



## COVID Mid-Week Update from Alliance Staff (5/13/20)

Members,

We had some COVID news we wanted to pass on to you today. If you took out a PPP Loan, please take some time to review our updates below and the new SBA FAQ!!!

Have a nice evening,

Josh

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### In this Update:

- PPP Loans

With Safe Harbor deadline tomorrow, do you still *really* need a PPP loan?

Agencies with 500+ employees that didn't take out a PPP Loan

- HCPF Webinars and Questions for the Department
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- ANCOR's Virtual Congressional Briefing
- ANCOR Federal Update

**PPP Loans. Please note, this is not legal advice, you should consult your own legal counsel or contact Alliance staff for a legal referral.**

With Safe Harbor deadline tomorrow, do you still *really* need a PPP loan?

- Tomorrow, 5/14/20, is the end of the safe harbor grace period offered by the Department of the Treasury for returning PPP loans without being subject to scrutiny about whether the company applied for the funds in good faith. Treasury had announced and formalized on April 23 in SBA FAQ 31 that "[a]ny borrower that applied for a PPP loan prior to the issuance of this guidance and repays the loan in full by May 7, 2020 will be deemed by SBA to have made the required certification in good faith." Subsequent guidance in FAQ #43 extended this safe harbor to May 14.

- Today, the Treasury dept. updated its [FAQs](#) and provided an additional safe harbor for loans less than \$2 million, which will be “deemed to have made the required certification concerning the necessity of the loan request in good faith.” This means that loans less than \$2M are unlikely to be audited (though may still receive a random audit) and that these borrowers will not be prosecuted under federal fraud laws that carry heavy fines and imprisonment. However, this guidance does not change the terms of the loans.
- In order to have your PPP loan forgiven, you must have spent the loan on payroll/rent/utilities during the eight-week period after you received your loan, or by June 30, 2020, whichever is earlier. Any funds that are not forgiven remain a 1% interest-bearing loan that must be repaid within two years.
- Given the growing scrutiny around PPP loans, federal guidance is evolving. We encourage agencies that received them to closely follow federal guidance and keep in touch with your legal counsel and lender. Contact Alliance staff if you need a referral. While we know that all agencies applied in good faith, Colorado’s subsequent announcement of expanded retainer payments and rate increases may mean that many haven’t needed to use the PPP funds on payroll so far. Some Alliance members have reported that they will send back the funds by May 14. Today’s guidance removing federal criminal fraud prosecution for smaller loans may impact these decisions.
- For those seeking more information, the following articles may be helpful, but note both were published prior to the Treasury’s updated FAQs:
  - [Forbes: Ten Things We Need to Know about PPP Loan Forgiveness](#)
  - [Forbes: PPP Loans and Risk of Government Investigation: Advice from Former Federal Prosecutors](#)
- Finally, a note about context: The outlook for the state budget is not good, but right now legislators want to do everything they can to protect people with IDD and their services. Bad press and questions around COVID emergency funding in the IDD world could put this commitment in jeopardy. Some states have instituted careful tracking of PPP loans, and using loans in conjunction with Medicaid funding for payroll could receive scrutiny in the future. We recommend that agencies keep careful records for how they are using COVID assistance funding and that all funds – whether PPP loans, retainer payments, or rate increases – are used in accordance with state and federal guidance and intent.

#### **Agencies with 500+ employees that didn’t take out a PPP Loan**

- Was your agency unable to apply for a PPP Loan due to size constraints, but wanted to? If so, contact Josh ASAP. Alliance is working with ANCOR on trying to lift 500-employee nonprofit agency cap if more funding becomes available. However, we are not sure any 500+ Colorado agencies would apply for the loan.

#### **HCPF Webinars and Questions for the Department**

- Alliance staff has a weekly standing meeting with OCL leadership to review the questions submitted by Alliance, discuss new guidance, and to do a weekly check in on all COVID-related issues. Alliance does its best to try and get as many answers to member questions and asks that they are addressed on the Friday HCPF Webinar, added to the HCPF FAQ, or Alliance staff will report back to members on the Monday TA Calls. Please keep sending your questions/comments/suggestions to Josh by noon every Wednesday so we can help get you some answers. We are sorry some questions are taking longer than others to answer, we will do our best to try and get you the information you need to keep providing excellent services in the community.

- [Here are this week's questions we sent to HCPF for the Friday HCPF Webinar](#)

