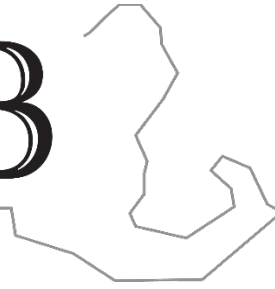


# MAHB

Assisting Massachusetts Boards of Health through training, technical assistance and legal education



## MASSACHUSETTS ASSOCIATION OF HEALTH BOARDS COVID-19 Permissible Board of Health Funding Under the CARES Act July 6, 2020

Public health professionals, especially local health departments and boards of health, are facing many questions from local public officials, residents, parents, health care providers, and others about COVID-19. MAHB's series of documents are meant to provide answers and guidance to health departments and boards of health. **This document is provided *for educational purposes only* and is not to be construed as legal advice. For legal advice, please contact your city or town attorney.**

**QUESTION: What types of funding are available and permissible to local boards of health under the CARES Act?**

**RESPONSE:**

As the Commonwealth distributes the \$2,672,641,383 in Coronavirus Aid, Relief, and Economic Security Act (CARES Act) funding,<sup>1</sup> boards of health and health departments have asked whether funding is available to them. Initially, 25% of the funds distributed to Massachusetts from the Coronavirus Relief Fund, less amounts earmarked for Boston and Plymouth County municipalities, will be allocated directly to cities and towns based on a per capita formula.<sup>2</sup>

CARES Act funds can be used for the following:

1. Necessary expenditures incurred because of the COVID-19 pandemic;

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<sup>1</sup> U.S. DEPARTMENT OF THE TREASURY, Data Sources and the Distribution Methodology for Units of Local Government, available at <https://home.treasury.gov/system/files/136/Census-Data-and-Methodology-Final.pdf> (last visited July 3, 2020).

<sup>2</sup> OFFICE OF THE GOVERNOR, COMMONWEALTH OF MASSACHUSETTS, Baker-Polito Administration to Distribute \$502 Million from the Federal Coronavirus Relief Fund to Local Cities and Towns (May 14, 2020), available at <https://www.mass.gov/news/baker-polito-administration-to-distribute-502-million-from-the-federal-coronavirus-relief-fund>; see 42 U.S.C. § 801(c)(5) (providing distribution formula). The Coronavirus Relief Fund was added to the Social Security Act. Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 5001, 134 Stat. 281, 501-04 (2020).

2. Expenditures not budgeted for as of March 27, 2020 (the date of the enactment of the CARES Act); and
3. Expenses incurred from March 1, 2020 until December 30, 2020.<sup>3</sup>

**1. Necessary expenditures because of the COVID-19 pandemic:**

The expenditures must be reasonably related to responding to COVID-19. These expenditures may be used to directly respond to the pandemic or for “second-order effects” such as providing economic support to those “suffering from employment or business interruptions due to COVID-19-related business closures.”<sup>4</sup>

**2. Expenditures not budgeted for as of March 27, 2020:**

The effective budget for your city or town as of March 27, 2020 must have not anticipated the effects of the COVID-19 pandemic, and must have not contained adequate provisions for such an event. If a municipality’s budget included a “pandemic” reserve line item, the amount of that line item must be spent down. To the best of MAHB’s knowledge, no city or town has such a line item.

Many municipalities maintain budgetary stabilization tools such as rainy-day funds or general reserve accounts. The Coronavirus Relief Fund is designed to assure that these reserve accounts are not disturbed by spending tied to COVID-19 response.

**3. Expenses incurred from March 1, 2020 until December 30, 2020:**

According to the provisions of the CARES Act, the date that the municipality actually spends the money on the COVID-19 related expense is considered the date the cost is incurred. The date that the cost is incurred must be between March 1, 2020 and December 30, 2020.<sup>5</sup>

**What types of health department expenditures are covered by the Coronavirus Relief Fund?**

The following is a non-exhaustive list of permissible expenditures based on various Massachusetts and Federal guidance:

- Communication and enforcement of public health orders related to COVID-19;
- Where not otherwise addressed by other municipal departments, acquisition and distribution of medical and protective supplies, including sanitizing products and

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<sup>3</sup> 42 U.S.C. 801(d).

<sup>4</sup> DEPARTMENT OF THE TREASURY, Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (Updated June 30, 2020), [available at](https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf) <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>.

<sup>5</sup> 42 U.S.C. 801(d)(3).

personal protective equipment, for medical personnel, police officers, social workers, child protection services and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency;<sup>6</sup>

- Travel expenses for COVID-19 resource distribution;
- Disinfection of public areas and other facilities maintained by a board of health, in response to the COVID-19 public health emergency;
- Technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;
- Public safety measures undertaken in response to COVID-19;
- Isolation and quarantining of individuals;
- Transportation of residents to COVID-19-related medical and testing appointments;
- COVID-19 related signage and translation costs;
- COVID-19-related expenses of immunization clinics and similar facilities;
- Educational materials related to COVID-19;
- COVID-19 related testing, including serological testing if performed by a board of health;
- Payroll expenses for public health employees whose services are substantially dedicated to mitigating or responding to COVID- 19;
- Food delivery to residents, including but not limited to, senior citizens and other vulnerable populations, if the local board of health participates in this effort;
- Paid sick leave and paid family and medical leave for board of health employees to comply with COVID-19 public health precautions;
- COVID-19-related public health precautions undertaken by the board of health to care for homeless populations because of the effect of COVID-19;
- Board of health staffing needs, if not addressed with non-COVID-19-related funding; and
- any other COVID-19-related expenses reasonably necessary to the public health function of government that satisfy the Coronavirus Relief Fund's eligibility criteria.

Whether the expense is eligible for the Coronavirus Relief Fund is left to the interpretation of the board of health and its agents' judgement in a given situation, so long as there are not appropriated local funds already in place in the budget and it is reasonably related to the COVID-19 pandemic.

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<sup>6</sup> Please note that if police departments, fire departments, and/or first responders are using money from the Coronavirus Relief Fund to provide these supplies to their own departments, then health departments should not use funds for the same purpose.