The Jewish Federations of North America
Washington D.C. Office

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT SUMMARY AND ANALYSIS

Earlier today Congress passed a $2.2 trillion bill named the ‘‘Coronavirus Aid, Relief, and Economic Security Act’’ or the ‘‘CARES Act.’’ This massive legislative output will inject new public funding into the economy equaling about 10% of the value of the U.S. GDP, which stood at $21.2 trillion at the end of 2019. Huge portions of the bill provide financial relief to individual Americans, economic stabilization for large sectors of the economy, pass-through funding to support states and localities, and new support for federal programs and health facilities.

Of particular interest to the Federation system, nonprofits with 500 employees or less received access to a new $350 billion program at the Small Business Administration which offers loans of up to $10 million to maintain business continuity, with forgiveness of the loan available if the organization is able to maintain its payroll (measured as of February 15, 2020 to June 30, 2020). The CARES Act also advances a number of JFNA priorities including:

- Creating a new “above-the-line” charitable tax deduction of $300 for taxpayers who do not itemize;
- Temporarily lifting the Adjusted Gross Income (AGI) charitable contribution deduction limits;
- Providing significantly more flexibility in the provision of telehealth services;
- Extending the Medicaid Money Follows the Person Demonstration Program;
- Allowing funding to be shifted between congregate and home-delivered nutrition programs for seniors; and
- Providing $200 million in new resources for the Emergency Food and Shelter Program.

With your tremendous support, JFNA took a lead role in advancing each of these priorities. Here is The Jewish Federations of North America’s analysis of the legislation, which President Trump is expected to sign soon.

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Access to Capital

Paycheck Protection Loans: The CARES Act provides funding of $350 billion to the Small Business Administration ("SBA") for authorized SBA lenders to make loans to small businesses, including nonprofits with 500 employees or less, impacted by COVID-19 under a new Section 7(a) of the Small Business Act called the Paycheck Protection Program.

Loans of up to $10 million (with the limit determined by a multiple of monthly payroll costs) would be provided through June 30, 2020 through the Paycheck Protection Program (PPP) and could be used for operational costs, including payroll, rent, health benefits, and insurance premiums, among others. Eligible applicants are limited to "small business concerns" as currently defined by the SBA to include any business, nonprofit (limited to Section 501(c)(3)) organization, or veterans' organization, employing no more than the greater of 500 employees or the number of employees for each industry as determined by the Administration. Fulltime and part time employees are counted for purposes of the 500 employee cap. Jewish communal institutions including JCCs, JFS agencies, nursing homes, day schools, camps, Hillels, synagogues and federations are all eligible for these loans.

Of extraordinary importance, significant parts of the PPP funds that borrowers spend during the 8-week period after the loan origination date on qualified costs (including payroll, rent, utilities, and interest on other debt including mortgages) may be forgiven if the employer maintains its payroll during the covered period. There is also a provision to recapture lost portions of forgiveness if any laid-off workers are rehired by June 30, 2020.

There is a limitation on an organization receiving a PPP loan and other SBA loans used for the same purpose such as Emergency Injury Disaster Loans (EIDL) as described below. However, if a borrower has an EIDL unrelated to COVID-19, it would be permitted to apply for a PPP loan with an option to refinance and rollover that earlier loan into the PPP loan. JFNA will provide detailed information regarding the PPP loan program and preliminary information can be found on Jewish Together.

SBA Emergency Disaster Loans: The CARES Act expands the current SBA disaster loan programs. The SBA Economic Injury Disaster Loans (EIDL) are available to nonprofits that suffer economic injury in a declared disaster area, providing up to $200,000 in loans at a low-interest rate. In most cases, local lenders provide the funds on behalf of the SBA.

The bill makes several changes to the Economic Injury Disaster Loan program during the "covered period" (January 31, 2020 through December 31, 2020), including waiving rules related to personal guarantees; waiving the requirement that an applicant be unable to find credit elsewhere; and allowing lenders to approve applicants based solely on credit scores or alternative measures (no tax return is required.) It is important to note, however, that there is no loan forgiveness provision for COVID-19-related EIDLs.

Applicants for EIDL loans during the covered period may request an advance of up to $10,000 from the SBA (which must distribute the funds within three days) that does not have to be repaid, even if the loan application is later denied. These advances may be used for approved purposes including providing sick leave due to the crisis, maintaining payroll during business interruption or slow downs, making rent or mortgage payments, meeting certain increased costs and repaying prior debt obligations that cannot be otherwise met due to lost revenue.

