



## AMERICAN ACADEMY OF OTOLARYNGOLOGY- HEAD AND NECK SURGERY

On July 27, U.S. Senate Republican leadership released a fourth legislative relief package, the “Health, Economic Assistance, Liability Protection, and Schools Act” (HEALS Act), in response to the ongoing COVID-19 pandemic. The key elements of this proposal impacting Otolaryngologist Head and Neck Surgeons include:

### **Liability Protections for Health Care Providers**

Protects health care providers, including hospitals, doctors and nurses as well as nursing homes and other care facilities, from liability claims resulting from provision of care for coronavirus or services provided as a result of coronavirus. The legislation would cover coronavirus-related medical liability claims occurring from December 1, 2019 to October 1, 2024. Health care providers would be liable for injuries caused by gross negligence or willful misconduct.

### **Medicare Accelerated and Advance Payment Programs during COVID-19**

Extends the payment periods for the Medicare accelerated payments from 120 days to 270 days before claims are offset to recoup the accelerated payment. Also would extend from 12 months to 18 months from the date of the first accelerated payment before requiring that the outstanding balance be paid in full.

### **Public Health and Social Services Emergency Fund/Provider Relief Fund**

Appropriates an additional \$25 billion to the Provider Relief Fund originally created in the CARES Act. This money would go to reimburse, through grants or otherwise, expenses or losses attributable to COVID-19 for eligible Medicare and Medicaid providers, for-profit and not-for-profit entities. This would allow for payment, pre-payment, prospective payments, and retrospective payment.

### **Paycheck Protection Program (PPP) Improvements and Second Draw Loans**

Improvements to the PPP include:

1. Additional expenses would be allowable and forgivable under the PPP, including: payment for any software, cloud computing, and other human resources and accounting needs; covered supplier costs pursuant to a contract for goods in effect prior to February 15, 2020 that are essential to the recipient’s current operations; and personal protective equipment and adaptive investments to help a loan recipient comply with federal health and safety guidelines related to COVID-19 during the period between March 1, 2020, and December 31, 2020.
2. A borrower could select a covered period for purposes of loan forgiveness between 8 weeks after origination and December 31, 2020.
3. Would simplify the loan forgiveness application process for smaller loans by reducing the amount of documentation submitted.
4. Would reduce the maximum amount for a first round PPP loan from \$10 million to \$2 million only for those loans issued after the date the bill is enacted.
5. Businesses whose maximum loan amounts have increased due to changes in the SBA's and Treasury Department's interim final rules that permit such increases would be allowed to work with their lenders to increase the loan value.
6. The bill would add a definition of "seasonal employer" for purposes of the PPP. A seasonal employer would be one that (1) operates for no more than 7 months in a year, or (2) earned no more than one-third of its receipts in any 6 months in the prior calendar year.



The legislation would also authorize a second draw loan from the PPP for eligible businesses and businesses qualifying originally. The eligibility for PPP Second Draw loans would be defined as small businesses that meet the applicable Small Business Act (SBA) revenue size standard, have no more than 300 employees, and demonstrate at least a 50 percent reduction in gross revenues.

### **Safe and Healthy Workplace Tax Credit**

Would establish a refundable payroll tax credit equal to 50 % of an employer's "qualified employee protection expenses," incurred for the purpose of preventing the spread of COVID-19. Examples of these expenses would include testing for COVID-19, PPE, cleaning supplies, "qualified workplace reconfiguration expenses," including modifications to workspaces for the purpose of protecting employees and customers from the spread of COVID-19, among others.

### **Authority to Extend Medicare Telehealth Waivers**

Would ensure that the expansion of telehealth in Medicare through flexibilities made available during the public health emergency are maintained through the length of the public health emergency, or December 31, 2021, whichever is later.

### **Requirement to Purchase Personal Protective Equipment (PPE) for the National Strategic Stockpile from Domestic Suppliers**

Would require funds appropriated to the Secretary for the Strategic National Stockpile (SNS) be used to purchase personal protective equipment (PPE) from domestic suppliers.

### **Improving and Sustaining State Medical Stockpiles**

Would establish state stockpiles of medical products and supplies needed during a public health emergency, such as personal protective equipment (PPE), ventilators, and other medical products and direct the Secretary of HHS to award grants, contracts, and cooperative agreements for state medical stockpiles needed during a public health emergency.

The HEALS Act serves as the first step in Republican Senate negotiations with U.S. House of Representatives Democrats who separately passed COVID 4.0 legislation, the "Health and Economic Recovery Omnibus Emergency Solutions Act" (HEROES Act) on May 15, 2020. The AAO-HNS Advocacy team will continue to provide updates as negotiations between the House of Representatives and Senate develop.