

# CARES Act overview and FEMA eligibility

March 2020



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# Today's CARES Act presenters



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Americas Health Science & Wellness Leader



**Heather Meade**

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Washington Council EY

# COVID-19: Congress and Administration take action

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## COVID-19 relief package one

- ▶ Signed into law: March 6
- ▶ Focus: Emergency health funding

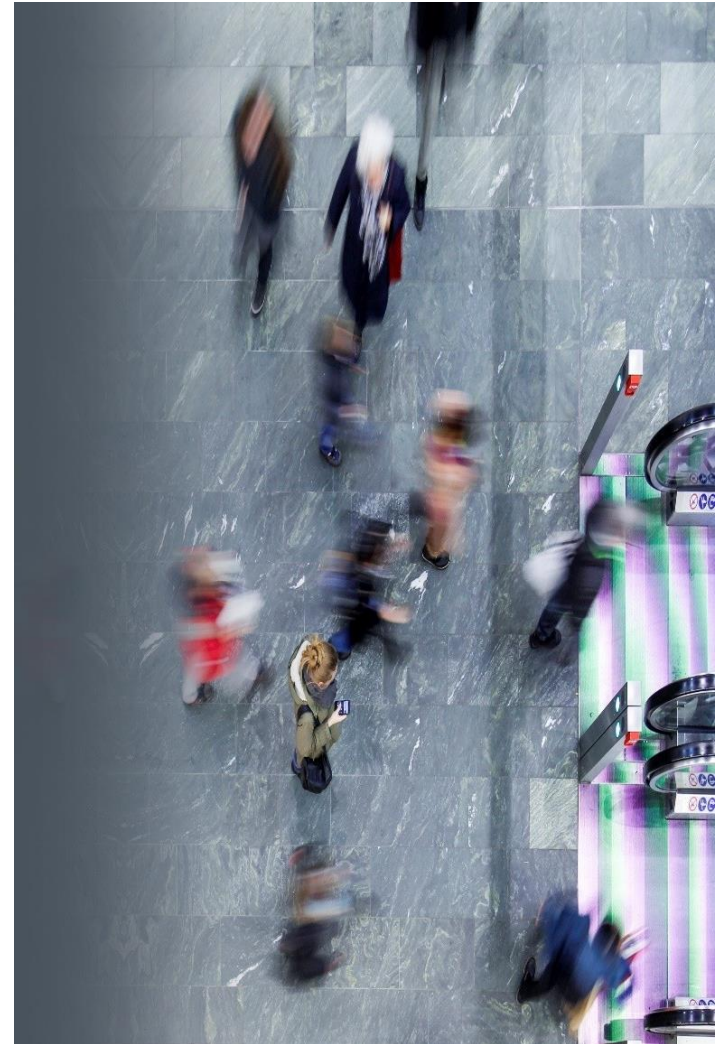
## COVID-19 relief package two

- ▶ Signed into law: March 18
- ▶ Focus: Individual relief

## COVID-19 relief package three

- ▶ Passed by Senate on March 25
- ▶ Focus: Economic relief

**Additional relief expected**



# COVID-19 relief package one

Coronavirus Preparedness and Responses Supplemental Appropriations Act (H.R. 6074)

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## \$8.3 billion bill to fight the coronavirus outbreak signed by President Trump on March 6

\$3.1 billion to develop and purchase vaccines and medical supplies; \$100 million for community health centers and clinics

\$826 million to support basic research and development of vaccines, therapeutics and diagnostics; \$61 million for review and development

\$2.2 billion for the Centers for Disease Control and Prevention (CDC): state and local preparedness, response efforts, and global disease detection and response

\$1.2 billion for global health programs, humanitarian and health assistance, state department operations, and economic support



# COVID-19 emergency disaster declaration

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## Signed by President Trump on March 13:

- ▶ Makes available up to \$50 billion to states and territories to fight COVID-19
- ▶ Small Business Administration (SBA) to provide affected firms with emergency capital of up to \$2 million
- ▶ Suspended interest payments for student loans
- ▶ Instructed Treasury Secretary Mnuchin to provide relief from tax filing deadlines
- ▶ New authority for the Secretary of Health and Human Services to immediately waive provisions to give doctors, hospitals and health care providers flexibility to respond to the virus and care for patients:
  - ▶ Expand telehealth
  - ▶ Waive license requirements to allow doctors to provide services in states with the greatest need
  - ▶ Allow critical-access hospitals to increase the number of beds and length of stay
  - ▶ Waive three-day hospital stay requirement prior to nursing home admission
  - ▶ Waive rules restricting where hospitals can care for patients



