



## Health Policy Briefing

April 13, 2020

### Senate at Stalemate Over Small Business Stimulus

The Senate ended last week without a deal on additional federal aid for small businesses in the midst of the coronavirus pandemic. GOP leadership hoped to pass an amendment to the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* by unanimous consent that would have provided a \$251 billion increase for the Paycheck Protection Program (PPP). Democrats blocked the attempt, arguing that state and local governments as well as hospitals face a more immediate need for federal aid. They also cited the need to improve the PPP loan process for small businesses. Their counteroffer to the GOP interim stimulus package included the addition of \$100 billion for hospitals, community health centers, health systems, and for the production and distribution of rapid COVID testing and personal protective equipment (PPE), as well as \$150 billion for state and local governments. It would have channeled half of the additional funding for small businesses through community-based and other financial institutions that serve farmers, families, women, minorities, and veterans. The Democratic plan also called for the Administration to report to Congress every 30 days about its distribution of coronavirus testing and supplies across the country. Senate Republicans have said that they will not negotiate over the PPP interim legislation.

#### ***Democrats Work to Formulate COVID Phase Four Details***

House Speaker Nancy Pelosi (D-Calif.) stated last week that the next coronavirus relief bill will total at least \$1 trillion and will focus on replenishing programs, like the Paycheck Protection Program (PPP), established in the \$2.2 trillion *Coronavirus Aid, Relief, and Economic Security (CARES) Act*. She has said that phase four should also include additional direct payments to individuals and strengthen unemployment insurance. A group of 16

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Democratic freshman are also [urging](#) Speaker Pelosi to include legislative changes to the Affordable Care Act (ACA) in the next coronavirus response bill. The lawmakers propose that the Take Responsibility for Workers and Families Act ([H.R. 1868](#)), which would increase the size of premium tax credits for low and middle-income Americans, and the State Health Care Premium Reduction Act ([H.R. 1425](#)), which would advance reinsurance policies, be added to the stimulus package currently being negotiated.

Senate Minority Leader Chuck Schumer (D-N.Y.) [released](#) his latest COVID response legislation last week. The bill includes the provision of hazard pay for health care providers and other essential workers, as well as the creation of monetary incentives for people who join the medical workforce during the pandemic. The “Heroes Fund” plan would add \$13 per hour, up to a total of \$25,000, in hazard payments for health care workers, and \$15,000 to recruit additional providers to the medical workforce. Hazard payments would be limited for professionals earning above \$200,000. The proposal does not yet have bipartisan support from any congressional Republicans.

### ***Legislators Seek to Boost COVID-Related Product Availability***

The House Oversight and Reform Committee released [documents](#) last week revealing that the Strategic National Stockpile (SNS) has nearly depleted its supply of N95 respirators, surgical masks, face shields, and other personal protective equipment (PPE) used to protect health workers treating COVID-19 patients. The documents indicate that approximately 90 percent of the PPE inventory in the stockpile has been distributed to state and local governments. A spokesperson for the U.S. Department of Health and Human Services (HHS) says that the remaining 10 percent will be kept in reserve for federal response efforts.

House Armed Services Chair Adam Smith (D-Wash.) wants the Department of Defense (DOD) to begin mass producing coronavirus tests and is looking to include provisions to increase production of test swabs in the upcoming fiscal year (FY) 2021 defense authorization bill. The Committee is expected to have the defense authorization legislation drafted by May 1. Rep. Smith also stated that he is in talks with House Speaker Nancy Pelosi (D-Calif.) about including funding to strengthen the Pentagon’s response to the pandemic in the phase four rescue package.

Senate Finance Chair Chuck Grassley (R-Iowa) and Sen. Amy Klobuchar (D-Minn.) sent a [letter](#) to Attorney General William Barr urging the Department of Justice (DOJ) to take action to protect consumers from price gouging during the COVID-19 pandemic. The lawmakers believe that the Department should aggressively enforce the President’s March 23 executive order to prevent such conduct and ask for information about what is being done to address the problem of bad actors hoarding items such as essential medical supplies during the coronavirus outbreak. House Energy and Commerce Oversight Subcommittee Chair Diana DeGette (D-Colo.) has [called](#) on the Food and Drug Administration (FDA) to address the hoarding of hydroxychloroquine- and chloroquine-based medications. These products, which are normally prescribed to treat lupus and rheumatoid arthritis, have been endorsed by the President as a possible treatment for COVID-19. Rep. Mark Pocan (D-Wis.), Co-Chair of the House Progressive Caucus, has also sent a [letter](#) to the FDA Commissioner, questioning whether the administration is aware of any potential shortages for drugs that patients may require when they are put on ventilators. The letter cites a [report](#) from Vox News that shortages of sedatives are imminent.

