



# Health Policy Briefing

June 15, 2020

## COVID IV Negotiations Pushed to July

The White House and congressional Republicans are postponing negotiations over the next coronavirus stimulus legislation until late July, according to administration officials and Republican aides. Lawmakers are currently scheduled to return to Washington on July 21. Senate Republicans are at work drafting a bill that would allow employers who chose among government coronavirus safety guidelines to shield themselves from liability should their customers or employees contract the virus. Sen. John Cornyn (R-Texas) acknowledged that conflicts exist amongst safe-practices guidelines from the Centers for Disease Control and Prevention (CDC) and other federal, state, and local governmental entities, but that employers should be allowed to determine which guidelines they will follow. Majority Leader Mitch McConnell (R-Ky.) has stated that a liability shield for employers will be included in the next economic stimulus legislation. He has also said that the safe harbor will apply to all employers, including businesses, universities, hospitals, and health care providers, be retroactive to 2019, and provide protection against lawsuits through 2024.

### House to Vote on ACA Stabilization Measure by July 4

House Speaker Nancy Pelosi (D-Calif.) announced that the House of Representatives will vote by July 4 on a measure to stabilize the Affordable Care Act (ACA) and encourage more states to expand their Medicaid programs. According to a senior Democratic aide, the package would expand insurance subsidies and be similar to the ACA reform legislation that previously passed the House (H.R.1884). The bill was not taken up by the Republican-controlled Senate.

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### ***HELP Solicits Feedback on Pandemic Preparedness Paper***

Senate Health, Education, Labor, and Pensions (HELP) Committee Chairman Lamar Alexander (R-Tenn.) released a white paper last week titled [Preparing for the Next Pandemic](#). The white paper provides a legislative history, summary of existing assessments, and 20 initial recommendations based on the response thus far to the COVID-19 pandemic. The paper also poses 31 questions to inform the development of future pandemic preparedness legislation. Recommendations and questions are organized into the following categories:

1. Tests, Treatments, and Vaccines
2. Disease Surveillance
3. Stockpiles, Distribution, and Surges
4. Public Health Capabilities
5. Improving Coordination of Federal Agencies During a Public Health Emergency

The panel is soliciting feedback from stakeholders, experts, and other members of Congress to aid in the development of legislative proposals, requesting that comments be submitted by June 26. Chairman Alexander's goal is to pass a bill by the end of this year to prepare the nation for the next pandemic. Ranking Member Patty Murray (D-Wash.) has stated that she is supportive of the Chairman's effort as long as it does not come at the expense of hampering additional COVID-19 relief.

### ***Cures 2.0 to Address Research, Surveillance, Data Privacy***

Rep. Diana DeGette (D-Colo.) offered further insight into [Cures 2.0](#) during a virtual meeting hosted by the National Comprehensive Cancer Network last week, stating that she and Rep. Fred Upton (R-Mich.) are working on provisions to increase medical research and disease surveillance. They also hope to pass measures related to the sharing of health data and patient privacy rights. DeGette believes that some of these ideas are so "self-evident" that she and Rep. Upton are pushing for their inclusion in the next piece of pandemic-response legislation.

### ***Prior Authorization Reform Bill Secures Majority of House Support***

A bipartisan majority of the U.S. House of Representatives has signed on in support of the *Improving Seniors' Timely Access to Care Act* ([H.R.3107](#)). The legislation, which would streamline and standardize prior authorization in the Medicare Advantage (MA) program and make the use of prior authorization more transparent, now has 219 cosponsors. The bill's sponsors – Reps. Suzan DelBene (D-Wash.), Mike Kelly (R-Pa.), Roger Marshall, M.D. (R-Kan.), and Ami Bera, M.D. (D-Calif.) – hope to advance the bill out of the Ways and Means Committee and attach it to a legislative vehicle for passage sometime this year. Senate companion legislation is expected to be introduced in July.

### ***Senate Finance Leaders Want Insight Into Provider Relief Fund***

Senate Finance Committee Chair Chuck Grassley (R-Iowa) and Ranking Member Ron Wyden (D-Ore.) are [requesting](#) that the U.S. Department of Health and Human Services (HHS) publish the list of health care providers that have received a portion of the Provider Relief Fund. The lawmakers ask for a single, comprehensive, and publicly available data source that shows the amount of money received by each provider. They also urge the administration to release additional details on the Provider Relief Fund general distribution Terms and Conditions requirement that providers receiving more than \$150,000 from HHS-administered COVID-19 funding sources submit reports on the receipt and use of these funds. They argue that the scope, timing, and availability of this information is key to a greater understanding of the impact of Congress' pandemic response.

