A Business' Guide to Pandemic Survival

New laws help soften the economic losses suffered.

BY JAMES D. KRICKETT

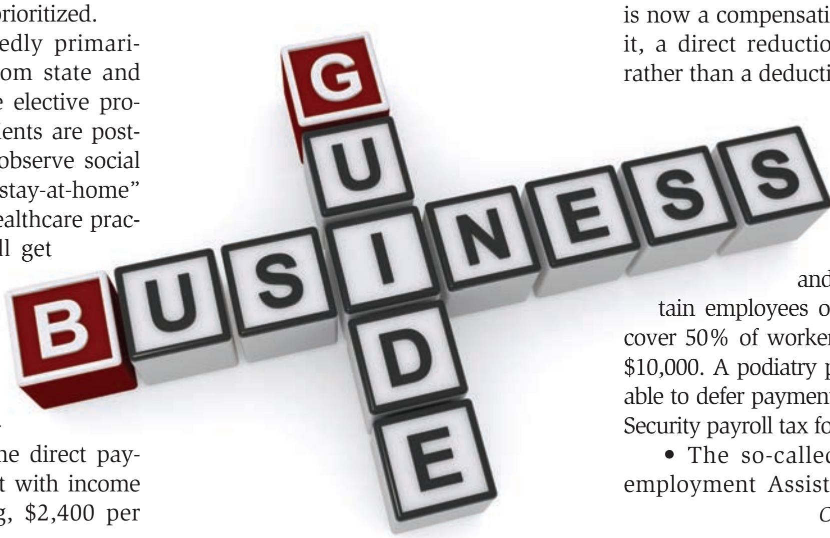
The Coronavirus Aid, Relief and Economic Security (CARES) Act dwarfs prior efforts by lawmakers to take on economic crises and natural disasters. While key elements of this bill are untested and controversial, along with the Family First Coronavirus Response Act (FFCR) passed earlier in March, and the actions of the Administration, there are numerous programs that can help podiatry professionals, practices, and businesses weather the continuing crunch.

The $2 trillion CARES Act included more than $100 billion in emergency funds to compensate hospitals and other healthcare providers for lost revenues and other costs associated with the COVID-19 pandemic. However, even as hospitals scrounge for healthcare professionals to treat the burgeoning numbers inflicted with COVID-19, many medical workers suddenly find themselves out of work as operating rooms and doctors' offices go dark as coronavirus patients are prioritized.

The cuts are reportedly primarily driven by pressure from state and federal officials to shelve elective procedures, while many patients are postponing appointments to observe social distance restrictions or "stay-at-home" directives. Fortunately, healthcare practices and businesses will get billions of dollars in additional funding not directly related to the pandemic.

The most popular and well-known provision will provide one-time direct payments of $1,200 per adult with income below a $75,000 ceiling, $2,400 per married couples and $500 per child. Above the ceiling, payments will be gradually reduced, disappearing after an individual's income reaches $100,000.

The newly-passed legislation, while providing funding tax breaks and other subsidies, includes an increase in the deduction ceiling for the interest paid by a practice or business from the 39% level created by the Tax Cuts and Jobs Act (TCJA) to 50%. The new law also provides greater flexibility for podiatry practices to deduct losses against taxable income, but first, let's address unemployment.



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The Unemployment Crises

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To help bring back workers already laid off, the eight weeks of unemployment assistance will be retroactive to February 15, 2020. But, that's not all—already on the books are the following:

- Until December 31, 2020, some employers will be required to pay sick leave to employees. Fortunately, there is now a compensating, 100% tax credit, a direct reduction of their tax bill rather than a deduction.
- An employee retention tax credit estimated to provide $50 billion to professional practices and businesses that retain employees on their payroll will cover 50% of workers' paychecks up to $10,000. A podiatry practice will also be able to defer payment of the 6.2% Social Security payroll tax for two years.
- The so-called "Pandemic Unemployment Assistance Program" is

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aimed at the self-employed and contract workers who are typically not eligible for unemployment payments. Unemployment insurance now extends to the self-employed including independent contractors, freelancers, and so-called "gig" workers. Those with a limited liability company (LLC) or S corporation also qualify.

• Also included are incentives for work-sharing and a program to cover a portion of lost wages for workers whose hours have been reduced, designed to incentivize practices and businesses to retain workers by employing them for less time.

Healthcare Providers

Under the CARES Act, hospitals and medical centers would get billions to handle surging caseloads and those treating coronavirus patients would also get higher Medicare reimbursements. The Centers for Medicare and Medicaid Services (CMS) is making accelerated payments available to Medicare participating providers and suppliers beyond hospitals during the COVID-19 pandemic.

