



Health Policy Briefing

April 27, 2020

CMS Suspends Advance Payment Program

The Centers for Medicare and Medicaid Services (CMS) [announced](#) its decision on Sunday to reevaluate the amounts that will be paid under the Accelerated Payment Program and to suspend its Advance Payment Program to Part B suppliers. The agency has already paid over \$100 billion to health care providers and suppliers since these programs were expanded on March 28, 2020. CMS will not be accepting any new applications for the Advance Payment Program, and will be reviewing all pending and new applications for the Accelerated Payment Program in light of the direct payments being made available through the U.S. Department of Health and Human Services' (HHS) Provider Relief Fund.

HHS Opens CARES Provider Relief Fund Payment Portal

Last week, the Department of Health and Human Services (HHS) announced additional plans for distributing funds from the CARES Act Provider Relief Fund. As part of that announcement, HHS stated that \$50 billion would be a "General Distribution" based proportionately on the provider's 2018 net patient revenue. HHS would like the "General Distribution" to replace a percentage of a provider's annual gross receipts, sales, or program service revenue. HHS has also noted that it will apportion relief funds to US healthcare providers with the intention of optimizing the beneficial impact of the funds.

Of that \$50 billion, \$30 billion has already been distributed to providers, and approximately \$10 billion was scheduled to be released on April 24 to providers who have already shared key data with HHS.

For those that received funds from the initial \$30 billion, the provider must

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sign into the [General Distribution Portal](#) to provide revenue data if the provider would like to receive additional funds. Providers must attest to each payment associated with their billing Taxpayer Identification Number(s), if they have not already done so. Per the newly released [FAQs](#), providers will also need to attest to the [Terms and Conditions](#) for the first \$30 billion, if not done already. At this time, this portal is only for organizations which have already received payments through the CARES Act Provider Relief Fund.

HHS has released a [user guide](#) to assist with this data submission process. One key element of the cost reporting is information from your tax returns as outlined in the Appendix A below. In addition, you will need your W-9 and Medicare or Medicaid ID number.

HHS will use this data to calculate your proportional 2018 net revenue and provide such funds via electronic deposit, with the goal of such deposit within 10 business days of the submission. Payments will go out weekly, on a rolling basis, as information is validated. HHS has stated that they will be processing applications in batches every Wednesday at 12:00 noon EST. Funds will NOT be disbursed on a first-come-first-served basis, which is to say, an applicant will be given equal consideration regardless of when they apply.

Our understanding is that the total funds being provided in this round will take into account any funds the provider previously received as part of the \$30 billion distribution. Subsequent to the funds being deposited, within 30 days of receipt of the funds, a provider is requested to log onto the CARES Act Provider Relief Fund [attestation portal](#) to confirm receipt and agree to the [Terms and Conditions](#). (Note: These Terms and Conditions are NOT identical to those for the \$30 billion distribution.)

If a provider meets certain Terms and Conditions, the payments received do not need to be repaid at a later date. These Terms and Conditions can be found [here](#).

According to HHS, if you receive a payment from funds appropriated in the Public Health and Social Services Emergency Fund for provider relief (“Relief Fund”) and retain that payment for at least 30 days without contacting HHS regarding remittance of those funds, you are deemed to have accepted the Terms and Conditions.

For more information, please visit hhs.gov/providerrelief or call the CARES Provider Relief line at (866) 569-3522.

Appendix A: Federal Tax Classification Matrix

Federal Tax Classification:	Provide:	From:	On IRS Form:	Upload IRS Form:
Sole Proprietor/Disregarded Entity (LLC)	Gross receipts or Sales	Box 1	1040, Schedule C	1040 and Schedule C
C Corporation	Gross receipts or Sales	Box 1a	1120	1120
S Corporation	Gross receipts or Sales	Box 1a	1120-S	1120-S
Partnership	Gross receipts or Sales	Box 1a	1065	1065
Trust	Gross receipts or Sales	Box 1	1040, Schedule C	1041 and Schedule C
Tax-Exempt Organization	Program Service Revenue	Box 9	990	990

PPP Replenished with Passage of COVID 3.5

President Trump signed into law a \$484 billion relief package to replenish the depleted Paycheck Protection Program (PPP) on Friday. The ***Paycheck Protection Program and Health Care Enhancement Act*** (H.R.266) also includes an additional \$75 billion for health care providers and \$25 billion to increase coronavirus testing. The bill provides \$321 billion for the PPP, with \$60 billion for community banks and smaller lenders, plus an additional \$60 billion in economic disaster loans for small businesses.