# COVID-19 relief package two

## Families First Coronavirus Response Act (H.R.6201)

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### Second bill to fight the coronavirus outbreak signed by President Trump on March 18

- ▶ Legislation is the second step in a long process of economic stabilization and rehabilitation.
- ▶ Package two focused on providing relief for workers at companies with fewer than 500 employees and at easing federal restrictions on federal nutrition programs.

### Key provisions:

Emergency paid sick leave for organizations under 500 employees

Tax credits for paid sick and family leave

Emergency Family and Medical Leave (FML) for organizations less than 500 employees focused on parents and caregivers

Flexibility for federal nutrition programs, including Supplemental Nutrition Assistance Program (SNAP), school lunch programs and other assistance

# COVID-19 relief package two

## Families First Coronavirus Response Act (H.R.6201)

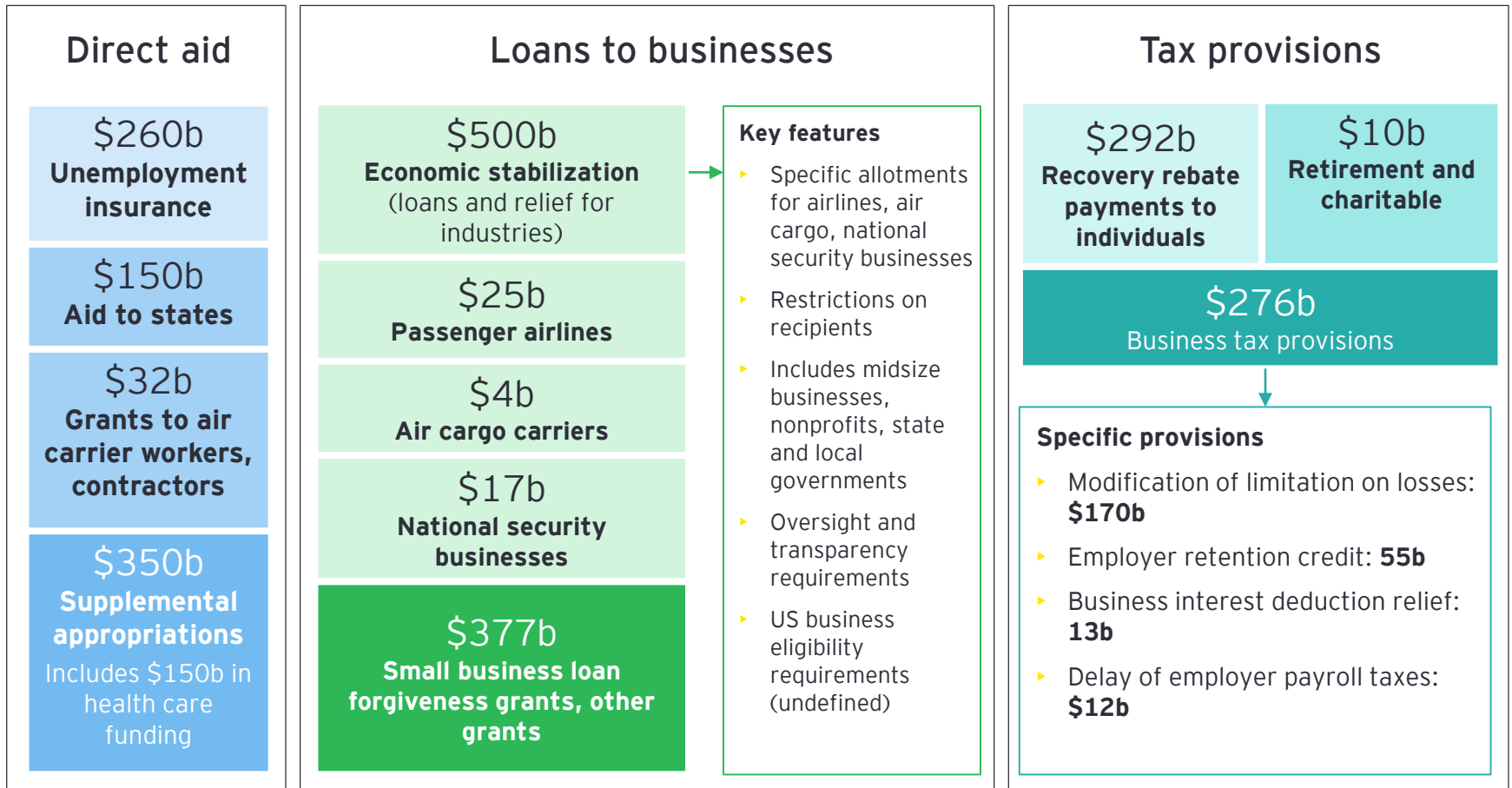
### Paid leave requirements:

