



Health Policy Briefing

May 26, 2020

Ongoing Discussions Continue on the Next Large Coronavirus Package

Lawmakers remain at odds about when the next coronavirus relief package should be taken up, and what provisions the bill should contain. Senate Majority Leader Mitch McConnell (R-Ky.) recently stated that he will not include an extension for enhanced unemployment benefits, as was contained in the \$3 trillion House-passed measure that the GOP has rejected. While administration officials have acknowledged that more stimulus legislation will likely be necessary for the U.S. economy, Republicans have indicated that they are not in a hurry to pass more relief and instead are in favor of gauging the impact of previously passed stimulus packages before considering additional legislation.

House to Consider PPP Changes This Week

The House of Representatives plans to consider the *Paycheck Protection Program Flexibility Act of 2020* (H.R. 6886) under suspension of the rules this week. The bipartisan bill introduced by Reps. Dean Phillips (D-Minn.) and Chip Roy (R-Texas) will make changes to the Paycheck Protection Program (PPP) to make it more accessible and provide more flexibility to PPP loans. Although there is no such requirement in the statute, the SBA created a requirement that 75% of loan proceeds must be spent on payroll, which means there is a cap of 25% of non-payroll allowed uses. H.R. 6886 would repeal the 75/25 rule. The bill would extend the loan period eligible for forgiveness from 8 weeks to 24 weeks. Current statute also creates a reduction in forgiveness for employers who have reduced their employee headcount. However, if an employer rehires its employees by June 30, this reduction in forgiveness can be eliminated. This legislation would extend the rehire period to December 31. Administration officials and Senate Republicans, including Small Business Committee Chair Marco Rubio (R-Fla.), have expressed support for such changes to the program. It remains unclear whether the chamber will approve the bipartisan proposal during a pro forma session or wait until the Senate returns on June 1.

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Treasury and SBA Issue Rule on PPP Loan Forgiveness

On May 22, the Small Business Administration (SBA), in consultation with the Department of the Treasury, issued an interim final rule ([IFR](#)) related to loan forgiveness for the Paycheck Protection Program (PPP). The IFR retains the requirement that 75% of loan proceeds be used for payroll costs to receive full loan repayment, which has been a point of contention for the business community and may be repealed by Congress in the *Paycheck Protection Program Flexibility Act*. However, the SBA provides several other key clarifications to assist small business owners.

Since payroll cycles may not align neatly with the eight-week period eligible for forgiveness, the IFR provides flexibility to borrowers with bi-weekly or more frequent payroll cycles, by allowing them to use an alternative payroll covered period. Similarly, SBA clarifies that certain nonpayroll costs incurred during the eight weeks but paid by the next regular billing date will still be eligible for forgiveness even if that billing date falls outside the covered period.

SBA also provides several key clarifications related to reductions in loan forgiveness amounts. The IFR allows for full loan forgiveness if employees are rehired or salary levels are reestablished **on or before** June 30. Additionally, there will be no “double penalty” in that any loan forgiveness reductions due to changes in number of employees will not be counted toward any reductions related to changes in salary. The SBA establishes the exact process a borrower must follow to avoid a reduction in forgiveness for employees who reject rehiring offers and provides leniency for employers related to employees who are fired for cause, or voluntarily resign or request a reduced schedule.

SBA clarifies that, for purposes of the PPP, a “full-time equivalent employee” means an employee who works 40 hours or more on average each week and provides two options for how to calculate employees who were paid for less than 40 hours per week.

In addition, the IFR reaffirms the 60 days for the lender to review the loan forgiveness application and 90 days for the SBA to respond, clarifies that payroll costs are broadly defined as well as denoting payroll compensation for owner-employees and self-employed individuals, and provides additional information on loan forgiveness documentation.

In addition to this IFR, SBA and the Department of Treasury also released [Interim Final Rule on SBA Loan Review Procedures and Related Borrower and Lender Responsibilities](#), information on the [Lender Processing Fee Payment and 1502 Reporting Process](#), an [Interim Final Rule on Second Extension of Limited Safe Harbor with Respect to Certification Concerning Need for PPP Loan and Lender Reporting](#), and updated its [FAQs](#).