The bill was the culmination of two weeks of negotiations between party leaders and the White House about the scope and recipients of the emergency funding. The Senate passed it by voice vote on Tuesday. Republicans in the House of Representatives forced a recorded vote, requiring lawmakers to return to Washington for House passage on Thursday. Members voted according to alphabetical order and in nine separate groups to allow for social distancing. The legislation passed the House by a vote of 388 - 5, with 1 voting present.

There is general agreement that a fourth, more comprehensive economic rescue package – dubbed CARES 2 – will still be needed, following up on last month's ***Coronavirus Aid, Relief, and Economic Security (CARES) Act***. The House is expected to act first on the next bill, and Democrats are pushing for the inclusion of at least \$500 billion for state and local governments. Senate Majority Leader Mitch McConnell (R-Ky.), however, has indicated that Republicans may want to slow the pace of new deficit spending. There is also disagreement about the timing of the next round of aid – with Democrats insisting that work to draft legislation begin immediately and Republicans countering that they will not agree to any additional legislation for at least another couple of weeks. Congress is scheduled to return on May 4, though negotiations on CARES 2 are expected to continue in the interim.

Members of the centrist New Democrat Coalition are [requesting](#) that House leadership include a National Recovery Strategy that prioritizes the continued mitigation and containment of COVID-19 alongside efforts to reopen the economy in future legislative packages. Their letter includes proposals on testing, surveillance, and contact tracing to help ensure states have the capacity to prevent future outbreaks of COVID-19 when communities begin to reopen.

Lawmakers Consider Committee Meetings, Proxy Voting

The House of Representatives had planned to consider a rules change to permit proxy voting last week, but the issue was tabled due to opposition by some Republicans. Instead, House leadership announced the creation of a bipartisan committee to review the use of remote voting by proxy. House Speaker Nancy Pelosi (D-Calif.) told Democrats that the House may try to schedule committee meetings as early as this week. While it is unclear which panels might meet, the Appropriations Committee is likely to be one of them. House Energy and Commerce Health Subcommittee Chair Anna Eshoo (D-Calif.) announced plans to call former Biomedical Advanced Research and Development Authority (BARDA) Director Rick Bright to testify before her panel as soon as is feasible. Bright asserts he was removed from his position after arguing that the administration should more rigorously vet hydroxychloroquine and chloroquine as treatments for COVID-19. He has requested a probe by the Office of the Inspector General into his reassignment to the National Institutes of Health (NIH). Eshoo says she also wishes to hear testimony from U.S. Department of Health and Human Services (HHS) Secretary Alex Azar and Assistant Secretary for Preparedness and Response (ASPR) Robert Kadlec.

Levin Asks DOL To Expand Telehealth for ERISA Plans

House Education and Labor Vice Chair Andy Levin (D-Mich.) is [urging](#) Labor Secretary Eugene Scalia to take additional action to expand access to telehealth during the COVID-19 pandemic. Rep. Levin states that more guidance may be necessary to ensure access to telehealth for individuals covered by self-funded group health plans subject to ERISA. He asks what additional steps the Department of Labor is considering with respect to expanding coverage and payment for all medically necessary services that can be delivered via telehealth, providing reimbursement for telehealth services at fair rates (including services delivered via audio-only telephone call), temporarily suspending requirements concerning pre-existing patient-provider relationships and originating sites and eliminating cost-sharing for telehealth services.

Senators Look to Strengthen Health Care Cybersecurity

A bipartisan group of senators have [written](#) to Chris Krebs, Director of the Cybersecurity and Infrastructure Security Agency (CISA), and Commander of the U.S. Cyber Command General Paul Nakasone to express concerns about cyberattacks against hospitals. The health care sector has faced increased attacks since the start of the COVID-19 pandemic. Sens. Tom Cotton (R-Ark.), David Perdue (R-Ga.), Richard Blumenthal (D-Conn.), Mark Warner (D-Va.) and Ed Markey (D-Mass.) ask the administration to make cyber threat information public and provide technical cybersecurity assistance to states and health care stakeholders.

DeLauro Asks VA to Stop Use of Hydroxychloroquine for COVID-19

House Appropriations Labor-Health and Human Services-Education Subcommittee Chair Rosa DeLauro (D-Conn.) is [urging](#) Veterans Affairs Secretary Robert Wilkie to stop the use of hydroxychloroquine in veterans diagnosed with COVID-19. DeLauro's recommendation follows recently released guidelines from the National Institute of Allergies and Infectious Diseases (NIAID) establishing that no drug or therapeutic is safe and effective to treat the coronavirus. During a briefing earlier this month before the panel, Wilkie indicated that the VA has made efforts to purchase large amounts of hydroxychloroquine to treat COVID-19 patients.