Economic Stabilization and Assistance Fund Applicability to Large Nonprofits: The CARES Act creates an Economic Stabilization and Assistance Fund to provide loans to a wide range of businesses and industries needing economic relief, that are not otherwise provided for in the Act. It allocates $500 billion for these purposes with $25 billion dedicated to passenger air carriers, $4 billion for cargo air carriers and $17 billion for "businesses important to maintaining national security." The remaining $454 billion will be used to provide loan assistance to other "eligible businesses."

There is specific reference in the CARES Act for lending, which is targeted at nonprofit organizations and businesses with between 500 and 10,000 employees. The interest rate on these loans would be no higher than 2 percent. Proceeds must be used to retain at least 90 percent of the recipient's workforce with full compensation and benefits, through September 30, 2020. The program includes the appointment of an inspector general and there is a Congressionally-appointed monitoring board to assure proper use of loan proceeds. Recipients that benefit from this fund cannot use loan proceeds to increase compensation of certain "highly compensated employees" or engage in stock buybacks for one year after the expiration of the loan which cannot exceed five years.

Employee Retention Tax Credit: The Cares Act provides an employee retention tax credit in the form of a payroll tax credit available to businesses, including nonprofits that keep their workforce on the payroll if the business is forced to fully or partially shut down due to a COVID-19 related shut-down order or whose gross receipts declined by more than 50 percent when compared to the same quarter in the prior year. The amount of the credit is based on a percentage of wages paid to employees. For employers with over 100 full-time employees (FTEs), qualified wages are those paid to employees when they are not providing services due to COVID-19 related circumstances. For employees with 100 or fewer FTEs, all wages qualify for the credit, whether the employer is open for business or subject to a shut-down order. The credit is provided for the first $10,000 of compensation (including health benefits) paid to an eligible employee during the period from March 13, 2020 through December 31, 2020. It is important to note that employers that receive SPA PPP loans described above would not be eligible for these tax credits.

Charitable Tax Incentives

Above-the-Line Charitable Tax Deduction: The CARES Act provides an above the line, (sometimes referred to as the "universal" or non-itemizer) charitable deduction. Taxpayers who claim the standard deduction on their tax returns will be able to claim this "above-the-line" deduction for up to $300 of charitable contributions in cash on their 2020 tax returns.

Note that contributions to donor-advised funds or certain supporting organizations would not qualify for the deduction.

Expanding charitable giving incentives and specifically creating an above-the-line deduction has been one of JFNA's policy priorities for many years. This is especially important due to recent tax law changes which have decreased the percentage of taxpayers who itemize and therefore benefit from the charitable contribution deduction to less than 10 percent of all tax filers. It is hoped that this new incentive will attract many new donors to federations or partner agencies.

Raising of Charitable Deduction Limits: The CARES Act raises itemized charitable contribution deduction limits for individuals who itemize their deductions and claim the charitable contribution deduction. The current 50 percent adjusted gross income ceiling which limits the amount of deductions a taxpayer can claim on their current tax return are suspended for cash contributions made in 2020. For corporations, the taxable income limitation on deductible contributions is increased from 10 percent to 25 percent and the food inventory contribution limit is increased from 15 percent to 25 percent. These limits apply to tax years ending after December 31, 2019.

Economic Stimulus

Direct Payment to Taxpayers: Under the CARES Act, the government will send direct payments of $1,200 per individual ($2,400 for a couple) to taxpayers with annual incomes up to $75,000 ($150,000 for a married couple). Families also would receive an additional $500 per child. This amount phases down by $5 for each $100 of income for those earning up to $99,000, $146,500 for head of household filers with one child, and $198,000 for joint filers with no children. For the vast majority of Americans, no action is required -- rebate checks will be automatically issued by the IRS.

Payroll Tax Holiday: The CARES Act provides a payroll tax holiday on the employer portion of Social Security taxes otherwise due through the end of 2020. The provision applies to all employers, including nonprofits. Deferred payroll tax amounts would be payable over two years with 50 percent due by December 31, 2021 and 50 percent due by December 31, 2022.

