



Health Policy Briefing

August 10, 2020

President Takes Executive Action As Stimulus Talks Break Down

In the wake of Democratic leaders and White House officials failing to reach a deal on a new coronavirus relief package, President Trump released a slate of new executive actions over the weekend. The moves include a [payroll tax deferral](#) for Americans making less than \$100,000 a year from September through December, the [provision](#) of \$400 a week in jobless benefits, an [expansion](#) of a congressionally-approved eviction moratorium that expired in July, and [relief](#) for student borrowers. The actions have been panned by congressional Democrats and some Republicans as an infringement on Congress's power of the purse, and the moves will likely face legal challenges. Many have also raised concerns about the negative impact the President's actions could have on negotiations on the next stimulus bill. The Senate will remain in session this week to continue talks on the coronavirus relief package, cutting short the chamber's August recess, which was scheduled to start last weekend.

President Signs Additional Executive Orders on Telehealth, Domestic Manufacturing

The President signed [an executive order](#) last week that aims to increase access to telehealth and support rural hospitals. The order proposes a permanent extension of certain telehealth policies instituted in response to the COVID-19 pandemic, such as the expansion of which services can be provided virtually. The order also proposes to retool the way that rural hospitals get paid, using optional pilot projects to test new financial incentives for providers who deliver higher quality care. The order requires a report examining policies to reduce maternal mortality, improve mental health care and

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health care outcomes in rural communities, and eliminate regulations that limit the availability of health care providers.

President Trump also signed [an order](#) to encourage the production of more drugs and medical supplies in the U.S. The order encourages buyers to purchase American-made products and loosens federal drug-safety and environmental regulations that the White House argues put domestic producers at a disadvantage. As directed by the order, the Food and Drug Administration (FDA) will determine the list of essential products used to respond to a public health crisis that will be covered by the executive order. The U.S. Department of Health and Human Services (HHS), Department of Defense, and Department of Veterans' Affairs will be required to buy the U.S.-made treatments. Exceptions to the order would be made if it is in the public interest, the drug or device is not produced in sufficient quantities in the U.S., or if it raises prices. Senate Finance Committee Chair Chuck Grassley (R-Iowa) praised the action but also argued that Congress should act to further encourage domestic manufacturing.

CMS Proposes to Expand Telehealth Benefits

The Centers for Medicare and Medicaid Services (CMS) [is proposing](#) to expand certain telehealth benefits for Medicare beneficiaries beyond the COVID-19 public health emergency (PHE). The proposal follows an ***Executive Order on Improving Rural and Telehealth Access*** signed by President Trump last week and is in keeping with the agency's Patients Over Paperwork initiative. CMS is proposing to permanently allow some of the 135 services that were added to the list of services that could be paid for when delivered by telehealth during the PHE and is requesting comment on other services to permanently add to the telehealth list. The agency also proposes to temporarily extend payment for other telehealth services through the calendar year in which the PHE ends. CMS proposes to increase the value of services comparable to or including office/outpatient E/M visits in an effort to more appropriately recognize the value of care that requires face-to-face time with patients. CMS also proposes to make permanent certain changes to expand workforce capacity and bolster staffing levels in response to the pandemic. These changes include allowing nurse practitioners, clinical nurse specialists, physician assistants, and certified nurse-midwives (instead of only physicians) to supervise others performing diagnostic tests; clarifying that pharmacists can provide services as part of the professional services of a practitioner who bills Medicare; allowing physical and occupational therapy assistants (instead of only physical and occupational therapists) to provide maintenance therapy in outpatient settings; and allowing physical or occupational therapists, speech-language pathologists and other clinicians who directly bill Medicare to review and verify, rather than re-document, information already entered by other members of the clinical team into a patient's medical record. Public comments on the proposed rules are due by October 5, 2020. CMS Administrator Seema Verma has acknowledged that Congress would need to pass legislation to permanently change which providers can use telehealth and where patients can access it.

Senate Passes Elder Abuse Legislation

The Senate passed the ***Promoting Alzheimer's Awareness to Prevent Elder Abuse Act*** ([S. 3703](#)) by unanimous consent last week. The bill would amend the ***Elder Abuse Prevention and Prosecution Act*** to improve the prevention of elder abuse and exploitation of individuals with dementia. It would require the Department of Justice (DOJ) to develop training materials to assist professionals supporting victims of abuse living with Alzheimer's and other dementias.