CBO Releases New Projections of Federal Deficit

The Congressional Budget Office (CBO) has [released](#) its preliminary projections of several economic variables through the end of calendar year (CY) 2021. CBO estimates that the deficit will reach \$3.7 trillion by the end of the year. Gross domestic product (GDP) is expected to decline by about 12 percent during the second quarter, during which time the unemployment rate is expected to average close to 14 percent. While the nation is currently experiencing a historic decrease in economic activity, CBO believes recovery will begin as social distancing measures are relaxed.

Romney, Sinema Push for COVID Tracking System

Sens. Mitt Romney (R-Utah) and Kyrsten Sinema (D-Nev.) are [pressing](#) Centers for Disease Control and Prevention (CDC) Director Robert Redfield to quickly develop a real-time national COVID-19 tracking system in response to the pandemic. They express serious concerns that federal public health officials are "behind the curve in assessing public health threat levels, because they lack immediate visibility into population health data." They argue that the tracking system should include aggregated case information, rates of hospitalization from the disease, patient treatment regimens, rates of intensive care unit admissions, and appropriate demographic information, in addition to privacy protections for individuals.

E&C Dems Inquire About WHO Funding, Medical Supply Distribution

House Energy and Commerce Chair Frank Pallone (D-N.J.), Health Subcommittee Chair Anna Eshoo (D-Calif.), and Oversight Subcommittee Chair Diana DeGette (D-Colo.) have [written](#) to Office of Management and Budget (OMB) Acting Director Russell Vought requesting an explanation for the President's decision to suspend funding for the World Health Organization (WHO). The lawmakers characterize the choice as "dangerous and irresponsible" and argue that there is "no justification" for the decision. They ask for information to help assess the potential public health impact of the move. The trio of lawmakers are also [requesting](#) a response from U.S. Department of Health and Human Services Secretary (HHS) Alex Azar and Federal Emergency Management Agency (FEMA) Administrator Peter Gaynor about the administration's efforts to acquire and distribute medical supplies to states and about how allocation decisions are being made.

FDA's Vetting of Serological Tests Called into Question

The House Oversight Economic and Consumer Policy Subcommittee released a [memo](#) on Friday revealing that the Food and Drug Administration (FDA) has not assessed the reliability of most of the coronavirus antibody tests on the market. Only seven of the 101 test kits on the market had been reviewed by the appropriate U.S. Department of Health and Human Services (HHS) interagency group as of April 17. Chair Raja Krishnamoorthi (D-Ill.) argues that by allowing inaccurate and potentially fraudulent tests to remain available the administration is putting the public's health at risk. The FDA has asked test manufacturers to attest that their tests were validated but does not require any such proof. The committee also points out that the agency has not requested any information from manufacturers to confirm compliance with FDA marketing policy.

New Data on Impact of COVID-19 on Outpatient Visits

A new [analysis](#) from Harvard University and health care technology company Phreesia shows that the COVID-19 pandemic has had a significant impact on the provision of outpatient care in the U.S. The data reveal that for 50,000 providers and Phreesia clients, ambulatory care visits have decreased by nearly 60 percent since mid-March. Reductions were greatest in the New England and the Mid-Atlantic regions and among school-age children and older adults. The analysis also indicates that increases in telehealth visits have not been great enough to offset the loss of in-person visits.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business - PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)
- [Timeline for Implementation](#)

Recently Introduced Health Legislation

H.Res.926 — Recognizing the designation of the week of April 11 through April 17, 2020, as “Black Maternal Health Week” to bring national attention to the United States maternal health crisis in the Black community and the importance of reducing maternal mortality and morbidity among Black women and birthing persons; Sponsor: Rep. Adams, Alma S. [D-NC-12]; Committees: House - Energy and Commerce

H.Res.927 — Recognizing the heroism of our Nation’s essential employees, including drivers, tradesmen, convenience store workers, manufacturers, airport workers, restaurant employees, farmers, energy employees, public utility workers, and others during the COVID-19 pandemic; Sponsor: Rep. Budd, Ted [R-NC-13]; Committees: House - Education and Labor

