



Health Policy Briefing

July 20, 2020

GOP Draft of Next COVID Stimulus Package Expected This Week

Majority Leader Mitch McConnell (R-Ky.) announced plans for the Senate to release and begin discussion on the next round of pandemic relief in the coming days. McConnell is drafting the GOP-only proposal alongside the Trump administration, with Sen. Blunt (R-Mo.) taking the lead on many of the healthcare-related provisions. Debate on the bill will begin amongst Senate Republicans this week before negotiations with Democrats commence. Leadership hopes to complete work on the relief bill before August recess, which is scheduled to begin August 10.

The draft liability provisions of the proposal would offer a five-year shield from coronavirus-related lawsuits, retroactive from December 2019 through 2024, or until the end of the emergency declaration, if that comes later. Federal courts would be given jurisdiction over personal injury or medical liability lawsuits related to COVID-19 infections. Liability would only apply to institutions that did not make “reasonable efforts” to follow public health guidelines, or those that committed an act of gross negligence or intentional misconduct. House Speaker Nancy Pelosi (D-Calif.) argued that the proposed liability changes would not be necessary if the Occupational Safety and Health Administration (OSHA) issued a new standard for responding to COVID-19. Over the weekend, several news outlets also reported that the Trump administration was rejecting a proposal by Republicans to include an additional \$25 billion for COVID-19 testing, and instead fund other Trump priorities.

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House Appropriators Advance FY21 Labor-HHS Spending Bill

The House Appropriations Committee advanced its \$196.5 billion fiscal year 2021 (FY21) Labor-Health and Human Services-Education spending bill last week by a party-line vote of 30-22. The legislation would provide \$96.4 billion in discretionary funding for the U.S. Department of Health and Human Services (HHS), a \$1.5 billion increase from the current fiscal year, and sets aside \$24.4 billion for state and local health departments in the midst of responding to the coronavirus pandemic. The panel approved the bipartisan manager's amendment and an amendment by Rep. Mark Pocan (D-Wis.) that would require health insurers to report on their compliance with federal mental health parity requirements.

E&C Passes 17 Health Bills

The House Energy and Commerce Committee advanced 17 health-related bipartisan bills last week, including legislation to overhaul the Strategic National Stockpile (SNS). H.R. 7574 would require monthly reports to Congress on stockpile requests and allow the government to sell products in the stockpile that are set to expire. It would increase spending on the SNS from \$610 million to \$705 million for the next three years. The Committee also marked up legislation (H.R. 7539) that would require health insurance plans to report on how they are applying non-quantitative treatment limits to mental health and substance use disorder services to help regulators enforce existing parity laws. A similar provision was included in the House's fiscal year (FY) 2021 Labor-Health and Human Services-Education spending bill. Additional legislation included the "School-Based Allergy and Asthma Management Program Act (H.R. 2468) and several bills focused on suicide prevention. The House is expected to vote on the bills in the coming weeks. The full list of legislation included in last week's markup can be found [here](#).

Senate Dems Release Recommendations of COVID-19 Vaccine

Senate Minority Leader Chuck Schumer (D-N.Y.) and Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Patty Murray (D-Wash.) [released a white paper](#) containing recommendations for safety and accessibility policies for a future COVID-19 vaccine. The [paper](#) calls for \$25 billion in new emergency funding for vaccine research and development, and to ensure that the vaccine is provided to the public at no cost. Lawmakers outline policies in the following areas that would help ensure one or more safe and effective COVID-19 vaccines are produced, distributed, and administered widely enough to end the pandemic:

- Requiring the Administration Develop and Implement a Comprehensive Strategic Plan;
- Providing \$25 Billion in Emergency Funding for Vaccines and Vaccination Activities;
- Ensuring COVID-19 Vaccines are Available at No Cost;
- Setting Rigorous Standards for Vaccine Development and Scientific Review;
- Scaling Vaccine Manufacturing and Preventing Supply Chain Challenges;
- Ensuring Equitable Distribution of Vaccines;
- Preparing for and Implementing Widespread Vaccine Administration; and
- Ensuring Post-Market Surveillance and Safety.

HELP Committee Chair Lamar Alexander's (R-Tenn.) [statement](#) in response to the report urged Democrats and Republicans to work together to accelerate the development and distribution of vaccines.

