ELEMENTWEALTH

THE COST
OF CARING FOR COVID-19

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Element Wealth has partnered with our friend, attorney Richard Courtney, Esq., to provide you some clarity regarding COVID-19 legislation.

Shortly after the novel coronavirus known as SARS-CoV-2 and its disease, COVID-19, hit American shores, national leaders realized the economic toll this disease was likely to have on the country and its citizens. Over the course of less than two months, Congress enacted a series of laws providing broad-ranging financial assistance to numerous industries and groups of Americans in one of the largest economic recovery efforts ever implemented. This article highlights just a few of those provisions.

- On March 6, 2020, H.R. 6074 (P.L 116-123) entitled **"Coronavirus Preparedness and Response Supplemental Appropriations Act"** was passed. This bill provides $8.3 billion in emergency funding for the Department of Health and Human Services (HHS), the State Department, and the Small Business Administration to address issues such as: developing, manufacturing, and procuring vaccines and other medical supplies; grants for state, local, and tribal public health agencies and organizations; loans for affected small businesses; and humanitarian assistance in the affected countries. It allowed HHS to temporarily waive certain Medicare restrictions and requirements regarding telehealth services during the coronavirus emergency.

- The **"Families First Coronavirus Response Act"** (H.R. 6201, P.L. 116-127), passed on March 18, provided for paid sick leave, tax credits, free COVID-19 testing for elderly and uninsured persons, expanding food assistance and unemployment benefits, and increasing Medicaid funding in further response to the pandemic. Section 1101 allows USDA to provide emergency Supplemental Nutrition Assistance Program (SNAP, or food stamps) benefits to households with children who would otherwise receive free or reduced-price school meals if their schools were not closed due to the COVID-19 emergency. It provides appropriations for nutrition programs that assist the elderly temporarily suspends work requirements under the SNAP program.

Section 3102 permits employees to take public health emergency leave through December 31, 2020, to care for the employee's child during a COVID-19 public-health emergency. Employers of fewer than 500 workers must provide up to 12 weeks paid leave for an employee who cannot work because the school or child-care provider of that employee's child is closed as a result of COVID-19. Employers are not required to pay employees for the first 10 days of such public health emergency leave. After the first 10 days, employers must pay not less than two-thirds of an employee's regular pay, up to $200 per day, for the number of hours per week the employee normally works. Further, employers are generally required to restore an employee's former position following the use of public health emergency leave, subject to certain conditions. The act allows a credit against payroll taxes for 100% of the employer-paid qualified sick leave. The act increases the federal share of payments to states for extended and regular unemployment compensation through December 31, 2020.

Section 5102 requires employers with fewer than 500 employees to provide 80 hours of paid sick time to full-time employees who are unable to work due to the effects of COVID-19, if the employee: is subject to a governmental quarantine or isolation order; has been advised by a health-care provider to self-quarantine; is caring for an individual who is subject to governmental or self-quarantine; or is caring for the employee's child because the child's school or child-care provider is closed. Part-time employees are entitled to such paid sick time for the average number of hours the part-time employee works during an average two-week period.

The law requires private health insurance plans, Medicare, Medicare Advantage plans, CHIP and Medicaid to cover testing for COVID-19 without imposing cost-sharing (e.g., deductibles, coinsurance, or copayments) for the duration of the public health emergency declared on January 31, 2020. Section 6008 increases the Medicaid federal matching funds for all states and U.S. territories during the public health emergency.

The **Coronavirus Aid, Relief, and Economic Security Act** or "CARES Act" (H.R. 748) was enacted on March 27, 2020 as Public Law 116-136, at a cost to the U.S. budget of $1.7 trillion - $988 billion increase in mandatory spending, $408 billion decrease in revenues, and $326 billion increase in discretionary spending stemming from emergency supplemental appropriations. The estimated budgetary effects of the CARES Act are uncertain for several reasons:

- How federal agencies will implement some provisions of the bill, including those establishing the Federal Reserve's emergency lending facilities, is not yet known in detail.
- The effects of the novel coronavirus pandemic on economic output and the labor markets are difficult to predict, and those effects drive CBO's estimate of the act's changes to unemployment compensation benefits.
- The duration of the emergency declarations related to the coronavirus pandemic and the number of hospitalizations for COVID-19 could differ significantly from what CBO has projected, and the budgetary effects of some provisions, such as those affecting Medicare, will depend on those factors.
- The costs of some provisions depend on uncertain future developments. For example, CBO cannot estimate the cost of COVID-19 vaccines because no such vaccines are yet approved.

