



# Keeping track of COVID-19 laws affecting employee benefits, jobs

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The Coronavirus Aid, Relief and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)) is the largest relief package in American history and contains an array of retirement, health and welfare benefit provisions. Signed into law March 27, the CARES Act also modifies several healthcare, paid leave and coronavirus testing mandates enacted earlier by the Families First Coronavirus Response Act (FFCRA) ([Pub. L. No. 116-127](#)). To encourage employers to maintain payroll, the CARES Act's Paycheck Protection Program offers short-term financial aid to help cover related costs, including wages and health benefits. The latest relief act ([Pub. L. No. 116-139](#)), signed into law April 24, increases funding for and enhances several of the CARES Act's payroll and healthcare programs. This GRIST provides highlights of the latest relief, along with a table summarizing key COVID-19 measures addressing employee benefits and employer aid.

## Highlights of the latest relief measure

The latest relief legislation, the Paycheck Protection Program and Health Care Enhancement Act (PPPHCEA), provides additional funding for COVID-19 testing and relief programs authorized by the CARES Act and the FFCRA. The measure also requires the US Department of Health and Human Services (HHS) to create a number of new reports on COVID-19 testing and other important data points related to the coronavirus.

Funding provisions of the PPPHCEA include:

- \$310 billion to replenish the funds allocated for the CARES Act's Paycheck Protection Program
- \$75 billion in grants to eligible healthcare providers for healthcare-related expenses or lost revenues

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- Recipients may use these funds for various purposes, including building temporary structures or purchasing medical supplies, personal protective equipment (PPE) and COVID-19 testing supplies.
- \$25 billion for necessary expenses to research, develop, manufacture and expand COVID-19 testing
  - At least \$11 billion of these funds will go to help states and localities cover necessary testing expenses — including employers' testing costs — and to scale up testing by public health, academic, commercial and hospital labs.
- \$1 billion in for COVID-19 testing for the uninsured

To track and manage the pandemic, the legislation requires HHS to:

- Starting May 15 (21 days after the law's enactment), provide a report on COVID-19 testing — with updates every 30 days until the public health emergency ends — that gives information on the number and rates of cases, hospitalizations and deaths, including demographic breakdowns by race, ethnicity, age, sex and geographic region
- Provide a COVID-19 strategic testing plan by May 26 (30 days after the law's enactment) and update it every 90 days
- Provide a report by Oct. 22 (180 days after the law's enactment) on the number of COVID-19 positive diagnoses, hospitalizations and deaths

## Key retirement, health, leave and employer aid provisions of COVID-19 relief acts

The table starting on the next page summarizes significant employment-related provisions in COVID-19 relief legislation, including measures affecting:

- [Retirement plans](#)
- [Health benefits](#)
- [Paid leave benefits](#)
- [Other health, welfare and retirement benefit requirements](#)
- [Tax credits and other financial aid for employers](#)

Relief provision	Description
<b>Retirement plans</b>	
<b>DB plan 2020 funding relief</b>	Deadlines for quarterly and year-end minimum required contributions to defined benefit (DB) plans are delayed until Jan. 1, 2021. When paid, the contributions must include interest at plan's effective interest rate for the plan year to which the contribution relates.
<b>Section 436 benefit restrictions</b>	DB plan sponsors may use the adjusted funding target attainment percentage (AFTAP) for last plan year ending before Jan. 1, 2020, to determine if benefit restrictions apply in any plan year that begins or ends in 2020.
<b>Expanded CSEC plan definition</b>	DB plans sponsored by charities providing services to mothers and children can use the special funding rules for cooperative and small-employer charity (CSEC) pension plans, provided sponsors meet specific conditions.
<b>Waiver of DC plan RMDs in 2020</b>	All required minimum distributions (RMDs) from defined contribution (DC) plans due in 2020 are waived, including both 2019 RMDs due on April 1, 2020, for participants who turned 70-1/2 in 2019, and 2020 RMDs due by Dec. 31, 2020. The waiver doesn't apply to DB plans.
<b>Coronavirus-related distributions</b>	<p>Until Dec. 30, plans can offer distributions up to \$100,000 to a "qualified individual" (defined <a href="#">below</a>). Any distribution in 2020 can be coronavirus-related, including plan loan offsets (but not deemed distributions from plan loan defaults). Coronavirus-related distributions:</p> <ul style="list-style-type: none"> <li>• Aren't subject to the 10% early withdrawal penalty</li> <li>• Are subject to 10% withholding unless the participant elects different or no withholding</li> <li>• May be repaid — if the participant chooses — within three years (repayments are treated as rollovers)</li> <li>• Don't require a 402(f) rollover notice</li> <li>• Are taxed ratably over three years, unless the participant elects full taxation in 2020</li> </ul> <p>DB plans can make the distributions to employees only if the plan offers in-service distributions (allowed at age 59-1/2 or later).</p>
<b>Increased plan loan cap</b>	Through Sept. 22, plans can offer loans to qualified individuals up to the lesser of \$100,000 or the entire vested benefit.