Essentially, all Part A and Part B providers and suppliers—including physicians, nursing facilities, ambulatory surgery centers, and durable medical equipment suppliers—in good standing with the Medicare program are eligible.

The CARES Act also does a number of other things for podiatry professionals and practices. Specifically, the CARES Act includes:

• A reversal of scheduled cuts in the rates paid by Medicaid and Medicare.

• It suspends the 2% Medicare sequestration, effectively boosting reimbursement rates for providers during an eight-month period.

• Encourages the use of telemedicine, including expansions of telemedicine options for Medicare recipients. Plus, Health Savings Accounts (HSAs) will now cover telehealth services before a patient's deductible kicks-in.

• Increases Medicare reimbursements to providers for taking care of COVID-19 patients.

SBA Economic Injury Disaster Loan applicants can qualify for grants of up to $10,000, to be used to provide employee sick leave, maintain payroll, or meet other needs such as paying rent—even if denied a loan.

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• Creates a $100 billion healthcare fund for recovering COVID-19 costs and, as mentioned,

• Across-the-board Medicare cuts that were part of a previous deficit reduction agreements will be halted—temporarily. There is also increased funding for federal agencies to speed work on therapies and potential vaccines, among other activities. When there is a vaccine, Medicare beneficiaries would not have to pay to receive it.

Paying for It All

The CARES Act contained a number of programs and funding to help every podiatry practice weather the financial impact of the coronavirus pandemic, including:

• Mostly for hospitals, practice groups and businesses with more than 500 employees, the latest stimulus bill provides $500 billion to back loans. However, any business receiving a loan will be subject to a ban on stock buybacks and curtailment of executive bonuses.

• Zero-interest loans for professional practices and businesses with fewer than 500 employees—loans that could be forgiven under certain circumstances such as not firing workers.

• Paycheck Protection Program Loans: The CARES Act earmarks $349 billion for loans to small practices and businesses that are used for rent, payroll, and utilities. (A second round earmarks another $310 billion in PPP loans.) Best of all, the borrowed funds will, under some circumstances, be treated as a grant that does not have to be repaid. The SBA will guarantee loans of up to $10 million, with terms of up to 10 years and interest rates of up to 4% to employers with fewer than 500 workers. The actual loans will be provided by lenders, including banks and credit unions. Eligible borrowers can get loan deferment for six months to a year with the loan forgiven if the practice or business maintains its payroll for eight weeks at employees' normal salary levels.

• Expanded Economic Injury Disaster Loans: The SBA is providing expanded access to working capital loans of up to $2 million to small practices and businesses impacted by coronavirus. These loans carry an interest rate of 3.75% with loan terms that vary by applicant, up to a maximum of 30 years. The expanded program for sole practitioners and practices or businesses with fewer than 500 employees doesn't require personal guarantees on loans under $200,000, while payments can also be deferred for up to four years.

• Emergency Grants: SBA Economic Injury Disaster Loan applicants can qualify for grants of up to $10,000, to be used to provide employee sick leave, maintain payroll, or meet other needs such as paying rent—even if denied a loan.

Bigger, But Not Forgotten

The CARES Act included a $500 billion financial lifeline for the hardest-hit industries, including both passenger and cargo airline and other businesses. Any business or organization receiving these funds would be barred from raising the pay of highly-compensated executives, buying back its stock, and businesses that kept workers despite a significant loss of revenue could get a tax credit.

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Losses

Keeping in mind that "lost income" is not a legitimate tax deduction, other provisions in the tax law may help podiatrists and their practices recover financially from the impact of the coronavirus pandemic and other disasters, especially when the federal government declares their location to be in a major disaster area.

Essentially, everyone in a federally declared disaster area can get a faster tax refund by claiming losses related to the disaster on the tax return for the previous year, usually by filing an amended tax return. Ordinary practice-related losses must, of course, be deducted from this year's income—if there is any.

The CARES Act eliminates the limits imposed by the TCJA on the excess loss deductions of non-corporate practices and businesses, such as sole practitioners and some owners of pass-through entities. Formerly, any excess was treated as a net operating loss, whose restrictions continue.

A Net Operating Loss or NOL, occurs when a podiatry practice or business has more tax deductions than taxable income in a given year. NOL carrybacks formerly generated a refund of taxes paid in earlier years that provided an often-badly needed infusion of cash. Today, most NOLs arising in tax years after 2017 can only be carried forward. What's more, for losses arising in taxable years beginning after December 31, 2017, the NOL deduction is limited to 80% of taxable income (determined without regard to the deduction).

