

April 8, 2020

The Honorable Jovita Carranza
Administrator
U.S. Small Business Administration
409 3rd Street, S.W.
Washington, DC 20416

Dear Administrator Carranza,

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinical partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) urges you to ensure that small- and mid-size public hospitals, including those that have both nonprofit and public designations, are allowed to apply for and receive loans under the newly-authorized Small Business Administration (SBA) Paycheck Protection Program (PPP).

The PPP can be a lifeline for small businesses and other organizations that are suffering significant economic loss as a result of the COVID-19 public health emergency. This is particularly true of small hospitals that are simultaneously building costly surge capacity while experiencing significant declines in revenue as a result of cancelled elective care. This program could mean the difference between a small hospital making payroll and retaining access to care in the community or closing.

Implementation of the PPP, however, has identified several barriers for small hospitals seeking access to these loans. We previously [wrote](#) to you to ask for reconsideration of how the affiliation rules apply when determining a hospital organization's size. We subsequently have become aware that it is not clear whether public hospitals, including those that also are described under Section 501(c)(3) and exempt under Section 501(a), will be considered businesses owned by municipalities or other political subdivisions that are ineligible for loans under the 7(a) business loan program, specifically 13 C.F.R. § 120.110(j). Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act specifically makes loans under the PPP available to nonprofit organizations. The statutory language should override any limitations that existed prior to the enactment of the CARES Act so that any nonprofit organization



described in section 501(c)(3), including a public hospital, may qualify for a loan under the PPP.

In order to resolve this issue, we ask the SBA to issue interpretative guidance or an interim final rule explaining that , with respect to hospitals assigned a NAICS code beginning with 622, a “nonprofit organization” includes an organization that is described in section 501(c)(3), (1) whether or not it has now or has ever had a determination letter from the Internal Revenue Service recognizing it as exempt from taxation under section 501(a) of the Internal Revenue Code; and (2) whether or not it may be a government-owned entity. Such guidance will ensure that small public hospitals also may be eligible for PPP loans. If the SBA does not believe it has the authority to define a nonprofit organization in this way, we urge you to clarify that hospitals described in section 501(c)(3) and exempt under section 501(a) are eligible for PPP loans, regardless of whether they also are considered a government-owned entity.

When read together with our prior letter, we request that the SBA issue interpretive guidance, or an interim final rule, clarifying the eligibility of public hospitals for PPP loans and waiving the affiliation rules for hospitals.

The AHA appreciates the support provided to hospitals through the CARES Act, yet the need is huge. There is no indication yet as to how quickly funds will be available through the Department of Health and Human Services. Loans under the PPP may be available more rapidly. Small hospitals in particular are in immediate need of financial assistance to sustain their operations in the fight against COVID-19. Many of these smaller hospitals are the only option to residents for inpatient care in rural areas and small towns within several miles. We ask that you issue guidance clarifying that public hospitals are eligible for the program as soon as possible.

Thank you for considering this request. We appreciate the whole-of-government response to the COVID-19 pandemic and the measures taken to support hospitals during this unprecedented crisis.

Please contact me if you have questions, or feel free to have a member of your team contact Molly Smith, vice president of policy, at (202) 626-4639 or mollysmith@aha.org.

Sincerely,

/s/

Ashley Thompson
Senior Vice President
Public Policy Analysis & Development