Unemployment Insurance Benefits: The CARES Act provides an extension of 13 weeks of unemployment benefits and includes a four-month enhancement of benefits by an additional $600. A new Temporary Pandemic Unemployment Assistance fund will last through December 31, 2020 to provide payment to those not traditionally eligible for benefits, including certain clergy and religious employees, freelancers, furloughed employees, and gig workers, such as Uber drivers. Funding is provided for states to waive the initial waiting week through December 31, 2020. For nonprofit organizations that self-insure unemployment benefits for their employees, the bill provides a payment through the state unemployment agencies in an amount equal to one-half of the costs incurred by such nonprofits through December 31, 2020 to pay unemployment benefits.

Paid Sick Leave: For qualified workers affected by COVID-19, full-time workers would receive up to two weeks paid leave, and part-time workers would receive leave based on an average of the number of hours worked over a two week period. This leave is capped at $511 per day for those who are sick or seeking care and $200 per day for those caring for sick family members or children. The program excludes employers with over 500 employees, and provides the Department of Labor with the authority to exempt firms that employ healthcare workers or emergency responders if they choose to opt out.

Special Rules for Use of Retirement Funds: Consistent with previous disaster-related relief, the CARES Act waives the 10 percent early withdrawal penalty for distributions of up to $100,000 from qualified retirement accounts for coronavirus-related purposes made on or after January 1, 2020. Income attributable to such distributions would be taxed over three years and could be recontributed to an eligible retirement plan within three years without regard to current contribution caps. Flexible loans from retirement plans would also be permitted. In addition the requirement minimum distribution (RMD) rules have been delayed. The delay applies to 2019 RMDs that need to be taken by April 1, 2020 as well as RMDs for the calendar year 2020.

Student Loans: Students can defer loan payments for 6 months and interest during that period is waived. Students can keep their Pell grants, would not lose their eligibility for future Pell grants, and can keep unspent money for Pell grants or loans.

<u>Health Care and Support for Individuals with Disabilities</u>

Expanding Medicare Telehealth Flexibilities and Opportunities: The CARES Act includes important measures that ease the ability of more health care professionals to provide Medicare-covered health care services remotely during the COVID-19 emergency. The CARES Act allows the Secretary of the Department of Health and Human Services (HHS) to waive the existing statutory requirement that telehealth services be provided using devices that have both audio and video capabilities. As the COVID-19 crisis has expanded, this requirement proved to be a significant barrier to increasing access to telehealth services. Many health care professionals and their patients, particularly in the mental health and substance use treatment fields do not currently have access to devices with both audio and video capabilities. Effectively, this legislation paves the way for HHS to significantly expand the pool of providers able to treat their patients without risking exposure to the COVID-19 infection.

Public Health and Social Services Fund: The CARES Act provides $100 billion to prevent, prepare for, and respond to COVID-19, either domestically or internationally. The fund will pay for expenditures to reimburse eligible health care providers (primarily hospitals) for health care related expenses or lost revenues that are attributable to COVID-19.

Coronavirus Relief Fund: The CARES Act provides $150,000,000 in funds for states, territories, and tribal governments to use for expenditures due to the public health emergency.

Funds will go to states, and local governments. The language is intended to help make up lost tax revenue relating to the pandemic.

Increasing Provider Funding through Immediate Medicare Sequester Relief: The Medicare reimbursement increase of 2 percent contained in the CARES Act will ensure higher reimbursement rates for Medicare providers through December 31, 2020. Relevant providers include hospitals, physicians, nursing homes, and home health services. The Medicare sequester would be extended by one year beyond current law to provide immediate relief without worsening Medicare's long-term financial outlook.

Increasing Medicare Access to Post-Acute Care: The CARES Act provides acute care hospitals with increased flexibility during the COVID-19 emergency period, to transfer patients out of their facilities in order to treat non-COVID-19 cases. This will likely impact nursing homes (and may make up for their loss of revenue caused by fewer patients needing rehabilitation following elective surgeries). It also would allow Long-Term Care Hospitals (LTCH) to maintain their special designation, even if more than 50 percent of their cases are less intensive.

Preventing Medicare Durable Medical Equipment (DME) Payment Reductions: The CARES Act prevents scheduled reductions in Medicare Payments for durable medical equipment (DME), through the length of the COVID–19 emergency period. DME such as ventilators is a major expense to hospitals, nursing homes, and hospices.

Delay of Disproportionate Share Hospital Reductions: This is a major issue for Disproportionate Share Hospitals (DSH), which are the majority of Jewish Hospitals. Scheduled reductions in DSH payments would be delayed until November 30, 2020.