House Ways and Means Chair Richard Neal (D-Mass.) and Sen. Grassley are [requesting](#) that the International Trade Commission (ITC) investigate the imports necessary for treating COVID-19 and responding to the pandemic. They assert that a report containing this information would assist lawmakers and the U.S. Trade Representative in proposing or taking appropriate action in regard to the crisis. The committee leaders request a response from ITC no later than April 30.

### **Cassidy, Shaheen Ask CMS to Revise Interest Rate on Advance Payments**

Sens. Bill Cassidy (R-La.) and Jeanne Shaheen (D-N.H.) are [asking](#) the Centers for Medicare and Medicaid Services (CMS) to revise its interest rates for Medicare's Accelerated and Advance Payments Program. They note the concerns of hospitals, physicians, and other health care providers about the program's current 10.25 percent interest rate, which goes into effect if advance payments are not recouped by CMS within one year of being disbursed. The bipartisan letter, which was cosigned by a group of 32 other senators, urges the agency to modify or waive the interest rate altogether.

### **GOP Doctors Caucus Seeks Additional Provider Relief**

On behalf of the GOP Doctors Caucus, co-chair Rep. Phil Roe, MD sent a letter to HHS Secretary Azar and CMS Administrator Verma seeking relief for medical providers dealing with the COVID-19 pandemic. Specifically, the caucus requests that the administration work with Congress to extend the timeframe for repayment and the interest rate for the Advanced Payment Program (APP), suspend direct and indirect remuneration (DIR) fees collected from pharmacies by pharmacy benefit managers (PBMs), address any immediate workforce shortages with existing providers before expanding scope of practice for non-physician providers, and reimburse hospitals caring for recovered seniors who are awaiting transfer to a skilled nursing facility.

### **Lawmakers Oversee COVID Testing Accuracy, Availability**

House Ways and Means Health Subcommittee Chair Lloyd Doggett (D-Texas) and House Appropriations Labor, HHS, and Education Subcommittee Chair Rosa DeLauro (D-Conn.) have [asked](#) the Food and Drug Administration (FDA) how the agency is working to ensure the accuracy of COVID-19 tests. The letter criticizes the administration for its reliance on the original flawed test kits from the Centers for Disease Control and Prevention (CDC). Reps. Doggett and DeLauro also request data from the FDA about the rate of false negative and false positive tests.

Senate Health, Education, Labor, and Pensions (HELP) Chair Lamar Alexander (R-Tenn.) and Senate Appropriations HHS Subcommittee Chair Roy Blunt (R-Mo.) are [urging](#) the administration to use authorities granted as a part of the **Coronavirus Aid, Relief, and Economic Security (CARES) Act** to make COVID-19 antibody tests free of charge. The lawmakers argue that widespread use of the tests amongst Americans who have recovered from COVID-19 will help to accurately determine the size of the coronavirus outbreak in the U.S., and provide confidence about when it is safe to restart the economy and reopen workplaces and schools. On April 11, CMS [announced](#) expanded coverage of some COVID-19 tests, including the antibody tests.

### **Democratic Members Raise Privacy Concerns Re: COVID Surveillance Network**

Sen. Mark Warner (D-Va.), Sen. Richard Blumenthal (D-Conn.), and Rep. Anna Eshoo (D-Calif.) have sent a [letter](#) to White House senior adviser Jared Kushner expressing reservations about the administration's consideration of creating a public health surveillance network in response to the COVID-19 pandemic. The lawmakers are concerned that the use of patient data to prevent the spread of the virus could undermine the confidentiality of health information. They assert that any surveillance system should be accompanied by durable privacy measures that protect against discriminatory outcomes.

## Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic:

- [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](#)

### *Wyden Releases Maternal Mortality Report*

Senate Finance Ranking Member Ron Wyden (D-Ore.) has released a report from the Government Accountability Office (GAO) on maternal mortality in the United States. GAO's analysis shows that the maternal mortality ratio in the U.S. increased by three percent from 2000-2015 while the global ratio declined. The report found that over 6,700 women died of causes related to or aggravated by their pregnancy between 2007 and 2016. This mortality rate was significantly higher for certain communities of color. The full text of the report, "Maternal Mortality: Trends in Pregnancy-Related Deaths and Federal Efforts to Reduce Them," is available [here](#).