- ▶ Imposes temporary paid leave requirements funded by refundable payroll tax credits
- ▶ Credit and requirements apply only to small employers (fewer than 500 employees)
- ▶ 10 days of paid leave at full pay if employee cannot work (including telework) due to:
  - ▶ Symptomatic employee seeking diagnosis
  - ▶ Ordered isolation or quarantine
  - ▶ Caring for someone in these situations
  - ▶ Child care due to closures
- ▶ 12 weeks at 2/3 pay for child care closures
- ▶ Credit may be increased by qualified health plan expenses allocable to qualified leave
- ▶ Credit applies to Social Security Tax and Tier 1 of Railroad Retirement Tax
- ▶ Analogous credit for self-employed
- ▶ Provisions expire on December 31, 2020





# Highlights of the CARES Act



# COVID-19 relief package three

## Coronavirus Aid, Relief, and Economic Security (CARES) Act

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Third bill to fight the coronavirus outbreak passed by Senate on March 25

1

### Individual relief:

- ▶ Recovery checks for individuals of up to \$1,200 and an additional \$500 for every child; begins phasing out after \$75,000 in AGI for a single taxpayer, \$112,500 for a head of household filer, and \$150,000 for married couples who file a joint return.

2

### Business tax relief:

- ▶ Employee retention credit for employers subject to closure due to COVID-19
- ▶ Delay of payment of employer payroll taxes
- ▶ Modifications for net operating losses
- ▶ Modification of limitation on losses for taxpayers other than corporations
- ▶ Modification of credit for prior year minimum tax liability for corporations
- ▶ Modifications of limitation on business interest
- ▶ Technical amendments regarding qualified improvement property
- ▶ Temporary exception from excise tax for alcohol used to produce hand sanitizer
- ▶ Modification of limitations on charitable contributions
- ▶ Exclusion of certain employer payments of student loans

# COVID-19 relief package three

## Coronavirus Aid, Relief, and Economic Security (CARES) Act, cont.

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3

### Retirement provisions:

- ▶ Waive early withdrawal penalties
- ▶ Waive required minimum distribution rules
- ▶ Limited relief for single employer defined benefit pension plans

4

### Charitable giving:

- ▶ Allowance of partial above-the-line deduction for charitable contributions
- ▶ Modification of limitations on charitable contributions during 2020

5

### Economic stabilization fund (ESF):

- ▶ The bill establishes an ESF of \$500 billion to provide direct loans, loan guarantees and other investments to eligible businesses who have/will incur losses as a result of the COVID-19 crisis.
  - ▶ A portion is set aside for specified industries: \$25 billion for passenger airlines, \$4 billion for cargo airlines and \$17 billion for businesses crucial to national security.

# COVID-19 relief package three

## Coronavirus Aid, Relief, and Economic Security (CARES) Act, cont.

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### Health care provisions:

**Appropriations:** \$127 billion “Public Health and Social Services Emergency Fund,” including:

- ▶ \$100 billion for hospitals and health care providers for COVID-19 related expenses; \$16 billion for Strategic National Stockpile
- ▶ \$11 billion for vaccines, therapeutics, diagnostics, etc.