Supporting Direct Support Professionals: The CARES Act allows those with disabilities eligible for Medicaid to receive care from the Direct Support Professionals who provide vital assistance in their daily lives, even during short stays in the hospital. This provision ensures that the care of more than 2 million individuals with disabilities will not be disrupted by hospitalization. JFNA featured this issue as a top priority at its Jewish Disability Advocacy Day (JDAD) 2020.

Money Follows the Person: The CARES Act extends Medicaid's Money Follows the Person Medicaid Demonstration (MFP) on a temporary basis through November 30, 2020. MFP is a voluntary program that helps older adults, people with disabilities, and people with mental illness make the transition from living in an institution or nursing home to living at home or in the community. JFNA will continue to advocate for a long-term or permanent extension of MFP, an advocacy element of JDAD 2019 and the Strategic Health Research Center's 2019 Summit, and a program which has helped more than 91,000 individuals with disabilities and older adults move back home.

Spousal Impoverishment: The CARES Act extends Medicaid's Spousal Impoverishment Program through November 30, 2020. This protection allows a married spouse with extensive disability or illness to receive Medicaid coverage for home- and community-based services, while allowing the other spouse to retain some income and financial assets.

Mental Health: The CARES Act reauthorizes the Community Mental Health Centers Program through November 30, 2020 and expands the program to two additional states, while providing an additional $425 million for Community Behavioral Health Clinics, suicide prevention, and emergency response spending.

<u>Human Services</u>

The Emergency Food & Shelter Program (EFSP): The CARES Act provides $200 million in additional resources to EFSP for food, shelter and supportive services to individuals and families in sudden economic crisis. EFSP, part of the Federal Emergency Management Agency and a program created by JFNA in 1982 to respond to a significant recession, provides resources to local charitable organizations and public agencies to support households and individuals hard hit by economic crisis and who are at-risk of becoming homeless or food insecure. EFSP funds can be used to support mass shelter, mass feeding, food distribution through food pantries and food banks, utilities assistance, eviction prevention, rehousing and other services.

Supplemental Nutrition Assistance Program (SNAP): The CARES Act includes $15.5 billion for SNAP to fund the increased demand for emergency SNAP benefits, including for seniors and children. This additional funding is to pay expected caseload growth in the program, but there is no increase in benefits for covered individuals. SNAP is a federal program that provides nutrition benefits to supplement the food budget of needy families so they can purchase healthy foods. The Families First Coronavirus Response Act, which became law on Match 18th, lifted eligibility for SNAP benefits to address temporary emergency food needs.

The Emergency Food Assistance Program (TEFAP): The CARES Act provides $450 million for the TEFAP program. TEFAP is a U.S. Department of Agriculture program that helps supplement the diets of low-income Americans by providing them with emergency food assistance at no cost. The foods are available for distribution through State Distributing Agencies (food banks, including kosher food banks). With many communities suffering from job losses, food banks have seen surges in need. These funds are critical so food banks can continue to assist those Americans most in need.

Low Income Home Energy Assistance Program (LIHEAP): The CARES Act includes $900 million For LIHEAP to enhance assistance to low-income households with their emergency home heating and cooling needs. LIHEAP is an HHS program that assists eligible low-income households with their heating and cooling energy costs, bill payment assistance, energy crisis assistance and weatherization and energy-related home repairs.

Administration for Community Living (ACL): The CARES Act includes $955 million for ACL, including $500 million to support nutrition programs and allow funding to be shifted between congregate and home-delivered meals, home and community-based services, support for family caregivers, and expand oversight and protections for seniors and individuals with disabilities. An HHS agency, ACL administers Older American Act programs to maximize the independence and well-being of older adults, all people with disabilities, and their family caregivers.

HUD Section 202 Housing for the Elderly and Section 811 Housing for Persons with Disabilities: The CARES Act provides $65 million for housing for the elderly and persons with disabilities for rental assistance, service coordinators, and support services for the more than 114,000 affordable households for the elderly and over 30,000 affordable households for low-income persons with disabilities.

Next Steps

Following enactment of this third Congressional response to the COVID-19 pandemic, Congress has already adjourned for an extended home stay and work period in their districts. With the $2 trillion CARES Act completed, many leading decision-makers in Congress are already contemplating a fourth legislative package. JFNA intends to continue to advocate for our priorities to be included in that legislation. If you have any questions about the CARES Act or the Jewish Federations' COVID-19 legislative priorities, please contact Stephan Kline, Interim Director of the JFNA Washington Office at Stephan.Kline@JewishFederations.org.