Section 1110 makes small businesses and certain other entities eligible for an advance of up $10,000 on an SBA disaster loan for which they have applied in response to the COVID-19 pandemic, with waiver of certain previous loan requirements. The act requires the Department of Labor to provide unemployment assistance for up to 39 weeks to workers who (1) are not eligible for other federal or state unemployment insurance or pandemic emergency unemployment compensation; (2) meet certain conditions related to being unemployed, partially unemployed, or unable to work due to COVID-19; (3) are not able to telework; and (4) are not receiving other paid leave. The provision of such assistance may be extended beyond 39 weeks under specified circumstances. Pandemic unemployment assistance payments are available retroactively for the period beginning January 27, 2020, and ending on or before December 31, 2020.

Section 2201 allows individual taxpayers a refundable income tax credit of $1,200 ($2,400 for married couples filing a joint return). A $500 credit is allowed for each qualifying child of the taxpayer. The credit is eliminated for taxpayers with adjusted gross incomes exceeding $75,000 ($150,000 for joint returns). To be eligible for the credit, taxpayers must include valid identification numbers (e.g., Social Security numbers) on their tax returns.

Section 2202 permits penalty-free coronavirus-related distributions from tax-exempt retirement plans up to $100,000 in a taxable year. A *coronavirus-related distribution* is defined as any distributions from an eligible retirement plan made on or after January 1 and before December 31, 2020, to an individual who is (1) diagnosed with the virus SARS-CoV-2, (2) whose spouse or dependent is diagnosed with such virus or disease, or (3) who experienced adverse financial consequences from being quarantined, furloughed, or laid off from work due to such virus or disease. Section 2203 allows a temporary waiver of required minimum distributions from retirement plans and accounts in 2020.

Section 3708 allows Medicare payment for home health services ordered by a nurse practitioner, a clinical nurse specialist, or a physician assistant. Currently, coverage is provided only for services ordered by a physician. Section 3811 extends the Money Follows the Person Rebalancing Demonstration Program, for grants to state Medicaid programs to assist in increasing the use of home and community care for long-term care and decreasing the use of institutional (nursing home) care.

Division A of the CARES Act established the Paycheck Protection Program to provide eight weeks of cash flow assistance, beginning February 15, 2020, and ending on June 30, 2020, to any business, nonprofit organization, veterans organization, or tribal business with fewer than 500 employees through federally guaranteed loans to employers who maintain their payroll. In addition, individual sole proprietors, independent contractors, and certain self-employed individuals, are eligible to receive a paycheck protection loan. Allowable uses for such loans (portions of which are eligible for forgiveness) include (1) payroll costs, (2) continuation of group health care benefits, (3) employee salaries, and (4) rent payments. The SBA may also provide advances on emergency disaster loans for small businesses due to the COVID-19 pandemic, and it defers principal, interest, and fees on certain new and existing SBA loans for a period of six months.

On June 3, 2020, Congress passed the **Paycheck Protection Program Flexibility Act of 2020** (the "Flexibility Act"). The Flexibility Act modifies several aspects of the forgiveness of paycheck protection program ("PPP") loans as designed by the CARES Act. The Flexibility Act:

- Makes PPP loans available through December 31, 2020;
- Extends the period during which PPP loan amounts may be forgiven from eight weeks to 24 weeks (but no later than December 31, 2020);
- Broadens safe harbors to avoid reductions in PPP loan forgiveness on account of reductions in workforce or pay;
- Permits up to 40% of a borrower's PPP loan forgiveness amount to be due to non-payroll costs, overriding an earlier administrative rule restricting non-payroll costs to 25% of a PPP loan forgiveness amount;
- Extends the term to maturity for PPP loans to 5 years for those loans issued on or after the date the Flexibility Act is enacted;
- Extends the deferral period from 6 months to a period ending on the date on which a borrower's PPP loan lender is remitted the forgiveness amount associated with that loan; and
- Permits a PPP loan borrower to defer payment of employer payroll taxes.

Except as specifically noted with regard to extending the term to maturity on PPP loans, the

amendments to the PPP loans provided for in the Flexibility Act are effective as if included in the CARES Act and apply to all PPP loans.

The combined cost of these four laws is over $2.4 trillion over the next 10 years. If owners maintain their businesses, employees keep their jobs, and the poor, elderly and uninsured can make it through the pandemic, will it be worth the cost? We will see

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