### Monday's Team Alliance (TA) Webinar Discussions

- Thank you for participating in our weekly TA Calls! These calls help Alliance staff prioritize the issues in the IDD community as well as learn which issues need further research, guidance, and follow-up. These TA Webinars also review guidance from the previous week and it helps staff understand how we can help our membership and the people you serve. If you cannot attend, please continue to reach out to us via email or schedule a phone call with Alliance staff. If you know of a non-member PASA that would benefit from these calls, let Josh know!
- On Monday, we will try and get through our updates by 11:30am and then continue the discussions we were unable to get to on Monday (those discussions are outlined below, and they may be adjusted slightly given new guidance). We did receive some great feedback via email this week, and we plan to start with an overview of the information we received. Feel free to send us additional feedback or other topics for discussion!
  - **For Discussion:** Given the growing scrutiny around PPP loans, we want to know how agencies are approaching the process. Did you receive a PPP Loan and find that, with retainer payments and/or other COVID relief, you don't need the PPP loan to cover payroll? Is your agency considering or planning to send the loan back?
  - **For Discussion:** What are your ideas, thoughts, questions, concerns about re-opening day programs? While we await HCPF guidance, we want to hear from you if your agency is making plans, and, if so, what are they? Do you have opinions on what HCPF's guidance should say?
  - **For Discussion:** Is your agency passing on the funds from the temporary COVID rate increases to DSPs, including host home providers? If not, why not? What other expenses are you covering with these rate increases? What mechanisms do you have in place to track how you used the funds resulting from the temporary rate increase?
  - **For Discussion:** (Congressional staff request via ANCOR) Are you experiencing more difficulty hiring right now because wages are too low?
  - **For Discussion:** (Member Request) How are other PASAs or CCBs handling compensation for staff who end up being quarantined with presumed or confirmed case of clients with COVID?

### New HCPF Guidance

- We wanted to alert you to the new [Day Program Guidance](#) released by HCPF yesterday. The guidance continues to encourage providers to provide supports remotely and in alternative locations when possible. We recommend that providers use this guidance as conservatively as possible to ensure the safety of those they serve and staff. Alliance will continue to work with members and HCPF on what might be needed before day programs can open again. Please continue to send us your feedback.



## **ANCOR's Virtual Congressional Briefing**

- On Thursday May 14<sup>th</sup> at 11am, ANCOR will be hosting a Virtual Congressional Briefing! One of the four presenters is a host home provider in Colorado Springs that will talk about providing service to two people that have tested positive for COVID-19. Virtual space is limited, so register now [HERE](#)! (See the attached flyer for more details.)

## **ANCOR Federal Update**

- Yesterday House Democrats released the [HEROES Act](#). This is the first full proposal for the 4th COVID-19 relief package to be released. The House is expected to vote on this bill on Friday. The Senate will probably take up the House passed legislation after Memorial Day.

See below for a summary of the most applicable sections:

### **HCBS FMAP bump (p. 290)**

- Additional 10% FMAP bump for July 1, 2020 – June 30, 2021
- Acceptable uses of these funds:
  - Increase DSP wages
  - Provide paid sick, family, and medical leave for DSPs
  - Provide hazard, overtime, and shift differential pay for DSPs
  - Provide HCBS services to individuals on the waiting list
  - Purchase PPE not usually covered by Medicaid
  - Pay for DSP travel to provide HCBS
  - Recruit new DSPs
  - Support family caregivers by providing PPE and increased pay
  - Provide COVID-19 specific training for DSPs
  - Pay for assistive technology, staffing, etc. to implement person-centered plan
  - Prepare and distribute accessible health and education materials
  - Pay for ASL interpretation
  - Allow for day service providers to provide HCBS
  - Pay for other permissible uses

### **Public Health and Social Services Emergency Fund (p. 570)**

- Adds \$100 billion
- Upon provider application, funding will immediately be available for 100% of eligible expenses (p. 573) or 60% of lost revenue (p. 574)
- Lost Medicaid revenue is double counted
- Eligible Medicaid providers specifically includes HCBS providers (p. 585)

### **General Medicaid**

- FMAP bump (p. 286) – 6.2% increase through June 30, 2020 and then 14% increase from July 1, 2020 – June 30, 2021
- Weakened maintenance of effort (p. 1815)
- Codification of non-emergency medical transportation as a mandatory service (p. 325)
- Delay in finalizing the MFAR proposed rule (p. 288)
- Extends 1115 demonstrations through December 31, 2021



## **Payroll Protection Program**

- Nonprofits of all sizes are eligible for PPP
- For profit organizations with 500+ employees still excluded from PPP

## **Paid leave**

- Tax credits for paid leave extended to 2021 (p. 267)
- Tax credits increased overall (p. 268-269)
- Employers over 500 not eligible for tax credits (p. 274)
- Eliminates health care provider and emergency responder exclusions
- Expands definition of caregiving to include family members caring for an adult with a disability

## **Heroes Fund (p. 1527)**

- Specifically includes providing HCBS and LTC in inpatient and outpatient facilities as essential work (p. 1536-1538)
- Provides "pandemic hazard pay" of \$13 per hour, beginning January 27, 2020 until 60 days after the national emergency ends up to \$10,000 for low wage workers and \$5,000 for high wage workers (p. 1551)
- Specific provisions for self-directed workers (p. 1556)

## **Other supports for DSPs**

- DSP included in definition of essential worker (p. 882)
- Federally funded childcare available for DSPs (p. 879)

## **Direct payments to individuals**

- Recovery rebates extended to all adult dependents (p. 150)
- Rep payees must use the entire payment for the direct benefit of the individual (p. 172, 158)

## **Other supports for people with disabilities**

- \$100 million to ACL, including \$10 million to the DD network
- \$200 million in housing for people with disabilities (p. 138)
- SNAP block grants increased by 15%
- Expansion and funding for vote by mail (p. 1455)

## **Data reporting**

- Long-term care demographic reporting on COVID-19 deaths only applies to nursing homes – ICFs and other settings not required to report