Bipartisan House Coalition Calls for COVID-19 Liability Protections

Rep. Lou Correa (D-Calif.) and Mike Johnson (R-La.) have sent a [letter](#) to House and Senate leadership urging Congress to implement targeted and time-limited COVID-19 liability protections for health care providers and facilities as well as for businesses and non-profit organizations, that follow proper public health guidelines in response to the current pandemic. “Nurses, doctors, and other healthcare providers, in addition to hospitals and other healthcare facilities, are already stretched thin as they face this deadly virus day in and day out,” the letter states. “If we do not take reasonable and targeted steps to protect those who protect us, they may no longer be there when we need them most.” The letter was signed by 12 other members of Congress.

Lawmakers Call for Mandated Reports on Health Disparities

Rep. Ayanna Pressley (D-Mass.) and Sen. Elizabeth Warren (D-Mass.) are [pressuring](#) the U.S. Department of Health and Human Services (HHS) regarding its failure to produce congressionally mandated reports on racial and ethnic health disparities. HHS is required to report biannually on its efforts to improve health disparities but did not release such reports in 2017 and 2019 under the Trump administration. “Without successfully addressing these racial disparities in health outcomes and health care access, we will not be able to mitigate and fully control the COVID-19 pandemic,” the lawmakers write. The letter to HHS Secretary Alex Azar asks for details by July 28 to clarify why the administration has failed to take appropriate action.

Coronavirus Oversight Democrats Launch Probe into WH Contracts

House Democrats on the Select Subcommittee on the Coronavirus Crisis have launched a probe into contracts procured by the Trump administration for personal protective equipment (PPE) and testing supplies. The lawmakers sent [letters](#) to the companies that were awarded the contracts that they deem questionable. They cite reports that the contracts were awarded to businesses without federal contracting experience that had political connections to the White House. The panel is investigating reports of whether some of the companies failed to provide the necessary supplies.

Lawmakers Question FDA Actions to Improve COVID Testing Accuracy

House Energy and Commerce Committee Chair Frank Pallone (D-N.J.), Health Subcommittee Chair Anna Eshoo (D-Calif.), and Oversight Subcommittee Chair Diana DeGette (D-Colo.) have [written](#) to Commissioner of Food and Drugs Stephen Hahn regarding the agency’s efforts to determine the accuracy of COVID-19 diagnostic and serological tests. The letter underscores the importance of diagnostic tests in the ability to quickly trace the path of the disease as outbreaks across the United States continue to rise. The lawmakers request information about what post-market actions the FDA is taking to evaluate the reliability of COVID-19 in vitro diagnostic tests, including serology tests, and about any issues FDA has become aware of in reviewing emergency use authorization (EUA) submissions.

House Dems Call for Verma to Step Down

A group of House Democrats are once again calling for the resignation of Centers for Medicare and Medicare Services (CMS) Administrator Seema Verma following a [new report](#) from the Health and Human Services inspector general that found she mishandled millions of dollars on government contracts and private consultants. The [letter](#) argues that Verma used her position as CMS administrator for her personal benefit and lied under oath about her spending and decision making. The letter, which was signed by eight lawmakers, was led by Reps. Joe Kennedy (D-Mass.). Democratic leadership of the House Energy and Commerce Committee separately announced that they are nearing the end of their investigation into Verma’s actions, noting that their report will build upon the findings of the inspector general.

House Files Brief Supporting Protections Against LGBTQ Discrimination

The House of Representatives has filed an amicus brief calling on the U.S. District Court for the District of Columbia to prohibit the U.S. Department of Health and Human Services (HHS) from implementing a recent rule from the Trump administration that would remove bias protections for gay and transgender people in the provision of health care. HHS is set to begin enforcing the regulation on August 18. Whitman-Walker Clinic Inc. and other providers are suing HHS to stop it.

MedPAC 2020 Data Report

The Medicare Payment Advisory Commission (MedPAC) has released its latest data book on health care spending and the Medicare program. The 2020 report includes information on Medicare spending, demographics of the Medicare population, beneficiaries' access to care, and quality of care in the program. The book can be found [here](#).