Relief provision	Description
<b>Retirement plans (cont'd)</b>	
<b>Suspension of plan loan repayments</b>	<p>Qualified individuals may suspend until January 2021 all remaining plan loan repayments due in 2020.</p> <ul style="list-style-type: none"> <li>Statutory language appears to suggest plans must offer this relief; however, informal IRS guidance says employers can choose to offer the relief.</li> </ul> <p>Resumed repayments must be adjusted to reflect the delay and accrued interest. The delay doesn't count toward the maximum plan loan repayment period.</p>
<b>Qualified individual</b>	<p>A qualified individual is a participant who meets any of the following:</p> <ul style="list-style-type: none"> <li>Is diagnosed with SARS-CoV-2 or COVID-19</li> <li>Has a spouse or dependent diagnosed with SARS-CoV-2 or COVID-19</li> <li>Experiences adverse financial consequences from being quarantined, furloughed or laid off; having work hours reduced; being unable to work due to lack of child care; closing or reducing the hours of a business owned or operated by individual; or from other factors, as determined by Treasury secretary</li> </ul> <p>Plan administrators can rely on a participant's self-certification of eligibility for this relief.</p>
<b>Plan amendments</b>	Due by 2022 plan year-end (2024 plan year-end for governmental plans) or a later date prescribed by IRS.
<b>Health plans</b>	
<b>No-cost coverage, reimbursement standards for COVID-19 testing</b>	<p>Effective March 18, group health plans and insurers must cover without imposing cost-sharing, preauthorization or other medical-management requirements:</p> <ul style="list-style-type: none"> <li>COVID-19 testing and related services</li> <li>Preventive services like vaccines, once available</li> </ul> <p>Plans must reimburse COVID-19 tests at the test provider's prenegotiated rate or the cash price posted on the provider's website.</p> <p>States may allocate PPPHCEA testing funds toward employers' testing costs.</p>

Relief provision	Description
<b>Health plans (cont'd)</b>	
<b>Health savings account (HSA) rules for telemedicine eased</b>	<p>For plan years beginning on or before Dec. 31, 2021, high-deductible health plan (HDHP) participants won't lose eligibility for HSA contributions if they receive telemedicine or other remote healthcare services free of cost sharing. This includes telehealth and other remote care provided:</p> <ul style="list-style-type: none"> <li>• Through the HDHP before participants have met their deductible</li> <li>• From a vendor outside of the HDHP</li> </ul>
<b>Pretax reimbursement of over-the-counter (OTC) drug costs, menstrual products allowed</b>	<p>For expenses incurred after Dec. 31, 2019, the CARES Act permanently:</p> <ul style="list-style-type: none"> <li>• Eliminates the Affordable Care Act's ban on pretax reimbursement of the costs for OTC drugs not prescribed by a physician</li> <li>• Treats menstrual care products as medical expenses reimbursable on a pretax basis</li> </ul> <p>Changes apply to pretax reimbursements under HSAs; Archer medical savings accounts; and group health plans, including health flexible spending arrangements and health reimbursement arrangements.</p>
<b>New Health Insurance Portability and Accountability Act (HIPAA) guidance required</b>	<p>By Sept. 23 (180 days after CARES Act enacted), HHS must issue guidance on sharing patients' protected health information (PHI) during the COVID-19 public health emergency. The guidance must address compliance with:</p> <ul style="list-style-type: none"> <li>• Existing HIPAA regulations</li> <li>• Any policies that may come into effect due to the national emergency</li> </ul>
<b>Confidentiality changes for substance use disorder (SUD) records</b>	<p>Significant changes better align federal confidentiality standards on the use and disclosure of certain SUD information with the HIPAA privacy rules.</p>

Relief provision	Description
<b>Paid leave</b>	
<b>Emergency paid leave for COVID-19 reasons</b>	<p>From April 1 through Dec. 31, employers with fewer than 500 employees must provide up to 80 hours of emergency paid sick leave and up to 12 weeks of partially paid emergency family and medical leave:</p> <ul style="list-style-type: none"> <li>• Emergency paid sick leave is available to all employees unable to work or telework for certain COVID-19-related reasons, such as illness, quarantine, isolation order, or closure of a child’s school or care facility.</li> <li>• Emergency family leave for COVID-19-related reasons is available to employees who have worked for the employer least 30 calendar days, including anyone rehired after a layoff occurring on or after March 1 who had worked at least 30 of the 60 calendar days before the layoff.</li> <li>• Employees on emergency sick leave receive their regular wages for average hours worked in a typical two-week period, up to a cap of \$511/day and \$5,110 total (for self-care) or \$200/day and \$2,000 total (for family care). Employees on emergency family leave receive no pay for the first two weeks, then 2/3 of their regular rate of pay, up to a cap of \$10,000 total for 10 weeks’ leave.</li> </ul> <p><u>Employer tax credits</u>, including advance credits, are available to offset the costs of providing mandated paid sick and family leave.</p>
<b>Other health, welfare and retirement plan changes</b>	
<b>ERISA deadlines</b>	<p>The Department of Labor (DOL) has new ERISA authority to postpone for up to a year any employee benefit plan deadline during the public health emergency. A recent DOL <u>notice</u> and a <u>rule</u> from DOL and Treasury postpone a number of deadlines for employee benefit plans.</p>

