

# Labs May Qualify for Relief Under New Federal Laws

► Loans, grants, and tax credits are available under the CARES Act and other stimulus programs

►► **CEO SUMMARY:** *After routine testing and specimen volume declined last month, so too did the associated revenue. In response, clinical laboratories and anatomic pathology groups want to bolster their finances quickly or risk incurring more financial damage to already-fragile balance sheets. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and other stimulus plans from Congress, labs and pathology groups may be eligible for financial assistance.*

**S**INCE MID-MARCH, ROUTINE CLINICAL LAB AND PATHOLOGY TESTING and the associated revenue have dropped precipitously as the novel coronavirus spread into every state. In response, Congress passed a series of laws, making loans, grants, and tax credits available to clinical labs and anatomic pathology groups.

Recognizing that the finances of labs and AP groups took a beating when routine testing declined due to the many stay-at-home orders that governors and mayors issued in March, consultants serving these labs and path groups have heard horror stories from clients.

For example, Robert Tessier, Senior Reimbursement Consultant with **HBP Services** in Woodbridge, Conn., said he learned that referred volume from physician practices to anatomic pathologists dropped by 90%, while hospital volume for inpatients and outpatients dropped 70% to 75% from previous levels.

Mick Raich, CEO of **Vachette Pathology**, concurred, saying AP and clinical lab volume dropped by 75% to 90% from previous levels.

Given the questions health policy experts now have about when shelter-in-place orders might be lifted, it's impossible to predict when routine clinical lab testing, pathology specimen volume, and revenue may start to rise, Raich added. To offset lost revenue, he recommended that labs and pathology groups apply for funding under one or more of the stimulus programs Congress passed this year.

## ► Relief in Sight

On March 27, for example, Congress passed, and President Trump signed into law, the Coronavirus Aid, Relief, and Economic Security Act. "The CARES Act authorizes about \$2.2 trillion in relief and includes a number of programs for labs and other healthcare providers," commented Raich. Also, he advised lab directors and executives at pathology groups to act quickly because demand for relief is high.

One already-depleted funding source was the Paycheck Protection Program (PPP), which ran out of money on April 14. Congress set aside \$350 billion for PPP loans to businesses with fewer than

500 employees feeling the effects of the pandemic and the economic downturn.

Those loans were intended to help companies make payroll and cover other expenses from February 15 to June 30 (the designated end of the national pandemic emergency). As of press time, it was unknown if Congress would provide additional funding for PPP. (See sidebar, "AP Group Used Federal Money to Offset Losses," this page.)

In another initiative under the CARES Act, employers can get what the IRS calls an employee retention tax credit (or Employee Retention Credit) to keep employees on the payroll despite economic hardship related to the virus.

## ► Tax Credits Available

Tax credits also are available under the Families First Coronavirus Relief Act, which Congress passed March 18. The law requires certain employers to pay sick or family leave wages to employees unable to work due to the virus. Employers are entitled to refundable tax credits for payments for the required leave. There are limits, however, and some wages cannot be counted for both credits, the IRS said.

**The Tax Foundation**, a nonpartisan tax policy organization, explained that employers are eligible for a 50% refundable payroll tax credit on wages paid up to \$10,000 during the crisis.

"The credit would be available to employers whose businesses were disrupted due to virus shutdown and those that had a decrease in gross receipts of 50% or more as compared to the same quarter last year," the foundation said. "The credit can be claimed for employees who are retained but not currently working due to the crisis for companies with more than 100 employees, and for all employee wages for companies with 100 or fewer employees."

In another initiative under the CARES Act, Congress allowed the federal **Centers for Medicare and Medicaid Services** (CMS) to expand and extend

## AP Group Used Federal Money to Offset Losses

**B**ASED ON NUMBERS FROM HIS PATHOLOGY GROUP CLIENTS, Robert Tessier, Senior Reimbursement Consultant with **HBP Services** in Woodbridge, Conn., expects some AP practices to see a decline in income of 70% to 75% in May and June.

This income shortfall is based on comparing projected income for May and June of this year with income the groups received in May and June of 2019.

"These groups have almost nothing coming in from their referring physicians' offices," he said. One group expects to counter losses in income with loans and grants from federal relief funds.

"The practice projects that it will lose \$300,000 per month in May and June for a total loss of \$600,000," he added.

"To offset that loss, they expect to get a \$30,000 federal grant and a \$350,000 loan from the Paycheck Protection Program," Tessier reported. "Of the \$350,000 loan, the government may forgive \$310,000, leaving \$40,000 that the practice will pay back in a form of loan payments."

"On a net basis over two months, here's how it works out," he explained. "The group will have reduced patient care receipts of \$600,000, but also lower billing costs (at 8%) for a savings of \$48,000. Therefore, the net loss to the practice will be \$552,000."

"But then we can add back in the grant income of \$30,000 and, assuming that Congress approves a second round of PPP funding, the group could get forgiveness under the PPP of \$310,000, for a total of \$340,000 in relief from federal stimulus programs," he added.

"Therefore, strictly from an income perspective, this group will have a net reduction of \$212,000."

"But we have no idea what will happen between now and June or what will happen after that," he said.



its Accelerated and Advance Payment Program for providers under both Medicare parts A and B.