### Providers:

- ▶ Medicare add-on payment of 20% for COVID-19 patients
- ▶ Increased telehealth and in-person requirement flexibilities
- ▶ Delay of Medicare sequestration
- ▶ Delay of DSH payment cuts
- ▶ Revised confidentiality and sharing requirements for substance use disorders

### Payers:

- ▶ Rapid coverage of preventive services and vaccines without cost-sharing
- ▶ Reimbursement for COVID-19 diagnostics at cash price (or contract)
- ▶ HDHP coverage of telehealth before deductible
- ▶ Mandatory three-month refills for Part D

### Life sciences:

- ▶ Expedited review for drug shortages and added reporting
- ▶ Flexibilities for BARDA and Breakthrough Therapy for innovation
- ▶ OTC user fee program
- ▶ Liability protection for device manufacturers
- ▶ Delay of cuts to Medicare DME and lab





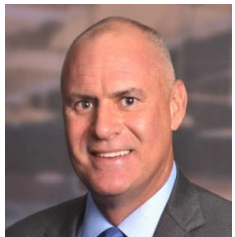
# Today's EY FEMA presenters



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# Today's COVID-19 claim recovery topics

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- ▶ FEMA
  - ▶ Eligible entities
  - ▶ Eligible Category B costs
  - ▶ Tracking eligible costs
  - ▶ Unique to COVID-19
- ▶ CARES Act
  - ▶ \$100 billion for lost revenue - Public Health and Social Services Emergency Fund





# FEMA – Eligible entities

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- ▶ A current ruling letter from the U.S. Internal Revenue Service granting tax exemption under Sections 501(c), (d) or (e) of the Internal Revenue Code of 1954

Or

- ▶ Documentation from the state substantiating it is a non-revenue producing, nonprofit entity organized or doing business under state law
- ▶ Examples may include universities, hospitals, ports, utilities (electric, water, telecom), hospices, clinics, nursing homes
- ▶ *Facilities established or primarily used for political, athletic, recreational, vocational or academic training, conferences or similar activities are **not eligible***



# FEMA Emergency Protective Measures Eligible Category B costs

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## What's covered?

- ▶ Pre-positioning equipment and resources
- ▶ Force Account Labor
- ▶ Emergency operation center costs
- ▶ Emergency Access
- ▶ Supplies
- ▶ Medical care
- ▶ Evacuations and sheltering
- ▶ Security
- ▶ Generators
- ▶ Dissemination of information to public for warnings and guidance

## What's not covered?

- ▶ Lost revenue
- ▶ Straight time (regular time)
- ▶ Nonessential employee costs
  - ▶ Comp time
  - ▶ Overtime
  - ▶ Fringe
  - ▶ Meals
- ▶ Feeding programs operated by schools (may be eligible under another federal program)
- ▶ School make-up days, including bus services for those days





# Tracking FEMA eligible costs appropriately

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- ▶ FEMA – Eligible costs begin retroactive to January 20, 2020
- ▶ Funding from multiple federal sources (FEMA, HHS, HUD, Stimulus), plus insurance potentially
- ▶ Critical to start tracking diligently early
- ▶ Implement standardized process up front in order to establish consistency and accuracy of documentation
- ▶ Gaps of documentation are easier to recover during the process as opposed to years later
- ▶ Poor documentation is a leading cause of de-obligation and can slow down the overall process
- ▶ Avoid duplication of benefits with insurance and multiple federal funding sources



# Major disaster declaration process (FEMA)

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- ▶ State requests declaration by President
- ▶ Once approved, state hosts applicant briefings by county
- ▶ Subrecipient files a Request for Public Assistance (RPA). If operating in multiple states, will need to file across multiple states
- ▶ Local kickoff through Recovery Scoping Meeting (RSM)
- ▶ From here, all damages must be identified and communicated to FEMA within 60 days in a Damage Inventory (DI), which will be a summary of costs incurred or expected to be incurred
- ▶ FEMA uses DI to draft project worksheets (PWs)
- ▶ Site visits unlikely for COVID-19
- ▶ Administrative costs for third-party assistance with this process paid for via FEMA and other federal assistance
- ▶ Once PWs are obligated by FEMA, submit documentation to state for reimbursement



# Ernst & Young LLP presenters

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# Additional resources

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For more information and for the replay of this webcast which will be available later this week, please visit [www.ey.com/forensics/coronavirus](http://www.ey.com/forensics/coronavirus)

For **CARES Act** questions, please contact David Womelsdorf at [david.womelsdorf@ey.com](mailto:david.womelsdorf@ey.com) or +1 732 516 4292.

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