E&C Releases Oversight Agenda

House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) and Oversight Subcommittee Chair Diana DeGette (D-Colo.) have released their [COVID-19 oversight plan](#). The lawmakers also outline the actions taken by the panel thus far related to the federal government’s coronavirus response efforts. The subcommittee will continue its COVID-19 oversight in the following areas: testing and contact tracing, supply chains for personal protective equipment (PPE), vaccines and vaccine candidates, food safety and supply, and commitment to science and public health. The panel plans to hold its first oversight hearing on COVID-19 testing in the coming weeks, now that the House of Representatives has changed its rules to allow for remote hearings.

Lawmakers Seek National Vaccine Blueprint

A bipartisan group of lawmakers on the House Energy and Commerce Committee have [written](#) to White House coronavirus response coordinator Deborah Birx urging the administration to create national strategy for developing, manufacturing, and distributing eventual coronavirus vaccines and to publicize the plan to the greatest extent possible. The committee leaders warned that a national vaccination campaign will require significant preparation and coordination. The lawmakers also asked that the administration consider the decisions that will be necessary related to the allocation of vaccines. In addition, they requested a briefing on Operation Warp Speed and a response from the administration by June 4. The letter was signed by committee Chair Frank Pallone (D-N.J.), Ranking Member Greg Walden (R-Ore.), Oversight and Investigations Subcommittee Chair Diana DeGette (D-Colo.) and Ranking Member Brett Guthrie (R-Ky.).

Democrats Seek More Data on COVID Health Disparities

Several Democratic leaders have expressed concerns about a Trump administration report on COVID-19 disparities, which they believe fails to provide sufficient data on testing and demographics. The [report](#) was required under the ***Paycheck Protection Program and Health Care Enhancement Act***. House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) and Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Patty Murray (D-Wash.) stated that they will continue to push for sufficient information on the disproportionate impact of the coronavirus on communities of color. They argue that the administration's report relies on previously available data sets and fails to meet the basic requirements of the law.

Wyden, Murray Push for COVID-19 Coverage Expansion

A group of Senate Democrats have released a [plan](#) to expand health care coverage and affordability during the COVID-19 pandemic. The white paper from Senate Finance Committee Ranking Member Ron Wyden (D-Ore.), Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Patty Murray (D-Wash.), and Sens. Jeanne Shaheen (D-N.H.) and Tina Smith (D-Minn.) outlines legislative priorities to improve health coverage in response to the coronavirus crisis. Policies outlined in the paper would cover all costs for COVID-19 treatment, deliver subsidies for the cost of COBRA premiums for the newly unemployed, expand and increase access to premium tax credits to help families afford monthly premiums, incentivize Medicaid expansion, establish a federal special enrollment period, ban the sale of short-term limited duration plans, and restore funding for marketplace outreach and enrollment support. The proposal is supported by 33 other Senate Democrats.

New Data Released on Nursing Home Infection Controls

The Government Accountability Office (GAO) has released a new [report](#) detailing insufficient infection control practices in nursing homes. According to the government watchdog, the vast majority of the nation's nursing homes were cited for infection prevention and control problems in recent years, with 82 percent failing to meet federal standards at least once between 2013 and 2017. Half of nursing homes experienced persistent problems cited over multiple years. The GAO states that many practices, such as proper handwashing and isolating sick residents, are critical to preventing the spread of infectious diseases like COVID-19.

Azar Urged to Support Student Health Coverage

House Education and Labor Committee Chair Bobby Scott (D-Va.) and Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Patty Murray (D-Wash.) are asking the U.S. Department of Health and Human Services (HHS) to help displaced college students maintain health insurance coverage amidst the coronavirus pandemic. In a [letter](#) to Secretary Alex Azar, the lawmakers point out that many students rely on insurance plans sponsored by universities. These individuals may face a gap in coverage as schools remain closed due to COVID-19.

