

CARES Act Provisions Relevant to Catholic Institutions

The following is a summary of the provisions of the CARES Act most relevant to Catholic employers and institutions. This summary is not comprehensive and does not include funding available for institutions of higher education.

Employment Questions

Provisions that Help Employers Retain Workers During the Crisis

- Nonprofits (including religious nonprofits) can apply for some of the **\$350 billion in Small Business Administration (SBA) loans (referred to as “7(a)” loans)** that are being provided in the bill. These loans are 100% forgivable if used to keep workers on payroll during the “covered period” of Feb. 15 – June 30, 2020. The loans provide a strong incentive for employers, including religious nonprofits, to keep workers on payroll rather than laying off workers.
 - However, these loans are limited to nonprofits with 500 employees or fewer, and there is no express language that says that a recipient of the loan will not be considered a “recipient of federal funds.”
 - The “affiliated” entity SBA rule will apply to nonprofits in determining whether they and their affiliates have 500 or fewer employees. The rule is broad and boils down to a “totality of the circumstances” test. In other words, it is difficult to predict how the affiliated entity rule and 500 employee rule will be applied to various Catholic agencies at this time, especially since these rules have never been applied to nonprofits before. The SBA is required to promulgate new rules within 15 days of passage on these loans, so there will be further information on whether Catholic entities are likely to qualify for these loans.

- Sec 2108, 2109, 2110 -- **Temporary Financing of Short-Time Compensation Payments in States with Programs in Law, Temporary Financing of Short-Time Compensation Agreements, and Grants for Short-Time Compensation Programs** – money for states that begin or continue “short-time” compensation, allowing individuals to get pro-rated unemployment compensation if their hours are cut back. Employers must continue to pay whatever health and retirement benefits they were paying even as employee hours are cut back. Under such plans, the employer initiates and enters into an agreement with the state to receive compensation to be distributed to employees with reduced hours in order to avoid layoffs. At least some current state short-time compensation programs require that employees must otherwise be eligible for unemployment compensation to enter a short-time compensation agreement, so entities that have opted out of unemployment insurance may not be eligible. However, it is not clear if this will be affected by the federal government’s new offer to pay for state short-time compensation, or the availability of the new Pandemic Unemployment Assistance (see below) that will provide federal funds to cover individuals who would not otherwise be eligible to receive state unemployment assistance. It will be necessary to investigate your local state’s program. The Department of Labor will issue further guidance on this issue per Sec. 2111.

- Sec 2301 – **Employee retention credit for employers subject to closure due to COVID-19** – refundable payroll tax credit for 50% of wages paid by employers to employees when workplace is fully or partially closed due to COVID-19 or gross receipts declined by more than 50% when compared to same quarter as last year. For employers over 100 employees, credit can apply to employees who are not providing services due to COVID-19; employers under 100 employees can apply to all employees, credit capped at \$10k per employee, applies to compensation and health benefits through end of 2020.

- Sec 2302 – **Delay of payment of employer payroll taxes** – allows employers to defer payment of employer contribution to the SS tax over next two years (first half due Dec 31, 2021; second half Dec 31, 2022). Cannot be combined with forgiveness of SBA 7(a) loan.

- Sec 3601 and 3602 - **Daily and Aggregate Caps on New Paid Sick and Paid FMLA Leave** - clarifies that daily and aggregate caps on paid sick leave and FMLA apply per employee.¹
- Sec 3605 – **Paid Leave for Rehired Employees** – Allows an employee who was laid off by an employer March 1, 2020, or later to have access to paid family and medical leave in certain instances if rehired and worked at least 30 days prior to being laid off.
- Sec 3606 – **Advance Refunding of Credits** – Allows employers to receive an advance refundable tax credit on paid leave provisions from Treasury instead of waiting to be reimbursed. Treasury shall implement through future regulation.

Provisions that Help All Americans Regardless of Employment Status

- Sec 2202 - **2020 recovery rebates for individuals**: Everyone with an adjusted gross income (AGI) under \$75,000 (\$150,000 married) who is not a dependent and has a work eligible SSN gets \$1,200, as well as \$500 per child. Phase out starts at an AGI over \$75,000 and rebate is zeroed out when AGI exceeds \$99,000 for individuals, \$146,500 for head of household, and \$198,000 for joint filers without children.

Provisions to Help Unemployed or Partially Unemployed Workers Even If They Do Not Qualify for State UC

- Provides **Pandemic Unemployment Assistance** (Sec. 2102) to individuals who otherwise would not qualify for regular unemployment compensation under State or Federal law and become unemployed or cannot find work. This will be administered by states that enter into an agreement with the Secretary of Labor to receive compensation for this program. If a state does not enter into such agreement, it appears individuals may be able to directly appeal to the Department of Labor for assistance. There may be additional guidance from DOL on this.
 - Note: this provision applies to individuals both who are “unemployed” and who are “partially unemployed.” “Partially unemployed” is not further defined in the statute. “Partially unemployed” does appear in multiple existing state unemployment programs. It typically includes a reduction of hours and weekly pay, but not full termination from employment. DOL will probably have to issue further guidance since this will now be construed under a federal statute.
- Sec 2104 - **Emergency Increase In Unemployment Compensation Benefits** -- \$600 increase for four months in the normal level of UC both for state unemployment compensation and the new Pandemic Unemployment Assistance.