Lawmakers Continue Push for Vaccine Distribution Plan

House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) and Oversight Subcommittee Chair Diana DeGette are [pressing](#) the White House to finalize and release a COVID-19 vaccine distribution plan. In a letter to White House Coronavirus Task Force Coordinator Deborah Birx and U.S. Department of Health and Human Services (HHS) Secretary Alex Azar, the lawmakers cite reported timelines from pharmaceutical manufacturers that a vaccine could be available for distribution in under six months. They encourage the administration to engage public health leaders and the existing immunization infrastructure in the development and implementation of its national COVID-19 vaccine plan.

Democrats Probe Kodak Loan

A group of congressional Democrats are launching a probe into Eastman Kodak Co.'s \$765 million government loan under the Defense Production Act (DPA). The loan was made by the Trump administration to produce ingredients for generic drugs in response to the COVID-19 pandemic. House Select Coronavirus Crisis Subcommittee Chair Jim Clyburn (D-S.C.) and House Financial Services Chair Maxine Waters (D-Calif.) are investigating how the company won the investment. [Letters](#) were sent to Kodak CEO James Continenza and the U.S. International Development Finance Corp. (DFC), the agency charged with DPA financing. The lawmakers question why DFC would "support Kodak, an organization that was on the brink of failure in 2012 and was unsuccessful in its previous foray into pharmaceutical manufacturing." They also question the terms of the federal loan for the production of generic pharmaceuticals. Sen. Elizabeth Warren (D-Mass.) is requesting documents from the Securities and Exchange Commission (SEC) related to stock trades made by company leadership shortly prior to the announcement of the loan on July 28. Kodak stock rose about 20 percent on July 27.

E&C Chair Requests Profit Details from Health Insurers

House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) has launched a [probe](#) into the business practices of health insurance companies amid the coronavirus pandemic. Pallone argues that companies should be doing more to support Americans through premium discounts or waiving cash payments for COVID-19 treatment. His panel is seeking details from health and dental insurers about their compliance with laws covering COVID-19 testing and about how they intend to use their profits, which have been significantly higher during the pandemic.

Lawmakers Investigate Mental Health Centers COVID-19 Response

Reps. Carolyn Maloney (D-N.Y.) and Katie Porter (D-Calif.) and Sen. Elizabeth Warren (D-Mass.) are [requesting](#) information from mental health and addiction treatment centers on their efforts to combat the coronavirus pandemic. The lawmakers have written to American Addiction Centers, Acadia Healthcare, Universal Health Services, Alita Care, BayMark Health Services, Gaudenzia Inc., BayCare Health, Promises Behavioral Health, LifeStream Behavioral Center and Pinnacle Treatment Centers asking for data on how many residents have become infected with the coronavirus. They also request details on how many COVID-19 tests have been administered to residents and staff, whether they are doing regular testing, and how many patients or staff have died from the disease.

Another House Member Tests Positive for COVID-19

House Administration Committee Ranking Member Rodney Davis (R-Ill.) has tested positive for the coronavirus. He plans to work virtually from home while he quarantines. Davis has called for the institution of a coronavirus testing program on Capitol Hill.

CMS Chief of Staff to Exit This Month

Centers for Medicare and Medicaid Services (CMS) Chief of Staff Brady Brookes has announced that she will leave the Agency at the end of August. Brookes first started at CMS in February 2017 as deputy chief of staff to Administrator Seema Verma. She had previously worked as then-Indiana Governor Mike Pence's legislative director. Verma strongly praised Brooke's work in helping to build CMS's response to the COVID-19 pandemic. Calder Lynch, CMS' Medicaid director, will assume the role of acting chief of staff upon Brooke's departure. Anne Marie Costello, current Medicaid deputy director, will replace Lynch as acting Medicaid director.