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](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)
- [Timeline for Implementation](#)

Upcoming Congressional Hearings and Markups

House Committee on Ways and Means field hearing “The Disproportionate Impact of COVID-19 on Communities of Color;” 12:00 p.m., Cisco Webex Virtual Platform; May 27

House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies hearing “Department of Veterans Affairs – Response to COVID-19;” 10:00 a.m., 1324 Longworth Bldg.; May 28

House Education and Labor Subcommittee on Workforce Protections hearing “Examining the Federal Government’s Actions to Protect Workers from COVID-19;” 10:15 a.m., 2175 Rayburn Bldg.; May 28

Recently Introduced Health Legislation

H.Res.970 — Supporting the designation of May 2020 as “ALS Awareness Month”; Sponsor: Rep. Crow, Jason [D-CO-6]; Committees: House - Energy and Commerce

H.R.6885 — To amend the Federal Food, Drug, and Cosmetic Act to prohibit the importation of a drug or device that was manufactured at a banned foreign facility, to create incentives for pharmaceutical or device companies to increase manufacturing capacity in the United States, and for other purposes; Sponsor: Rep. Flores, Bill [R-TX-17]; Committees: House - Energy and Commerce; Ways and Means

H.R.6901 — To require the Secretary of Health and Human Services to provide updated information about COVID-19 testing to the public, and for other purposes; Sponsor: Rep. Eshoo, Anna G. [D-CA-18]; Committees: House - Energy and Commerce

H.R.6905 — To direct the Secretary of Homeland Security to establish a program for granting lawful permanent resident status to alien health care professionals providing medical services during the COVID-19 emergency, and for other purposes; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House - Judiciary; Ways and Means; Energy and Commerce

H.R.6906 — To provide reimbursements for certain costs of health care items and services, including prescription drugs, furnished during the public health emergency declared with respect to COVID-19; Sponsor: Rep. Jayapal, Pramila [D-WA-7]; Committees: House - Energy and Commerce; Ways and Means; Veterans’ Affairs; Armed Services; Oversight and Reform; Natural Resources

H.R.6909 — To provide for the establishment of a COVID-19 Compensation Fund, and for other purposes; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House – Judiciary

H.R.6910 — To require the Secretary of Health and Human Services issue regulations to ensure due process rights for physicians furnishing emergency medical services; Sponsor: Rep. Marshall, Roger W. [R-KS-1]; Committees: House - Energy and Commerce

H.R.6911 — To provide a Federal income tax credit for State income taxes paid by individuals temporarily providing certain health or emergency services in the State, and to provide a corresponding reduction in Federal highway funds to the State; Sponsor: Rep. Posey, Bill [R-FL-8]; Committees: House - Ways and Means; Transportation and Infrastructure

H.R.6915 — To facilitate greater effectiveness, coordination, transparency, and accountability of international global health organizations, such as the World Health Organization, in responding to global pandemics and transnational health emergencies; Sponsor: Rep. Smith, Christopher H. [R-NJ-4]; Committees: House - Foreign Affairs; Budget

S.3753 — A bill to direct the Secretary of Veterans Affairs to ensure that certain medical facilities of the Department of Veterans Affairs have physical locations for the disposal of controlled substances medications; Sponsor: Sen. Braun, Mike [R-IN]; Committees: Senate - Veterans’ Affairs

S.3755 — A bill to provide for the establishment of a COVID-19 Compensation Fund, and for other purposes; Sponsor: Sen. Duckworth, Tammy [D-IL]; Committees: Senate – Judiciary

H.Res.972 — Recognizing the seriousness of polycystic ovary syndrome (PCOS) and expressing support for the designation of the month of September 2020 as “PCOS Awareness Month”; Sponsor: Rep. Scott, David [D-GA-13]; Committees: House - Energy and Commerce

H.R.6923 — *To require the Secretary of the Treasury to mint coins in commemoration of the health care professionals, first responders, scientists, researchers, all essential workers, and individuals who provided care and services during the coronavirus pandemic; Sponsor: Rep. Bergman, Jack [R-MI-1]; Committees: House - Financial Services*

H.R.6924 — *To authorize the Director of the National Institutes of Health to establish prize competitions to incentivize research by institutions of higher education on at-home testing for the detection of current infection with the virus that causes 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.6925 — *To amend the Federal Food, Drug, and Cosmetic Act to exempt from regulation as devices non-invasive diagnostic devices, and for other purposes; Sponsor: Rep. Biggs, Andy [R-AZ-5]; Committees: House - Energy and Commerce*

