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COVID-19 Impact on Physician Practices

CARES Act, Paycheck Protection Program and
the Importance of Data



Mike Engle, CPA
Partner
BKD CPAs & Advisors



Todd Kenney, CPA, FHFMA
Partner
BKD CPAs & Advisors

November 10, 2020

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Agenda

- 1 Available Funding Sources
- 2 BKDTrackForward
- 3 Paycheck Protection Program
- 4 Employer Payroll Deferral & Employee Retention Credit
- 5 Closing

Available Funding Sources



Expansion of the Accelerated & Advanced Payments (AAP) Program administered by the Centers for Medicare & Medicaid Services (CMS)



Public Health & Social Services Emergency Fund (PHSSEF) administered by the U.S. Department of Health & Human Services (HHS)



Public Assistance Program administered by the Federal Emergency Management Agency (FEMA)



Paycheck Protection Program loans administered through the U.S. Small Business Administration (SBA)



COVID-19 Telehealth Program administered by the Federal Communications Commission (FCC)



Potential Business Interruption (BI) insurance coverage

Funding Challenges

- Determining provider eligibility for available funds & programs
- Provider risk of owing it back
- Tracking stimulus funds received & origination source
- Tracking use of stimulus funds for
 - Eligible expenses due to the coronavirus
 - Lost revenues due to the coronavirus
- Reporting requirements to HHS
 - Through December 31, 2020 – due February 15, 2021
 - January 1, 2021 through June 30, 2021 – due July 31, 2021

Provider Relief Fund Terms & Conditions

- The terms & conditions of Provider Relief Funds (PRF) state that relief fund payments will only be used to prevent, prepare for, & respond to coronavirus & shall reimburse the recipients **only for healthcare-related expense or lost revenue attributed to coronavirus**
- The Recipient certifies that it provides or provided after January 31, 2020 diagnoses, testing, or care for individuals with possible or actual cases of COVID-19
- The Recipient certifies that it will not use the Payment to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse

Funding Resources

- HHS Issued [Frequently Asked Questions](#) to Address Terms & Conditions
- Summary of funding and year-end tax planning – see [BKD Webinar](#)
- Phase 3 funding application closed on November 6, 2020
 - Provide PRF funds up to 2% of net revenue then consideration of operations

Post-Payment Reporting Guidance on Use of Funds

Step 1 – Expenses attributable to coronavirus

- General & Administrative expenses
 - Healthcare related expenses
- ***Exclusive*** of other reimbursement sources

Step 2 – Unused funds applied to Lost Revenue

Post-Payment Reporting Requirements Change to Lost Revenue

- Originally a Fundamental Change in Approach
 - Removed previously indicated flexibility to determine the appropriate methodology
 - Defined “Lost Revenue” for Step 2 as the **negative change in year-over-year net operating income from patient care related sources for calendar year 2019 to 2020**
 - Non-GAAP definitions
- Update to Notice on October 22, 2020 changed definition of "Lost Revenue" for Step 2 to the **negative change in year-over-year "patient care revenue" for calendar year 2019 to 2020, adjusted to remove expenses claimed in Step 1** (clarified November 2, 2020)

- BKDTrackForward Demonstration

Paycheck Protection Program

- Guidance is still changing and additional guidance will be forthcoming
 - Mainly through FAQs and Interim Final Rules (IFRs)
- 24 different IFRs issued as of Monday, August 24
- New forms issued October 28
 - Form 3509 Loan Necessity Questionnaire (For-Profit Borrowers)
 - Form 3510 Loan Necessity Questionnaire (Non-Profit Borrowers)

Paycheck Protection Program

- Timing of Filing
 - Flexibility in timing of the filing of Form 3508 or Form 3508-EZ
 - No real due date, if not filed 10 months after end of covered period, payments start
 - Can file before the end of covered period
- All proceeds must be spent

Paycheck Protection Program

- Differences between 3508 or 3508-EZ
 - Primarily the submission of documentation
 - Eligibility requirements of 3508-EZ
 - Did not reduce annual salary or hourly wages of any employee by more than 25% during your CP or APCP as compared to Q1 2020
 - 3508-EZ documentation takes the form of certification
 - Presumably calculations are still going to have to be completed to support certification
 - 3508 must submit Table 1 & 2 (detailed information)