### ***WH Projects Adequate Supply of PPE Through Fall***

The U.S. supply of N95 respirator masks will exceed demand in each month from August through October, according to [projections](#) from the White House Supply Chain Task Force released by the office of Sen. Maggie Hassan (D-N.H.). The estimates also indicate that the country will be able to meet the demand for surgical masks, nitrile gloves, and face shields. Hassan was given permission from Federal Emergency Management Agency (FEMA) Administrator Pete Gaynor to release the document during a hearing last week.

### ***Dems Request Probe Into PPE Project Air Bridge***

Senate Democrats are demanding a probe into ***Project Air Bridge***, the administration's effort to obtain and distribute personal protective equipment (PPE) and other medical supplies in response to the coronavirus pandemic. Minority Leader Chuck Schumer (D-N.Y.), Sen. Elizabeth Warren (D-Mass.), and Sen. Richard Blumenthal (D-Conn.) sent a [letter](#) to acting chairman of the Pandemic Response Accountability Committee Michael Horowitz asking for clarity on whether ***Project Air Bridge*** has been effective or cost-efficient. They argue that the project "has been marked by delays, incompetence, confusion, and secrecy involving multiple federal agencies and actors."

### ***Lawmakers Urge Support for Medicaid Providers, Clinical Laboratories***

A group of 16 senators has sent a bipartisan [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar and Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma urging them to prioritize Medicaid patients and the hospitals that serve low-income populations in the disbursement of coronavirus aid funding. The lawmakers assert that the allocations to date have not sufficiently targeted providers tasked with caring for vulnerable populations. They ask that the administration consider a separate, targeted distribution of funding for health care providers who make up the health care safety net. The letter was led by Sens. Bob Menendez (D-N.J.) and Shelley Moore Capito (R-W.Va.). Soon thereafter, HHS announced additional funds from the CARES Act Provider Relief Fund for these providers.

Thirty bipartisan members of the House of Representatives are [asking](#) the administration to use money from previously appropriated funding for COVID testing initiatives to support clinical laboratories in scaling up COVID-19 diagnostic and antibody testing. The letter to HHS Secretary Azar notes that laboratories have made significant investments to meet COVID-19 testing demands while facing revenue declines due to the public health emergency. According to the authors, no federal funding has yet been specifically designated for laboratories.

### ***Nursing Homes Under Investigation for Possible Mishandling of Stimulus Checks***

House Energy and Commerce Committee Chairman Frank Pallone (D-N.J.) and House Ways and Means Committee Chairman Richard Neal (D-Mass.), are [requesting](#) an investigation into reports that nursing homes and assisted living facilities are seizing residents' coronavirus economic stimulus payments. Their letter to the Centers for Medicare and Medicaid Services (CMS) states that the agency should issue guidance to ensure that elderly individuals are not "coerced into wrongly handing over their checks for fear of being kicked out of their homes." Senate Finance Committee Chairman Chuck Grassley (R-Iowa) and Ranking Member Ron Wyden (D-Ore.) are [requesting](#) similar assistance from the U.S. Department of Health and Human Services (HHS) Office of the Inspector General (OIG). The lawmakers ask Inspector General Christi Grimm to issue alerts that emphasize that it is illegal for facilities to demand that residents surrender their checks.

### ***FDA Corrects Testimony on Foreign API Data***

The Food and Drug Administration (FDA) has corrected statements made by Center for Drug Evaluation and Research (CDER) Deputy Director for Regulatory Programs Douglas Throckmorton during a hearing before the Senate Finance Committee last week. In response to a question from Sen. John Cornyn (R-Texas), Throckmorton stated that the U.S. provides 28 percent of active pharmaceutical ingredients (API), while China and India provide 13 and 18 percent respectively. The FDA has clarified that those figures represent the number of API facilities that export ingredients to the U.S., not the volume they ship. An FDA spokesperson stated that the agency does not know the volume of API from China or India being used for U.S. marketed drugs. During the hearing, several lawmakers expressed concerns about the ability of the FDA to ensure the safety of the drug supply manufactured overseas.