And, don't forget, while the podiatry practice can't get this tax break if it is a pass-through entity (such as sole practitioners, partnerships, or S corporations), their owners can apply their share of the NOL on their personal tax returns. Regular corporations are, of course, taxed at the corporate level and the NOL carry-forward is applied on the corporate tax return.

Don't forget those extended deadlines for both filing tax returns and paying taxes.

Correcting the Retail "Glitch"

The CARES Act resolves a technical "glitch" in the Tax Cuts and Jobs Act. When Congress increased the bonus depreciation to 100%, they limited the tax write-off for business property with a useful life of 20 years or less. Unfortunately, after the TCJA, all so-called "qualified improvement property," especially offices that fell under the "retail

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COVID-19 Info for Small Businesses

Check out the websites for:

- **Coronavirus:** https://www.cdc.gov/coronavirus/2019-ncov/about/index.html
- **U.S. Government:** https://www.usa.gov/coronavirus
- **U.S. Treasury Department:** htps://home.treasury.gov/coronavirus
- **The IRS:** https://www.irs.gov/coronavirus58
- **Coronavirus Tax Relief:** https://www.irs.gov/coronavirus
- **Form 7200 Advance Payment of Employer Credits Due to COVID-19:** https://www.irs.gov/pub/irs-pdf/f7200.pdf
- **Department of Labor:** https://www.dol.gov/coronavirus
- **The SBA:** https://www.sba.gov/, and
- **To apply for an SBA Coronavirus loan:** https://covid19relief.sba.gov/#/

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property" tag, was depreciated as 39-year property and was not eligible for bonus depreciation.

Now, the TCJA has been corrected to extend bonus depreciation to qualified improvement property as lawmakers originally intended. Even better, the tax break is retroactive to January 1, 2018, so some podiatry practices and businesses may want to file amended tax returns.

Already Helping

Thanks to the FFCR Act passed early in March, employers providing paid family and medical leave to their employees may claim a tax credit that has been extended through 2020. There are similar tax credits for self-employed individuals.

As a result of the earlier FFCR Act, the provisions limiting telemedicine service to rural areas have been lifted, allowing the use of telemedicine services for all beneficiaries of fee-for-service Medicare. Plus, the Office of Civil Rights at the Department of Health and Human Services is using its enforcement discretion and will not impose penalties for using HIPAA-noncompliant private communications technology to provide telehealth services during

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this public-health emergency.

The Treasury Department, the IRS, and the Department of Labor earlier announced that small and midsize employers can take advantage of two new refundable payroll tax credits. Both are designed to immediately and fully reimburse them, dollar-for-dollar, for the cost of providing coronavirus-related employee leave.

Although the provision requiring employers to pay sick and medical leave to workers has been extended to include the 2020 tax year, employers with fewer than 50 employees are eligible for an exemption from the requirement to provide leave to care for a child whose school is closed or child care is unavailable.

To take immediate advantage of the paid leave tax credits, a podiatry practice can retain and access funds that they would otherwise be paid to the IRS in payroll taxes. If those amounts are not sufficient to cover the cost of paid leave, employers can seek an expedited advance from the IRS using a soon-to-be released, streamlined claim form.

Self-Help Coronavirus Survival

Many podiatry professionals busy attempting to fathom the steady stream of new government programs, plans, and benefits, may be overlooking remedies that already exist. Consider:

• *Line-of-credit.* A pre-established line of credit allows the podiatry practice to borrow in increments as needed, repay it and borrow again as long as the credit line remains open. Typically, the operation is required to pay interest on any balance borrowed and a lesser amount for having ready access to the unexpended amount of the line of credit.

• *Business Interruption Insurance* is coverage that replaces income lost in a disaster. Interruption Insurance is not sold as a separate policy but is either added to a property/casualty policy or included in a comprehensive package policy as an add-on or rider.

• *Don't forget those extended deadlines for both filing tax returns and paying taxes.* Although the April tax filing deadlines for many practices and businesses has passed, individuals including many podiatry professionals and other small business owners now have until July 15 to file. Best of all, if money is owed the IRS, delayed payments will be interest- and penalty-free for 90 days.

As this ever-evolving fight against the coronavirus continues, attention must be paid to new developments. As always, the ever-changing response to the pandemic and the complexity of the rules when dealing with its economic impact make professional assistance advisable. **PM**

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