Charitable Giving Incentives

Allowance of partial above the line deduction for charitable contributions

- Sec 2204 – allows \$300 above the line contribution.

Modification of limitations on charitable contributions during 2020

- Sec 2205 increases charitable deduction for those who do itemize – 50% AGI limitation is lifted for individuals; for corporations, 10% limitation is increased to 25%.

Aid for Schools

The CARES Act provides \$30.75B to the Department of Education for the Education Stabilization Fund. Under this stabilization fund, there are two funding streams where funding will be allocated to K12 schools through grants to the states. Those two funding streams are:

¹ See Previously distributed USCCB Guidance on the Families First Coronavirus Response Act for additional information on the new paid sick leave and paid FMLA leave requirements and related tax credits.

Governor’s Emergency Relief Fund (Sec. 18002) (9.8% of total fund)

- It will be important for state conferences and bishops to work with governors for access to this aid.
- With monies under the fund, the governor can provide “support to any other institution of higher education, local educational agency, or education-related entity within the State that the Governor deems essential for carrying out emergency educational services to students...the provision of child care and early childhood education, social and emotional support, and the protection of education-related jobs.”
- The allocation has two parts: 60% of the allocation is based on student population and 40% of the allocation is based on section [1124\(c\) of ESEA](#).

Elementary and Secondary School Emergency Relief Fund (Sec. 18003) (43.9% of total fund)

- \$13.5 billion in formula funding directly to states, to help schools respond to coronavirus and related school closures, meet the immediate needs of students and teachers, improve the use of education technology, support distance education, and make up for lost learning time.
- There are twelve uses for money provided under the fund, which include any activity under ESEA and IDEA, supplies to sanitize and clean facilities, planning for closures, purchasing educational technology, mental health support, etc.
- The allocation to of this fund to the states is based the same proportion each state received under Title IA in the most recent fiscal year.

For all funding distributed through these two funding streams, the local educational agency (LEA/school district) must make equitable services available to non-public schools in the same manner as provided under section [1117 of the Elementary and Secondary Education Act \(ESEA\)](#). The LEA/school district is required to consult non-public schools and the “control of funds” is maintained by the LEA/school district. These funds are available through September 30, 2021.

Disaster Assistance

- **FEMA** - \$45.4B including \$45 billion to continue FEMA’s entire suite of response and recovery activities and reimbursements provided to states and localities nationwide by the **Disaster Relief Fund** for emergency and major disaster declarations, as well as funding for FEMA facilities and information technology required to support FEMA’s lead role in coordinating federal response activities.
- The bill also includes \$400 million for grants that can be disbursed in a timely manner for firefighters, emergency managers, and providers of emergency food and shelter.
 - This includes \$200 million for the **Emergency Food and Shelter Program**.
- The bill provides \$562,000,000 for administrative expenses and program subsidy for the SBA Disaster Loans Program.
- Section 1110 - **Emergency EIDL Grants** - Expands eligibility for access to Economic Injury Disaster Loans (EIDL) to include Tribal businesses, cooperatives, and ESOPs with fewer than 500 employees or any individual operating as a sole proprietor or an independent contractor during the covered period (January 31, 2020 to December 31, 2020). Private non-profits are also eligible for both grants and EIDLs.
- State conferences will need to work with states and localities for access to various forms of disaster aid.

Catholic Social Service Agencies

- \$1 billion for **Community Services Block Grants** – direct funding to local community-based organizations to provide a wide-range of social services and emergency assistance for those who need it most.
- Sec. 3222 – Provides flexibility for nutrition requirements in Older Americans Act (OAA) meal programs.
- Sec. 3225 – Reauthorizes the **Healthy Start** program which provides grants to improve access to services for women and their families (usually relating to birth outcomes) at \$125.5 millions for FY 2021–FY 2025.

Nutrition Funding

- \$15.51 billion for **SNAP** to cover waiver authorities granted in H.R. 6201 and anticipated increases in participation as a result of coronavirus (will not raise benefit amounts for SNAP recipients).
- \$100 million for the **Food Distribution Program** on Indian Reservations.
- \$200 million for nutrition assistance grants for the Commonwealth of the Northern Mariana Islands, Puerto Rico, and American Samoa.
- \$8.8 billion for **Child Nutrition** Programs.
- \$450 million for TEFAP (**The Emergency Food Assistance Program**) – funding for commodities and distribution of emergency food assistance through community partners, including **food banks**.