H.R.6516 — To amend the Public Health Service Act to authorize the acceptance of gifts for the Strategic National Stockpile, and for other purposes; Sponsor: Rep. Brooks, Susan W. [R-IN-5]; Committees: House - Energy and Commerce

H.R.6517 — To amend the Public Health Service Act to authorize the transfer to any Federal department or agency, on a reimbursable basis, any drugs, vaccines and other biological products, medical devices, and other supplies in the Strategic National Stockpile, and for other purposes; Sponsor: Rep. Brooks, Susan W. [R-IN-5]; Committees: House - Energy and Commerce

H.R.6518 — To direct the Secretary of Health and Human Services to establish a program of risk corridors for health insurance issuers offering health insurance coverage in the individual or small group market for certain plan years; Sponsor: Rep. Peters, Scott H. [D-CA-52]; Committees: House - Energy and Commerce

H.R.6521 — To prohibit the Secretary of Health and Human Services from taking certain actions with respect to Medicaid supplemental payments reporting requirements, and for other purposes; Sponsor: Rep. Barragan, Nanette Diaz [D-CA-44]; Committees: House - Energy and Commerce

H.R.6522 — To amend the Small Business Act to include certain business and labor organizations in the paycheck protection program, and for other purposes; Sponsor: Rep. Smith, Christopher H. [R-NJ-4]; Committees: House - Small Business

H.R.6531 — To amend the Public Health Service Act to authorize the use of the Strategic National Stockpile to enhance medical supply chain elasticity and establish and maintain domestic reserves of critical medical supplies, and for other purposes; Sponsor: Rep. Dingell, Debbie [D-MI-12]; Committees: House - Energy and Commerce

H.R.6532 — To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period and to carry out outreach and educational activities, and for other purposes; Sponsor: Rep. Doggett, Lloyd [D-TX-35]; Committees: House - Energy and Commerce

H.R.6533 — To authorize the Secretary of Defense to share with State and local health authorities the practices of, and lessons learned by, the military health system for the prevention of infant and maternal mortality; Sponsor: Rep. Escobar, Veronica [D-TX-16]; Committees: House - Armed Services; Energy and Commerce

H.R.6538 — To provide for a temporary increase in Federal financial participation under the Medicaid program for telehealth services, and for other purposes; Sponsor: Rep. Kennedy, Joseph P., III [D-MA-4]; Committees: House - Energy and Commerce

H.R.6539 — To amend title XIX of the Social Security Act to increase Federal support to State Medicaid programs during economic downturns, and for other purposes; Sponsor: Rep. Lee, Susie [D-NV-3]; Committees: House - Energy and Commerce

H.R.6541 — To amend the Public Health Service Act to provide for maintaining adequate supplies in Strategic National Stockpile, and for other purposes; Sponsor: Rep. Malinowski, Tom [D-NJ-7]; Committees: House - Energy and Commerce; Financial Services

H.R.6545 — To amend the Internal Revenue Code of 1986 to provide an age rating adjustment to the applicable percentage used to determine the credit for coverage under qualified health plans; Sponsor: Rep. Murphy, Stephanie N. [D-FL-7]; Committees: House - Ways and Means

H.R.6556 — To require certain civil penalties to be transferred to a fund through which amounts are made available for the Gabriella Miller Kids First Pediatric Research Program at the National Institutes of Health, and for other purposes; Sponsor: Rep. Wexton, Jennifer [D-VA-10]; Committees: House - Energy and Commerce; Financial Services

H.Res.933 — Recognizing COVID-19 frontline workers; Sponsor: Rep. Slotkin, Elissa [D-MI-8]; Committees: House - Energy and Commerce

H.R.6559 — To require the Occupational Safety and Health Administration to promulgate an emergency temporary standard to protect employees from occupational exposure to SARS-CoV-2, and for other purposes; Sponsor: Rep. Scott, Robert C. "Bobby" [D-VA-3]; Committees: House - Education and Labor; Energy and Commerce

H.R.6561 — To authorize the Director of the Centers for Disease Control and Prevention to carry out a Social Determinants of Health Program, and for other purposes; Sponsor: Rep. Barragan, Nanette Diaz [D-CA-44]; Committees: House - Energy and Commerce

H.R.6568 — To require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without imposing any cost sharing requirements for certain items and services furnished during any portion of the COVID-19 emergency period, and for other purposes; Sponsor: Rep. Blunt Rochester, Lisa [D-DE-At Large]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor

H.R.6569 — To provide that certain public hospitals are eligible for loans under the Paycheck Protection Program, and for other purposes; Sponsor: Rep. Smith, Adrian [R-NE-3]; Committees: House - Small Business

