 500 employees and have closed our business due to Governor Whitmer's Stay-At-Home Order. Are my employees eligible for paid sick time?

The FFCRA states that an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) and the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19. However, based on recent guidance from the DOL, Governor Whitmer's order **DOES NOT MEET** the definition of a quarantine or isolation order.

FFCRA – Leave Chart for Emergency FMLA and Emergency Sick Leave

Effective April 1, 2020 through December 31, 2020

Qualifying Reasons for: **Emergency Paid Sick Leave (EPSL)**	**Weeks 1 and 2 (80 Hours)**		**Weeks 3 through 12 (additional 10 weeks)**
1. Subject to a federal, state, or local quarantine or isolation order related to COVID-19 *(Governor Whitmer's Stay-At-Home Order does not qualify)*	Paid EPSL at higher of regular rate or min wage up to $511 per day	No EFML	No EFML
2. Has been advised by a health care provider to self-quarantine related to COVID-19	Paid EPSL at higher of regular rate or min wage up to $511 per day	No EFML	No EFML
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis	Paid EPSL at higher of regular rate or min wage up to $511 per day	No EFML	No EFML
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2)	Paid EPSL at higher of 2/3 regular rate or 2/3 min wage up to $200 per day and $2,000 aggregate	No EFML	No EFML
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19 This is Also the Only Qualifying Reason for Emergency Family Medical Leave (EFML)	Paid EPSL at higher of 2/3 regular rate or 2/3 min wage up to $200 per day and $12,000 aggregate (over the 12 week period)	Unpaid EFML	PAID EFML at higher of 2/3 regular rate or 2/3 min wage up to $200 per day
6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury	Paid EPSL at higher of 2/3 regular rate or 2/3 min wage up to $200 per day and $2,000 aggregate	No EFML	No EFML

Q. What are the most trusted information resources?

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Coronavirus.gov
Centers for Disease Control and Prevention (CDC)
World Health Organization (WHO)
Michigan.gov/coronavirus
Occupational Safety and Health Administration (OSHA)
U.S. Department of Labor