Housing Funding

- \$4 billion for Homeless Assistance Grants.
- \$1 billion for Project-Based Rental Assistance.
- \$1.935 billion for Public Housing Agencies to serve households in the Section 8 voucher and public housing programs.
- \$900 million for Low Income Home Energy Assistance Program to assist low-income households with energy costs.
- \$65 million for Housing Opportunities for Person with Aids (HOPWA).
- \$50 million for Section 202 Housing for the Elderly.
- \$45 million for Family Violence Prevention and Services Grants which can be used for shelters and support services.
- \$25 million for Runaway and Homeless Youth Programs.
- \$15 million for Section 811 Housing for Persons with Disabilities.

Behavioral Health Funding

- \$425 million for Substance Abuse and Mental Health Services Administration to address mental health and substance use disorders as a result of the coronavirus pandemic.

Family Support Funding

- \$45 million for Child Welfare Services grants to states to support the child welfare needs of families during this crisis, and to help keep families together.
- \$3.5 billion for Child Care Development Block Grants to support child care programs.

Flexible Social Service Funding

- \$5 billion for HUD **Community Development Block Grant (CDBG)** - provides communities and states with funding to provide a wide range of resources to address COVID-19, such as services for senior citizens, the homeless, and public health services.

Catholic Hospitals

- Sec. 3201 – COVID-19 testing covered by private insurance with no cost sharing.
- Sec. 3203 – COVID-19 vaccine covered with no cost sharing.
- Sec. 3211 – Provides \$1.32 billion in supplemental funding to community health centers for the detection of SARS-CoV-2 or the prevention, diagnosis and treatment of COVID-19.
- Sec. 3212 – Reauthorizes Health Resources and Services Administration (HRSA) grant programs that promote the use of telehealth at \$29 million per year for FY 2021–FY2025.
- Sec. 3213 – Reauthorizes HRSA grant programs to strengthen rural community health at \$79.5 million per year for FY 2021–FY2025.

- Sec. 3701-3707 – Promotes telehealth expansion.
- Sec. 3709 – Boosts payments for hospital, physician, nursing home, home health, and other care by temporarily lifting the Medicare sequester, which reduces payments to providers by 2 percent, from May 1 through December 31, 2020. The Sequester would then be extended 1 year, through 2030 instead of 2029.
- Sec. 3710 – Increases the Medicare payment made to a hospital for treating a patient admitted with COVID-19 by 20 percent.
- Sec. 3711 – Provides flexibility for post-acute care providers so they can increase capacity of the health care system during the emergency period.
- Sec. 3713 – Medicare Part B beneficiaries can receive COVID-19 test with no cost-sharing.
- Sec. 3716 – Uninsured individuals can receive COVID-19 test with no cost-sharing in any state Medicaid program that elects to offer such enrollment option.
- Sec. 3719 – Expands the Medicare accelerated payment program so qualified facilities are able to request up to a six-month advanced lump sum or periodic payments during the COVID-19 emergency period.
- Subtitle E – Health and Human Services Extenders through November 30th (instead of May).
 - Sec. 3813 – Eliminates the \$4 billion in Medicaid DSH (Disproportionate Share Hospital) cuts for FY 2020 and reduces the cuts for FY 20201 to \$4 billion from \$8 billion. Implementation of the FY 2021 cuts are delayed until Dec 1, 2021.
- \$127 billion for Public Health and Social Services Emergency Fund – includes \$100 billion for Reimbursement to Hospitals & Healthcare Providers to ensure healthcare providers continue to receive the support they need for COVID-19 related expenses and lost revenue.
- \$275 million for the Health Resources and Services Administration to expand services and capacity for rural hospitals, telehealth, poison control centers, and the Ryan White HIV/AIDS program.
- Not less than \$250 million for Hospital Preparedness to improve the capacity of healthcare facilities to respond to medical events.

Migration-Related Provisions

The following migration-related provisions are included in CARES:

- As a general rule, CARES does not differentiate between citizens, Legal Permanent Residents (also known as LPRs or Green Card holders), refugees, and asylees for eligibility for funding streams in the bill (unemployment benefits, pandemic unemployment insurance, small business loans)
- As a general rule, CARES leaves in place the ineligibility of the undocumented and other “not qualified aliens” for cash assistance, including any cash assistance provided in CARES.
- CARES prohibits anyone in a household from receiving the measure’s \$1,200-per-adult and \$500-per-child cash assistance if the household includes one or more undocumented immigrant. (USCCB advocated against this.)
- Section 2201 of CARES requires residency for tax purposes for noncitizens before they can receive the measure’s \$1,200-per-adult and \$500-per-child cash assistance. This will exclude many refugees, asylees, and Cuban-Haitian Entrants, who may not be able to satisfy the complicated residency requirements. (USCCB advocated against this.)
- Provides \$350M for Migration and Refugee Assistance (MRA), to be used to prevent, prepare for, and respond to coronavirus.
- Provides \$258M for International Disaster Assistance (IDA), to be used to prevent, prepare for, and respond to coronavirus.