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](#)

Recently Introduced Health Legislation

H.R.7893 — *To amend title V of the Public Health Service Act to provide for the establishment of a COVID-19 Mental Health and Substance Abuse Response Grant Program, and for other purposes; Sponsor: Rep. Steil, Bryan [R-WI-1]; Committees: House - Energy and Commerce*

H.R.7898 — *To amend title XXX of the Public Health Services Act to provide for a technical correction to provide the Inspector General of the Department of Health and Human Service certain authorities with respect to investigations of information blocking, and for other purposes; Sponsor: Rep. Burgess, Michael C. [R-TX-26]; Committees: House - Energy and Commerce*

H.R.7902 — *To amend title 38, United States Code, to improve the authority of the Secretary of Veterans Affairs to hire psychiatrists; Sponsor: Rep. Cartwright, Matt [D-PA-8]; Committees: House - Veterans' Affairs*

H.R.7912 — *To provide for a demonstration program and pilot project to expand choice for inpatient psychiatric services under Medicaid and Medicare; Sponsor: Rep. Huizenga, Bill [R-MI-2]; Committees: House - Ways and Means; Energy and Commerce*

H.R.7921 — *To authorize the Secretary of Health and Human Services to award grants to community-based nonprofit organizations to operate navigator programs, and for other purposes; Sponsor: Rep. Velazquez, Nydia M. [D-NY-7]; Committees: House - Oversight and Reform*

S.4396 — *A bill to amend the Public Health Service Act to authorize grants to support schools of nursing in program enhancement and infrastructure modernization, increasing the number of nursing faculty and students, and for other purposes; Sponsor: Sen. Merkley, Jeff [D-OR]; Committees: Senate - Health, Education, Labor, and Pensions*

S.4397 — *A bill to provide for research and education with respect to uterine fibroids, and for other purposes; Sponsor: Sen. Harris, Kamala D. [D-CA]; Committees: Senate - Health, Education, Labor, and Pensions*

S.4400 — *A bill to regulate the collection, retention, disclosure, and destruction of biometric information, and for other purposes; Sponsor: Sen. Merkley, Jeff [D-OR]; Committees: Senate - Judiciary*

H.R.7942 — To provide the option to extend COBRA continuation coverage through the last day of the 1-year period succeeding the COVID-19 emergency period, and for other purposes; Sponsor: Rep. Sanchez, Linda T. [D-CA-38]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor

H.R.7945 — To amend the Public Health Service Act to authorize grants to support schools of nursing in program enhancement and infrastructure modernization, increasing the number of nursing faculty and students, and for other purposes; Sponsor: Rep. Underwood, Lauren [D-IL-14]; Committees: House - Energy and Commerce

S.4410 — A bill to amend the Public Health Service Act to provide for racial and ethnic approaches to community health; Sponsor: Sen. Scott, Tim [R-SC]; Committees: Senate - Health, Education, Labor, and Pensions

S.4415 — A bill to provide health care and benefits to veterans who were exposed to toxic substances while serving as members of the Armed Forces at Karshi Khanabad Air Base, Uzbekistan, and for other purposes; Sponsor: Sen. Blumenthal, Richard [D-CT]; Committees: Senate - Veterans' Affairs

S.4416 — A bill to provide funding for the Assistant Secretary for Mental Health and Substance Use to award grants for the purpose of supporting virtual peer behavioral health support services, and for other purposes; Sponsor: Sen. Cortez Masto, Catherine [D-NV]; Committees: Senate - Health, Education, Labor, and Pensions

S.4421 — A bill to provide temporary licensing reciprocity for telehealth and interstate health care treatment; Sponsor: Sen. Murphy, Christopher [D-CT]; Committees: Senate - Health, Education, Labor, and Pensions

S.4423 A bill to amend title XI of the Social Security Act to provide the Secretary of Health and Human Services with the authority to temporarily modify certain Medicare requirements for hospice care during the COVID public health emergency; Sponsor: Sen. Brown, Sherrod [D-OH]; Committees: Senate - Finance

S.4427 — A bill to provide for transparency in emergency use authorization of vaccine products, and for other purposes; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.4439 — A bill to require any COVID-19 drug developed in whole or in part with Federal support to be affordable and accessible by prohibiting monopolies and price gouging, and for other purposes; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.4440 — A bill to authorize the Director of the Center for Disease Control and Prevention to carry out a Social Determinants of Health Program, and for other purposes; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.4441 — A bill to amend title XIX of the Social Security Act to encourage State Medicaid programs to provide community-based mobile crisis intervention services, and for other purposes; Sponsor: Sen. Wyden, Ron [D-OR]; Committees: Senate - Finance

S.4448 — A bill to amend titles XIX and XXI of the Social Security Act to give States the option to extend the Medicaid drug rebate program to the Children's Health Insurance Program, and for other purposes; Sponsor: Sen. Warner, Mark R. [D-VA]; Committees: Senate - Finance