H.R.6572 — To direct the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to carry out a national campaign to increase awareness and knowledge of COVID-19; Sponsor: Rep. Bilirakis, Gus M. [R-FL-12]; Committees: House - Energy and Commerce

H.R.6577 — To direct the Secretary of Health and Human Services to award grants or contracts to public or private entities to carry out a national awareness campaign to increase factual awareness and knowledge of COVID-19; Sponsor: Rep. Cox, TJ [D-CA-21]; Committees: House - Energy and Commerce

H.R.6578 — To amend the Public Health Service Act to establish the Public Health Workforce Loan Repayment Program; Sponsor: Rep. Crow, Jason [D-CO-6]; Committees: House - Energy and Commerce

H.R.6583 — To amend title XVIII of the Social Security Act to establish a risk corridor program for Medicare Advantage plans during the COVID-19 emergency, and for other purposes; Sponsor: Rep. Houlahan, Chrissy [D-PA-6]; Committees: House - Ways and Means; Energy and Commerce

H.R.6584 — To amend title XIX of the Social Security Act to provide for a temporary increase in Medicaid DSH allotments during the COVID-19 emergency period, and for other purposes; Sponsor: Rep. Kelly, Robin L. [D-IL-2]; Committees: House - Energy and Commerce

H.R.6585 — To require the Centers for Disease Control and Prevention to collect and report certain data concerning COVID-19; Sponsor: Rep. Kelly, Robin L. [D-IL-2]; Committees: House - Energy and Commerce; Natural Resources

H.R.6591 — To ensure that veterans receive timely and effective health care under the Veterans Community Care Program and Veterans Care Agreements during the COVID-19 emergency, and for other purposes; Sponsor: Rep. Pappas, Chris [D-NH-1]; Committees: House - Veterans' Affairs

H.R.6592 — To provide for an enhanced Coronavirus relief fund, and for other purposes; Sponsor: Rep. Perlmutter, Ed [D-CO-7]; Committees: House - Oversight and Reform

H.Res.935 — Establishing a Select Subcommittee on the Coronavirus Crisis as a select investigative subcommittee of the Committee on Oversight and Reform; Sponsor: Rep. McGovern, James P. [D-MA-2]; Committees: House - Rules

H.R.6599 — To provide for coordination of research and development for pandemic disease prediction, forecasting and computing and for other purposes; Sponsor: Rep. Lucas, Frank D. [R-OK-3]; Committees: House - Energy and Commerce; Science, Space, and Technology

H.R.6600 — To authorize the Director of the National Institutes of Health to establish prize competitions to incentivize research by institutions of higher education on point-of-care testing for the detection of current or past infection with COVID-19, and for other purposes; Sponsor: Rep. Beyer, Donald S., Jr. [D-VA-8]; Committees: House - Energy and Commerce; Science, Space, and Technology

H.R.6605 — To provide additional amounts to the Public Health and Social Services Emergency Fund, and for other purposes; Sponsor: Rep. Hayes, Jahana [D-CT-5]; Committees: House - Appropriations

H.R.6607 — To direct the Secretary of Health and Human Services to establish, in coordination with the Director of the strategic national stockpile, the National Emergency Biodefense Network, and for other purposes; Sponsor: Rep. Lynch, Stephen F. [D-MA-8]; Committees: House - Energy and Commerce

H.R.6609 — To provide for the immediate procurement of COVID-19 medical testing components, materials, and supplies under the Defense Production Act of 1950; Sponsor: Rep. Panetta, Jimmy [D-CA-20]; Committees: House - Financial Services

H.R.6610 — To establish the Cabinet-level position of Director of Pandemic and Biodefense Preparedness and Response in the Executive Branch with the responsibility of developing a National Pandemic and Biodefense Preparedness and Response Strategy, to prepare for and coordinate the response to future pandemics, biological attacks, and other major health crises, including coordinating the work of multiple government agencies, and for other purposes; Sponsor: Rep. Rose, Max [D-NY-11]; Committees: House - Energy and Commerce; Transportation and Infrastructure; Armed Services; Foreign Affairs; Intelligence (Permanent)

H.R.6612 — To direct the Secretary of Veterans Affairs to prescribe the technical qualifications for licensed hearing aid specialists of the Department of Veterans Affairs, and for other purposes; Sponsor: Rep. Takano, Mark [D-CA-41]; Committees: House - Veterans' Affairs