H.R.6926 — *To amend title XIX of the Social Security Act to provide coverage and payment under title XIX of the Social Security Act for services furnished to individuals who are patients in institutions for mental diseases during the COVID-19 emergency period and 180-days thereafter, and for other purposes; Sponsor: Rep. Boyle, Brendan F. [D-PA-2]; Committees: House - Energy and Commerce*

H.R.6930 — *To mitigate drug shortages and provide incentives for maintaining, expanding, and relocating the manufacturing of active pharmaceutical ingredients, excipients, medical diagnostic devices, pharmaceuticals, and personal protective equipment in the United States, and for other purposes; Sponsor: Rep. Carter, Earl L. “Buddy” [R-GA-1]; Committees: House - Energy and Commerce; Ways and Means*

H.R.6935 — *To provide for the establishment of a National COVID-19 Resource Center for Older Adults, to authorize a Healthy Aging Program, and for other purposes; Sponsor: Rep. Frankel, Lois [D-FL-21]; Committees: House - Energy and Commerce; Education and Labor*

H.R.6945 — *To prohibit all United States assessed and voluntary contributions to the World Health Organization until such time as the membership in the World Health Organization of the People’s Republic of China is terminated and the Republic of China (Taiwan) is afforded full rights, privileges, and responsibilities as a Member State in the World Health Organization, and for other purposes; Sponsor: Rep. Perry, Scott [R-PA-10]; Committees: House - Foreign Affairs*

H.R.6952 — *To direct the President to appoint a Medical Supplies Response Coordinator to coordinate the efforts of the Federal Government regarding the supply and distribution of certain supplies and equipment relating to COVID-19; Sponsor: Rep. Schneider, Bradley Scott [D-IL-10]; Committees: House - Energy and Commerce; Financial Services*

H.R.6953 — *To establish the Pandemic Responder Service Award program to express our gratitude to front-line health care workers; Sponsor: Rep. Shalala, Donna E. [D-FL-27]; Committees: House - Energy and Commerce; Ways and Means*

H.R.6955 — *To amend the Public Health Service Act to authorize a program of death and hospitalization benefits for essential workers who die as a result of COVID-19 or related complications, and for other purposes; Sponsor: Rep. Speier, Jackie [D-CA-14]; Committees: House - Energy and Commerce; Ways and Means*

S.Res.587 — *A resolution expressing support for the designation of May 17, 2020, as “DIPG Pediatric Brain Cancer Awareness Day” to raise awareness of and encourage research on diffuse intrinsic pontine glioma tumors and pediatric cancers in general; Sponsor: Sen. Rubio, Marco [R-FL]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

S.Res.588 — *A resolution designating May 2020 as “ALS Awareness Month”; Sponsor: Sen. Braun, Mike [R-IN]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.*

S.3757 — A bill to amend the Internal Revenue Code of 1986 to provide incentives for businesses and employers to help in the fight against COVID-19, and for other purposes; Sponsor: Sen. Jones, Doug [D-AL]; Committees: Senate – Finance

S.3763 — A bill to establish the Pandemic Responder Service Award program to express our gratitude to front-line health care workers; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate – Finance

S.3768 — A bill to protect older adults and people with disabilities living in nursing homes, intermediate care facilities, and psychiatric hospitals from COVID-19; Sponsor: Sen. Casey, Robert P., Jr. [D-PA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3769 — A bill to allow States to approve the use of diagnostic tests during a public health emergency; Sponsor: Sen. Cruz, Ted [R-TX]; Committees: Senate - Health, Education, Labor, and Pensions

S.Res.591 — A resolution promoting minority health awareness and supporting the goals and ideals of National Minority Health Month in April 2020, which include bringing attention to the health disparities faced by minority populations of the United States such as American Indians, Alaska Natives, Asian Americans, African Americans, Hispanics, and Native Hawaiians or other Pacific Islanders; Sponsor: Sen. Cardin, Benjamin L. [D-MD]; Submitted in the Senate, considered, and agreed to without amendment and with a preamble by Unanimous Consent.