"The advantage of this program is that it's not new, and so the guidelines are already in place," noted Ann Lambrix, Vachette's Vice President of Client Services. "The disadvantage is that pay-back is required and could begin within 120 days of receipt of the funds. The question for clinical labs and pathology groups is whether revenue will approach normal levels by then."

Lori Anderson, a Senior Product Manager at XIFIN and revenue cycle management consultant, explained in a blog post that labs can request as much as 100% of the total amount billed over the past three months.

One potential problem under this program is that 120 days after the funds are disbursed, CMS will begin applying claims payments to offset the loan amount for new claims and claims submitted during the initial 120-day operating period, Anderson warned.

### ► Eligibility Requirements

To be eligible, labs would need to have billed Medicare within 180 days immediately before requesting the funds, cannot be in bankruptcy or under any active medical review or integrity investigation, and cannot have any delinquent or outstanding Medicare overpayments, she wrote.

Clinical laboratories would need to request loan applications and make loan requests to their Medicare Administrative Contractors, Anderson added. The estimated time for review is seven calendar days, and the program runs through June 30, or the duration of the public health emergency.

The CARES Act also allows the federal **Small Business Administration** to offer funding under the Economic Injury Disaster Loan program. Businesses are eligible for as much as \$2 million in loans

at an interest rate of 3.75%, and principal and interest payments can be deferred for as long as four years, Raich said.

Also included in the CARES Act is \$100 billion in the Public Health and Social Services Emergency Fund that Congress allocated to hospitals, physicians, and other healthcare providers, according to the **American Academy of Family Physicians**. Because these funds are grants, they do not need to be repaid, AAFP said.

### ► Funds Go to Providers

The funds would go to the organization, meaning a hospital, physician practice, or pathology group, that receives Medicare fee-for-service (FFS) payments, and not to individuals. All facilities and health professionals that billed Medicare FFS in 2019 are eligible for the funds, AAFP added.

On April 10, the federal **Department of Health and Human Services** (HHS) said it would pay out \$30 billion from this fund in direct proportion to the share of Medicare FFS payments the organization received under its taxpayer identification number (TIN), Tessier explained.

To calculate how much a hospital, clinical lab, or pathology group would get under this program, a hospital, lab, or group would need to know how much it received in FFS Medicare payments last year. Medicare Advantage payments are excluded. Care does not need to be specific to treating COVID-19 patients, HHS said.

Clinical laboratories and pathology groups that use billing companies should be aware that if the billing company accepts checks and posts payments for your organization, these funds would be exempt from the billing company's calculations of "payments received."

Tessier offered an example of how a group could estimate its payment. "Let's say a pathology group received Medicare FFS payments of \$1 million in 2019. Since

the \$30 billion distribution is 6.2% of the total that Medicare paid out in FFS in 2019, the practice would get roughly \$62,000," he calculated.

In addition to the aid coming from federal sources, health plans, and the CMS have loosened some policies on claims filing and enrollment for clinical labs, pathologists, and other providers.

For example, in March, CMS approved requests from 11 states to waive the Medicaid requirements under Section 1135 of the Social Security Act to provide relief from prior authorization and provider enrollment rules, to suspend some nursing home pre-admission reviews, and to facilitate payment to providers for care delivered in alternative settings after facilities are evacuated. The waivers are effective as of March 1, and are in place through the end of the declared emergency.

### ► Medicare Sequestration

In other changes, CMS suspended the reduction in Medicare payments under sequestration, meaning labs will get an increase of 1.6% in total on lab test payments from Medicare through the end of the year. When Congress passed the Budget Control Act of 2011, it required across-the-board reductions in federal spending, also known as sequestration.

CMS also froze payment levels under the Protecting Access to Medicare Act at the current level rather than cut payments under PAMA by 15%, as the law allows. In addition, CMS also revised another rule under PAMA, saying it would not require labs to report payment data from health plans until the first quarter of 2022.

Commercial health plans also altered their requirements. **UnitedHealthcare**, for example, loosened its prior-authorization rules and relaxed some claims-filing deadlines beyond the normal 90 days. **TDR**

—Joseph Burns

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## Stay-at-Home Order Slows Lab Payments

**ONE PROBLEM CLINICAL LABORATORIES AND PATHOLOGY GROUPS FACE** during the coronavirus pandemic is that stay-at-home orders are slowing or stopping payments from health insurers and billing companies, said Mick Raich, CEO of **Vachette Pathology**, a revenue cycle management company.

Shelter-in-place rules affect labs and pathology groups that have in-house billing departments and that send such work to billing companies, he commented.

"Labs and billing firms that have sent workers home may see productivity decline," he explained. "Often, the lab or the billing company does not have the tools or the information technologies in place to allow remote workers to function at optimal productivity. Not only do billers have people working from home, but many billers have laid people off."

"One company had 100 people who couldn't work at all because they were not allowed in the building. We know of six billing companies that now have staff working at home," Raich added.

"Offshore billing companies usually have large numbers of staff who work together closely in cubicle farms," he explained. "I suspect these billing companies had to send staff home. That means a client lab's claims will not get processed, and the lab will experience increased denials, especially if its billers have operations offshore in India, Costa Rica, and Singapore, for example."

Not only will the number of denials rise, but also appeals will not get filed. Plus, billers likely will fail to capture all charges, meaning labs will need to retain all claims records so that when billers return, labs can verify that all test claims get paid, Raich advised.

"Billing will be a true train wreck this year," he warned.