Paycheck Protection Program

- Loans more than \$2 million will be reviewed
 - Best practice may be to file the 3508 even if qualifying for the EZ (optics)
 - Large loans filing EZ will likely be required to provide the information required by the 3508 as part of the SBA certification audit
 - Form 3509 will be required by the lender

Paycheck Protection Program

- Form 3508 confirms the forgiveness amount is the lesser of three amounts
 - Modified total costs
 - The PPP loan amount
 - Total eligible payroll costs divided by 60% (0.60)

Paycheck Protection Program

- Form 3509 assists in the collection of information that the SBA loan reviewers will use to evaluate that economic uncertainty made the loan request necessary
- Two sections for the Forms 3509
 - Business Activity
 - Liquidity Assessment

Paycheck Protection Program

- PPP Loan Forgiveness
 - CARES Act indicated the loan forgiveness would not be taxable income
 - The IRS and Treasury issued guidance that indicates expenses used to satisfy the loan forgiveness requirements are not tax-deductible
- Loan forgiveness will be **TAXABLE**
 - Hoping the IRS and Treasury will reverse IRS Notice 2020-32

Paycheck Protection Program

- PPP Loan Forgiveness
 - Most PPP loans will likely be forgiven in 2021
 - Expenses to satisfy the loan forgiveness requirements were incurred in 2020
- When does taxability of loan forgiveness occur???
 - Likely **2020** or 2021

Employer Payroll Tax Deferral

- CARES Act allows employers to defer the deposit and payment of the employer's portion of Social Security taxes through December 31, 2020
 - 50% of the eligible deferred amount must be deposited by December 31, 2021
 - 50% of the eligible deferred amount must be deposited by December 31, 2022
- Taxpayers with a PPP loan can participate in the employer payroll tax deferral program

Employee Retention Credit (ERC)

- Like the PPP, the ERC is aimed at encouraging eligible employers to continue to pay employees during these difficult times (ERC is not available for employers who obtained a PPP)
- Employers, regardless of size, that carry on a trade or business during calendar 2020, including tax-exempt employers, are eligible employers for claiming the ERC

Employee Retention Credit (ERC)

- Eligible businesses can claim a credit equal to 50% of qualified wages paid between March 12 and Dec. 31, 2020 for any calendar quarter of 2020 maxed at \$5,000 per employee where:
 - An eligible employer's business was either fully or partially suspended due to orders from the federal government, or a state government having jurisdiction over the employer limiting commerce, travel, or group meetings due to COVID-19; or
 - There is a significant decline in gross receipts. Such a decline occurs when an employer's gross receipts fall below 50% of what they were for the same calendar quarter in 2019.

Employee Retention Credit (ERC)

- An eligible employer with more than 100 FTEs in 2019 may only count the wages it paid to employees between March 12, 2020 and prior to Jan. 1, 2021 for the time an employee did NOT provide services during a calendar quarter due to the employer's operations being shut down by government order or due to a significant decline in the employer's gross receipts
- An eligible employer with less than 100 FTEs in 2019 may include all wages paid to any employee during any period in the calendar quarter (even employees who worked during the economic shut down)

Employee Retention Credit (ERC)

- Healthcare focusing on Providers for ERC
 - Highly compensated (doesn't take much time to max out credit)
 - Physicians typically do not clock in and clock out so how do you determine the time they were paid and not providing services
 - IRS FAQs indicate decrease productivity is not an acceptable method

Employee Retention Credit (ERC)

- Review relevant Provider data to determine “work effort”;
 - Provider, patient and/or procedures schedules
 - Time keeping reports
 - Billing information
 - Provider payroll data and detailed compensation calculations
 - Provider contracts

Questions?

Thank You!

bkd.com/HC | @bkdHC

Mike Engle, CPA
mengle@bkd.com

Todd Kenney, CPA, FHFMA
tkenney@bkd.com



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