S.3772 — A bill to direct the Department of Health and Human Services to develop, submit, and allocate funding to advance a plan for efficiently building testing capacity for facilities serving significant populations of individuals aged 65 and older; Sponsor: Sen. Scott, Tim [R-SC]; Committees: Senate - Health, Education, Labor, and Pensions

S.3780 — A bill to encourage domestic advanced manufacturing of critical drugs and devices in order to address economic, health, and security concerns, combat shortages of critical drugs and devices, and promote increased domestic diversification of, and independence from foreign reliance on, pharmaceutical and medical device supply chains; Sponsor: Sen. Peters, Gary C. [D-MI]; Committees: Senate - Health, Education, Labor, and Pensions

S.3781 — A bill to increase reporting of, help mitigate potential shortages related to, and promote, accountability and transparency for pharmaceuticals and medical devices; Sponsor: Sen. Peters, Gary C. [D-MI]; Committees: Senate - Health, Education, Labor, and Pensions

S.3790 — A bill to provide reimbursements for certain costs of health care items and services, including prescription drugs, furnished during the public health emergency declared with respect to COVID-19; Sponsor: Sen. Sanders, Bernard [I-VT]; Committees: Senate - Health, Education, Labor, and Pensions

S.3792 — A bill to require parity in the coverage of mental health and substance use disorder services provided to enrollees in private insurance plans, whether such services are provided in-person or through telehealth; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3799 — A bill to expand access to health care services, including sexual, reproductive, and maternal health services, for immigrants by removing legal and policy barriers to health insurance coverage, and for other purposes; Sponsor: Sen. Booker, Cory A. [D-NJ]; Committees: Senate – Finance

S.3809 — A bill to require the Comptroller General of the United States to conduct a study on prenatal and postpartum mental health conditions among members of the Armed Forces and their dependents; Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate - Armed Services

S.3810 — A bill to provide that any termination of a director of a national research institute or national center of the National Institutes of Health be on the basis of malfeasance, neglect of office, or incapacity only; Sponsor: Sen. Markey, Edward J. [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3812 — A bill to amend title 38, United States Code, to expand eligibility for hospital care, medical services, and nursing home care from the Department of Veterans Affairs to include veterans of World War II; Sponsor: Sen. Menendez, Robert [D-NJ]; Committees: Senate - Veterans' Affairs

S.3821 — A bill to amend the Public Health Service Act to provide more options for affordable health insurance to uninsured Americans; Sponsor: Sen. Loeffler, Kelly [R-GA]; Committees: Senate - Health, Education, Labor, and Pensions

S.3823 — A bill to ensure that a portion of funds appropriated to the Public Health and Social Services Emergency Fund for payments to eligible health care providers is reserved for such providers located in rural areas, and for other purposes; Sponsor: Sen. Manchin, Joe, III [D-WV]; Committees: Senate - Health, Education, Labor, and Pensions

S.3825 — A bill to establish the Coronavirus Mental Health and Addiction Assistance Network, and for other purposes; Sponsor: Sen. Klobuchar, Amy [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.3826 — A bill to require the Secretary of Defense to provide additional resources, including doula support, for pregnant beneficiaries under the TRICARE program, and for other purposes; Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate - Armed Services

S.3827 — A bill 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: Sen. Tillis, Thom [R-NC]; Committees: Senate - Health, Education, Labor, and Pensions

S.3828 — A bill to establish an initiative for national testing, contact tracing, and pandemic response, and for other purposes; Sponsor: Sen. Schatz, Brian [D-HI]; Committees: Senate - Health, Education, Labor, and Pensions

S.3829 — A bill to advance the global health security and diplomacy objectives of the United States, improve coordination among the relevant Federal departments and agencies implementing United States foreign assistance for global health security, and more effectively enable partner countries to strengthen and sustain resilient health systems and supply chains with the resources, capacity, and personnel required to prevent, detect, mitigate, and respond to infectious disease threats before they become pandemics, and for other purposes; Sponsor: Sen. Risch, James E. [R-ID]; Committees: Senate - Foreign Relations

S.3838 — A bill to provide for the expansion of the Rural Health Care Program of the Federal Communications Commission in response to COVID-19, and for other purposes; Sponsor: Sen. Schatz, Brian [D-HI]; Committees: Senate - Commerce, Science, and Transportation