### ***Senate Panel Advances OMB Nomination***

The Senate Budget Committee advanced the nomination of Russell Vought to serve as director of the White House Office of Management and Budget (OMB) last week by a vote of 11-10. Vought was confirmed as OMB deputy director in 2018, and has been serving as acting director since January 2019. He has previously worked as policy director for the House Republican Conference and as executive director of the Republican Study Committee.

### ***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

*Senate HELP Committee hearing to examine telehealth, focusing on lessons learned from the COVID-19 pandemic; 10:00 a.m. EDT, 430 Dirksen Bldg.; June 17*

*House Ways and Means Committee hearing “The 2020 Trade Policy Agenda;” 10:00 a.m. EDT, location TBD; June 17*

*Senate Finance Committee hearing to examine the President’s 2020 trade policy agenda; 3:00 p.m. EDT, G-50 Dirksen Bldg.; June 17*

*House Energy and Commerce Subcommittee on Health hearing “Health Care Inequality: Confronting Racial and Ethnic Disparities in COVID-19 and the Health Care System;” 11:30 a.m. EDT, virtual hearing; June 17*

*House Small Business Committee hearing “Paycheck Protection Program: Loan Forgiveness and Other Challenges;” 1:00 p.m. EDT, location TBD; June 17*

*Senate Foreign Relations Committee hearing to examine COVID-19 and international pandemic preparedness, prevention, and response; 9:30 a.m. EDT; 106 Dirksen Bldg.; June 18*

*Senate Health, Education, Labor, and Pensions Committee hearing to examine COVID-19, focusing on lessons learned to prepare for the next pandemic; 10:00 a.m. EDT, 430 Dirksen Bldg.; June 23*

## Recently Introduced Health Legislation

*H.R.7123 — To amend title XXVII of the Public Health Service Act to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide benefits for lung cancer screenings for certain individuals without the imposition of cost sharing; Sponsor: Rep. Boyle, Brendan F. [D-PA-2]; Committees: House - Energy and Commerce*

*H.R.7127 — To amend title XVIII of the Social Security Act to make technical amendments to the separate payment under the Medicare program for disposable negative pressure wound therapy devices; Sponsor: Rep. Butterfield, G. K. [D-NC-1]; Committees: House - Energy and Commerce; Ways and Means*

*H.R.7132 — To provide accountability with respect to international reporting and monitoring of outbreaks of novel viruses and diseases; Sponsor: Rep. Fitzpatrick, Brian K. [R-PA-1]; Committees: House - Foreign Affairs; Financial Services; Judiciary; Oversight and Reform*

*S.3907 — A bill to provide that all critical access hospitals are eligible for loans under the paycheck protection program, and for other purposes; Sponsor: Sen. Collins, Susan M. [R-ME]; Committees: Senate - Small Business and Entrepreneurship*

*S.3914 — A bill to amend title XVIII of the Social Security Act to ensure prompt coverage of breakthrough devices under the Medicare program, and for other purposes; Sponsor: Sen. McSally, Martha [R-AZ]; Committees: Senate - Finance*

*S.3915 — A bill to exempt certain businesses from liability arising from claims relating to an individual contracting COVID-19 as a result of patronizing a business or healthcare entity; Sponsor: Sen. Loeffler, Kelly [R-GA]; Committees: Senate - Judiciary*

*S.3917 — A bill to establish a home-based telemental health care demonstration program for purposes of increasing mental health services in rural medically underserved populations and for individuals in farming, fishing, and forestry occupations; Sponsor: Sen. Rounds, Mike [R-SD]; Committees: Senate - Health, Education, Labor, and Pensions*

**S.3919** — *A bill to direct the Secretary of Defense to carry out a pilot program to pre-program suicide prevention resources into smart devices issued to members of the Armed Forces; Sponsor: Sen. Sinema, Kyrsten [D-AZ]; Committees: Senate - Armed Services*

**S.3921** — *A bill to require the Federal Government to provide critical health care resources in response to the COVID-19 pandemic; Sponsor: Sen. Sanders, Bernard [I-VT]; Committees: Senate - Homeland Security and Governmental Affairs*

**S.3932** — *A bill to direct the Secretary of Defense to carry out a pilot program under the TRICARE pharmacy benefits program; Sponsor: Sen. Rounds, Mike [R-SD]; Committees: Senate - Armed Services*

**S.3933** — *A bill to restore American leadership in semiconductor manufacturing by increasing federal incentives in order to enable advanced research and development, secure the supply chain, and ensure long-term national security and economic competitiveness; Sponsor: Sen. Cornyn, John [R-TX]; Committees: Senate - Finance*