S.4456 — A bill to amend the Public Health Service Act to permit health information technology systems to use the Postal Service tool to standardize formatting in electronic health records when entering patient information to improve match rates among patient records; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate - Health, Education, Labor, and Pensions

S.4458 — A bill to grant the authority for States to enter into interstate compacts or agreements for the purpose of procuring COVID-19 tests; Sponsor: Sen. Cassidy, Bill [R-LA]; Committees: Senate – Judiciary

S.Res.670 — A resolution recognizing the seriousness of polycystic ovary syndrome (PCOS) and expressing support for the designation of September 2020 as “PCOS Awareness Month”; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4463 — A bill to amend the Internal Revenue Code of 1986 to include certain over-the-counter dietary supplement products as qualified medical expenses; Sponsor: Sen. Cramer, Kevin [R-ND]; Committees: Senate – Finance

S.4467 — A bill to rescue domestic medical product manufacturing activity by providing incentives in economically distressed areas of the United States and its possessions; Sponsor: Sen. Rubio, Marco [R-FL]; Committees: Senate – Finance

S.4469 — A bill to ensure coverage of a COVID-19 vaccine and treatment; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions

S.4473 — A bill to amend title 17, United States Code, to address circumvention of copyright protection systems with respect to the maintenance or repair of critical medical infrastructure, and for other purposes; Sponsor: Sen. Wyden, Ron [D-OR]; Committees: Senate – Judiciary

S.4477 — A bill making emergency supplemental appropriations for social isolation services under the Older Americans Act of 1965; Sponsor: Sen. Smith, Tina [D-MN]; Committees: Senate – Appropriations

S.4486 — A bill to establish an interactive online dashboard to allow the public to review information for Federal grant funding related to mental health programs; Sponsor: Sen. Fischer, Deb [R-NE]; Committees: Senate - Health, Education, Labor, and Pensions

S.4490 — A bill to impose an emergency tax on the increase in wealth of billionaires during the COVID-19 pandemic in order to pay for all of the out of pocket healthcare expenses of the uninsured and under-insured, including prescription drugs, for one year; Sponsor: Sen. Sanders, Bernard [I-VT]; Committees: Senate – Finance

S.4492 — A bill to provide the Food and Drug Administration with mandatory recall authority for all drug products; Sponsor: Sen. Peters, Gary C. [D-MI]; Committees: Senate - Health, Education, Labor, and Pensions

S.4494 — A bill to amend title VI of the Social Security Act to extend the period with respect to which amounts under the Coronavirus Relief Fund may be expended; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate – Finance

S.4499 — A bill to establish an interagency COVID-19 misinformation and disinformation task force, and for other purposes; Sponsor: Sen. Peters, Gary C. [D-MI]; Committees: Senate - Homeland Security and Governmental Affairs

S.4501 — A bill to require reports on, and the coordination of trade policy with respect to, articles that may be needed to respond to the COVID-19 pandemic; Sponsor: Sen. Hassan, Margaret Wood [D-NH]; Committees: Senate – Finance

S.4503 — A bill to amend title XVIII of the Social Security Act to protect beneficiaries with limb loss and other orthopedic conditions by providing access to appropriate, safe, effective, patient-centered orthotic and prosthetic care, to reduce fraud, waste, and abuse with respect to orthotics and prosthetics, and for other purposes; Sponsor: Sen. Warner, Mark R. [D-VA]; Committees: Senate – Finance

S.4504 — A bill to amend title XVIII of the Social Security Act to expand the availability of medical nutrition therapy services under the Medicare program; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate – Finance

S.4506 — A bill to ensure coverage of pre-existing conditions under private health insurance, and for other purposes; Sponsor: Sen. Gardner, Cory [R-CO]; Committees: Senate - Health, Education, Labor, and Pensions

S.4507 — A bill to amend the Public Health Service Act to provide for a national campaign to raise awareness of the importance of seeking preventive health services and the utilization of such services; Sponsor: Sen. Warner, Mark R. [D-VA]; Committees: Senate - Health, Education, Labor, and Pensions

S.4509 — A bill to provide for affordable coverage of COVID-19 vaccines under Medicare, Medicaid, and the Children's Health Insurance Program, and for other purposes; Sponsor: Sen. Wyden, Ron [D-OR]; Committees: Senate – Finance