Relief provision	Description
<b>Tax credits and other financial aid for employers</b>	
<b>Employee Retention Credit</b>	<p>Employers can receive a fully refundable <u>tax credit</u> equal to 50% of qualified wages (including allocable qualified health plan expenses) paid to employees. The credit:</p> <ul style="list-style-type: none"> <li>• Is available to employers (including certain tax-exempt employers but not government employers) that have to fully or partially shut down operations or see their revenue drop by 50% (a period of economic hardship).</li> <li>• Applies to the first \$10,000 of wages (including employer contributions for health coverage) paid to each employee after March 12 to year-end</li> </ul> <p>The scope of the tax credit varies by employer size:</p> <ul style="list-style-type: none"> <li>• <b>Employers with more than 100 full-time employees in 2019.</b> The credit applies only to wages paid to employees who are not working during the period of economic hardship (e.g., the employer pays wages and attributable health contributions for employees who are not working).</li> <li>• <b>Employers with 100 or fewer full-time employees.</b> The credit applies to any wages paid to any employee — including those who are working — during the period of economic hardship.</li> </ul>
<b>Paycheck Protection Program</b>	<p>A <u>forgivable loan program</u> is available to employers with 500 or fewer employees, including sole proprietors, independent contractors and self-employed individuals.</p> <ul style="list-style-type: none"> <li>• Employers in the hotel and restaurant industry may be eligible if they have 500 or fewer employees in a particular location, and a special rule applies to franchises.</li> <li>• The loans are available for costs incurred between Feb. 15 and June 30.</li> </ul> <p>To have a portion of the loan forgiven, employers must use the funds to pay wages (up to \$100,000 prorated and tips per employee); the costs of health, retirement or paid leave benefits; state or local taxes; or mortgage interest, rent and/or utility payments.</p> <ul style="list-style-type: none"> <li>• The amount of the loan that may be forgiven is reduced by the number of employees who are laid off or have their wages reduced.</li> <li>• The program offers opportunities for employers to rehire or increase wages.</li> </ul>

Relief provision	Description
<b>Tax credits and other financial aid for employers (cont'd)</b>	
<b>Payroll tax deferral</b>	Employers may <u>defer paying and depositing</u> their share of employment taxes owed from March 27 through year-end. Employers will have two years to pay and deposit the deferred taxes, with 50% due by Dec. 31, 2021, and the remaining 50% due by Dec. 31, 2022.
<b>Employer contributions toward student loans</b>	Employers can contribute up to \$5,250 on a nontaxable basis in 2020 toward paying off an employee's qualified student loan.
<b>Enhanced unemployment benefits with broadened eligibility</b>	Federal funding increase eligibility for and the amount of unemployment benefits, which are administered through each state's unemployment compensation program.

## Related resources

### Non-Mercer resources

- [Q&As on coronavirus-related relief for retirement plans and IRAs](#) (IRS, May 4, 2020)
- [Rule: Extension of certain timeframes for employee benefit plans, participants and beneficiaries affected by the COVID-19 outbreak](#) (Federal Register, May 4, 2020)
- [Disaster relief notice 2020-01](#) (DOL, April 29, 2020)
- [FAQs on COVID-19-related tax credits for required paid leave provided by small and midsize businesses](#) (IRS, April 28, 2020)
- [Pub. L. No. 116-139, Paycheck Protection Program and Healthcare Enhancement Act](#) (Congress, April 24, 2020)
- [Description of the tax provisions of the CARES Act](#) (Joint Committee on Taxation, April 23, 2020)
- [FAQs on deferral of employment tax deposits and payments through Dec. 31, 2020](#) (IRS, April 16, 2020)
- [Pub. L. No. 116-136, Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#) (Congress, March 27, 2020)



- [Section-by-section summary of the CARES Act](#) (Senate Health, Education, Labor & Pensions Committee, March 25, 2020)
- [Pub. L. No. 116-127, Families First Coronavirus Response Act](#) (Congress, March 18, 2020)

### **Mercer Law & Policy resources**

- [DOL gives retirement plans and participants pandemic relief](#) (April 30, 2020)
- [DOL and IRS issue COVID-19 guidance on emergency paid leave](#) (April 29, 2020)
- [Employer health plans have to meet new COVID-19 coverage mandate](#) (April 21, 2020)
- [CARES Act expands unemployment benefits, aims to stem job losses](#) (April 15, 2020)
- [Delving into CARES Act relief for retirement plan participants](#) (April 10, 2020)
- [SECURE, CARES acts change rules on required minimum distributions](#) (April 7, 2020)
- [CARES Act boosts telehealth, makes other health, paid leave changes](#) (March 27, 2020)
- [Stimulus bill gives DB funding relief, access to DC savings](#) (March 26, 2020)

### **Other Mercer resources**

- [Stay informed on the coronavirus](#) (regularly updated)

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