**S.3937** — *A bill to amend section 330C of the Public Health Service Act to reauthorize special programs for Indians for providing services for the prevention and treatment of diabetes, and for other purposes; Sponsor: Sen. McSally, Martha [R-AZ]; Committees: Senate - Indian Affairs*

**H.R.7147** — *To amend the Community Mental Health Service Block Grant to authorize a set-aside for crisis care services, and for other purposes; Sponsor: Rep. Latta, Robert E. [R-OH-5]; Committees: House - Energy and Commerce*

**H.R.7154** — *To amend title XVIII of the Social Security Act to improve and ensure ongoing Medicare beneficiary access to outpatient therapy services, and for other purposes; Sponsor: Rep. Boyle, Brendan F. [D-PA-2]; Committees: House - Energy and Commerce; Ways and Means*

**H.R.7158** — *To provide for the designation of areas as Health Enterprise Zones to reduce health disparities and improve health outcomes in such areas, and for other purposes; Sponsor: Rep. Brown, Anthony G. [D-MD-4]; Committees: House - Energy and Commerce; Ways and Means*

**H.R.7159** — *To amend the Community Mental Health Service Block Grant to authorize a set-aside for crisis care services, and for other purposes; Sponsor: Rep. Bustos, Cheri [D-IL-17]; Committees: House - Energy and Commerce*

**H.R.7168** — *To amend title XVIII of the Social Security Act to waive limitations on expansion of facility capacity under rural provider and hospital exception to ownership or investment prohibition during coronavirus 2020 emergency period; Sponsor: Rep. Gonzalez, Vicente [D-TX-15]; Committees: House - Energy and Commerce; Ways and Means*

**H.R.7178** — *To restore American leadership in semiconductor manufacturing by increasing federal incentives in order to enable advanced research and development, secure the supply chain, and ensure long-term national security and economic competitiveness; Sponsor: Rep. McCaul, Michael T. [R-TX-10]; Committees: House - Science, Space, and Technology; Ways and Means; Armed Services; Financial Services; Energy and Commerce; Foreign Affairs*

**H.R.7179** — *To provide liability protection for covered providers during the COVID-19 outbreak, and for other purposes; Sponsor: Rep. Murphy, Gregory [R-NC-3]; Committees: House - Judiciary*

**H.R.7187** — *To amend title XVIII of the Social Security Act to provide for permanent payments for telehealth services furnished by Federally qualified health centers and rural health clinics under the Medicare program; Sponsor: Rep. Thompson, Glenn [R-PA-15]; Committees: House - Energy and Commerce; Ways and Means*

*H.R.7190 — To amend the Public Health Service Act to provide for the establishment of a virtual health pilot program to facilitate utilization of remote patient monitoring technology to maintain or expand access to health care services for individuals in rural areas during the COVID-19 emergency period, and for other purposes; Sponsor: Rep. Torres Small, Xochitl [D-NM-2]; Committees: House - Energy and Commerce*

*S.3938 — A bill to extend Federal guidance concerning the use of certain alcohol-based hand sanitizer during the coronavirus public health emergency, and for other purposes; Sponsor: Sen. Thune, John [R-SD]; Committees: Senate - Health, Education, Labor, and Pensions*

*S.3942 — A bill to establish the position of Chief Pharmaceutical and Medical Supply Chain Negotiator in the Office of the United States Trade Representative, to be responsible for conducting trade negotiations and enforcing trade agreements related to acts, policies, and practices of foreign governments that fail to appropriately reward United States innovation with respect to pharmaceuticals, to advance domestic production of life-saving medicines, and to secure the United States medical supply chain to eliminate reliance on foreign governments, and for other purposes; Sponsor: Sen. Loeffler, Kelly [R-GA]; Committees: Senate - Finance*

*S.3945 — A bill to amend the Internal Revenue Code of 1986 to provide incentives for relocating manufacturing of pharmaceuticals and medical supplies and devices to the United States; Sponsor: Sen. Loeffler, Kelly [R-GA]; Committees: Senate - Finance*

*S.3951 — A bill to amend the Public Health Service Act to provide for the establishment of a virtual health pilot program to facilitate utilization of remote patient monitoring technology to maintain or expand access to health care services for individuals in rural areas during the COVID-19 emergency period, and for other purposes; Sponsor: Sen. McSally, Martha [R-AZ]; Committees: Senate - Health, Education, Labor, and Pensions*