### *Lawmakers Request Investigation into Nursing Homes Use of Psychotropic Drugs*

A bipartisan group of lawmakers is [requesting](#) that the HHS Office of the Inspector General (OIG) launch an investigation into the use of psychotropic and antipsychotic drugs in nursing facilities. Senate Finance Chair Chuck Grassley (R-Iowa), Ranking Member Ron Wyden (D-Ore.), House Ways and Means Chair Richard Neal (D-Mass.), and Ranking Member Kevin Brady (R-Texas) raise concerns that there are insufficient safeguards to protect against the unnecessary or inappropriate use of these drugs in the nursing home population. The last major analysis of this issue was undertaken by the OIG in 2011.

### **Recently Introduced Health Legislation**

**H.R.6426 — To direct the Secretary of Health and Human Services to establish a program under which loans shall be made to certain health care organizations to assist such organizations with anticipated revenue loss or higher operating costs as a result of the COVID-19 emergency, and for other purposes; Sponsor: Rep. Rose, Max [D-NY-11]; Committees: House - Energy and Commerce**

**H.R.6429 — To establish in the Legislative Branch a National Commission on the Coronavirus Disease 2019 Pandemic in the United States; Sponsor: Rep. Murphy, Stephanie N. [D-FL-7]; Committees: House - Energy and Commerce; Financial Services; Transportation and Infrastructure**

**H.R.6432 — To direct the Secretary of Health and Human Services to establish a task force to conduct a study on physician shortages, including barriers to physicians trained abroad practicing in the United States, and for other purposes; Sponsor: Rep. Cardenas, Tony [D-CA-29]; Committees: House - Energy and Commerce**

**H.R.6436 — To amend the Internal Revenue Code of 1986 to repeal the direct payment requirement on the exclusion from gross income of distributions from governmental plans for health and long-term care insurance; Sponsor: Rep. Chabot, Steve [R-OH-1]; Committees: House - Ways and Means**

**H.R.6437 — To ensure that all communities have access to urgently needed COVID-19 testing, treatment, public health information, and relief benefits regardless of immigration status or limited English proficiency, and for other purposes; Sponsor: Rep. Chu, Judy [D-CA-27]; Committees: House - Energy and Commerce; Judiciary; Transportation and Infrastructure; Ways and Means**

**H.R.6440 — To establish the National Commission on the COVID-19 Pandemic; Sponsor: Rep. Davis, Rodney [R-IL-13]; Committees: House - Energy and Commerce**

**H.R.6442 — To provide Americans with paid sick time and paid leave so that they can address their own health needs and the health needs of their families; Sponsor: Rep. DeLauro, Rosa L. [D-CT-3]; Committees: House - Education and Labor; Ways and Means; Oversight and Reform; House Administration; Judiciary**

**H.R.6450 — To prevent price gouging during emergencies, and for other purposes; Sponsor: Rep. Neguse, Joe [D-CO-2]; Committees: House - Energy and Commerce**

**H.R.6451 — To amend the Fair Credit Reporting Act to prohibit debt from medically necessary procedures related to COVID-19 from being included on credit reports, and for other purposes; Sponsor: Rep. Neguse, Joe [D-CO-2]; Committees: House - Financial Services**

**H.R.6455 — To establish the National Commission Regarding the 2019 Novel Coronavirus COVID-19 Pandemic, and for other purposes; Sponsor: Rep. Thompson, Bennie G. [D-MS-2]; Committees: House - Energy and Commerce**

**H.Res.916 — Recognizing the heroism of our Nation's health care workers and first responders, including doctors, nurses, emergency medical services (EMS) professionals, medical staff, pharmacists, law enforcement personnel, and military personnel, during the COVID-19 pandemic; Sponsor: Rep. Budd, Ted [R-NC-13]; Committees: House - Energy and Commerce**

**H.R.6462 — To amend title XIX of the Social Security Act to require States to provide coverage under the Medicaid program for certain individuals during national emergencies, and for other purposes; Sponsor: Rep. Gallego, Ruben [D-AZ-7]; Committees: House - Energy and Commerce**

**H.R.6468 — 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.R.6470 — To amend the Fair Credit Reporting Act to institute a 1-year waiting period before medical debt will be reported on a consumer's credit report and to remove paid-off and settled medical debts from credit reports that have been fully paid or settled, to amend the Fair Debt Collection Practices Act to provide a timetable for verification of medical debt and to increase the efficiency of credit markets with more perfect information, and for other purposes; Sponsor: Rep. Porter, Katie [D-CA-45]; Committees: House - Financial Services**

**H.R.6472 — To prohibit price gouging in connection with the public health emergency resulting from COVID-19, and for other purposes; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Energy and Commerce**