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 Oversight and Reform Select Subcommittee on the Coronavirus Crisis hearing “The Urgent Need for a National Plan to Contain the Coronavirus;” 9:00 a.m., 2154 Rayburn Bldg.; July 21

Senate Special Committee on Aging hearing “The COVID-19 Pandemic and Seniors: A Look at Racial Health Disparities;” 9:30 a.m., 562 Dirksen Bldg.; July 21

House Energy and Commerce Subcommittee on Oversight and Investigations hearing “Pathway to a Vaccine: Efforts to Develop a Safe, Effective, and Accessible COVID-19 Vaccine;” 10:00 a.m., via Cisco Webex; July 21

House Homeland Security Committee hearing “Examining the National Response to the Worsening Coronavirus Pandemic: Part II;” 9:00 a.m., 2118 Rayburn Bldg.; July 22

Senate Committee on Commerce, Science, and Transportation markup of legislation including the Data Mapping to Save Moms’ Lives Act (S. 3152), the Fundamentally Understanding the Usability and Realistic Evolution (FUTURE) of Artificial Intelligence Act of 2020 (S. 3771), and the Advancing Artificial Intelligence Research Act of 2020 (S. 3891); 10:00 a.m., G-50 Dirksen Bldg.; July 22

Senate Environment and Public Works Committee hearing “Stopping the Spread: Examining the Increased Risk of Zoonotic Disease from Illegal Wildlife Trafficking;” 10:00 a.m., 106 Dirksen Bldg.; July 22

Senate Homeland Security and Governmental Affairs Committee markup of legislation including the Federal Emergency Pandemic Response Act (S. 4204), the Securing Healthcare and Response Equipment Act of 2020 (S. 4210), the National Response Framework Improvement Act of 2020 (S. 4153), the National Infrastructure Simulation and Analysis Center Pandemic Modeling Act of 2020 (S. 4157), the PPE Supply Chain Transparency Act of 2020 (S. 4158), the Information Technology Modernization Centers of Excellence Program Act (S. 4200), the Achieving Racial and Ethnic Equity in Disaster Response, Recovery, and Resilience Act of 2020 (S. 3658), the Promoting Rigorous and Innovative Cost Efficiencies for Federal Procurement and Acquisitions Act of 2019 (S. 3038); 10:00 a.m., 215 Dirksen Bldg.; July 22

Recently Introduced Health Legislation

H.R.7574 — To amend the Public Health Service Act with respect to the Strategic National Stockpile, and for other purposes; Sponsor: Rep. Slotkin, Elissa [D-MI-8]; Referred to the House Committee on Energy and Commerce.

H.R.7593 — To amend title XVIII of the Social Security Act to increase the use of telehealth for substance use disorder treatment, and for other purposes; Sponsor: Rep. McKinley, David B. [R-WV-1]; Referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and the Judiciary.

H.R.7596 — To direct the Secretary of Defense to provide medical providers of the Department of Defense mandatory training with respect to the potential health effects of burn pits; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Referred to the House Committee on Armed Services.

H.R.7597 — To direct the Secretary of Defense to submit to Congress a report on the research and studies being conducted or funded by the Department of Defense to assess the health effects of burn pits; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Referred to the House Committee on Armed Services.

H.R.7598 — To direct the Secretary of Defense to include information on exposure to open burn pits in postdeployment health reassessments of members of the Armed Forces; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Referred to the House Committee on Armed Services.

H.R.7606 — To require the Comptroller General to submit to Congress a report on the impact of the Medicaid Fiscal Accountability Regulation, to limit the authority for the Secretary of Health and Human Services, and for other purposes; Sponsor: Rep. Williams, Roger [R-TX-25]; Referred to the House Committee on Energy and Commerce.

H.R.7618 — To establish a grant program to provide funds for health care entities to establish or improve bias and anti-racism training to help reduce racial and ethnic disparities in COVID-19 testing, treatment, health outcomes, and vaccine access; Sponsor: Rep. Adams, Alma S. [D-NC-12]; Committees: House - Energy and Commerce

H.R.7627 — To promote affordable access to evidence-based opioid treatments under the Medicare program and require coverage of medication assisted treatment for opioid use disorders, opioid overdose reversal medications, and recovery support services by health plans without cost-sharing requirements; Sponsor: Rep. Dean, Madeleine [D-PA-4]; Committees: House - Ways and Means; Energy and Commerce

H.R.7647 — To provide for a COVID-19-related delay regarding annual limitation on cost-sharing for group health plans and individual and small group health insurance coverage; Sponsor: Rep. McEachin, A. Donald [D-VA-4]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor

H.R.7649 — To establish an initiative for national testing, contact tracing, and pandemic response, and for other purposes; Sponsor: Rep. Morelle, Joseph D. [D-NY-25]; Committees: House - Energy and Commerce; Education and Labor

H.R.7654 — To require the Secretary of U.S. Department of Health and Human Services to submit reports regarding coronavirus testing data; Sponsor: Rep. Richmond, Cedric L. [D-LA-2]; Committees: House - Energy and Commerce

H.R.7659 — To amend title XVIII of the Social Security Act to require the inclusion of certain audio-only diagnoses in the determination of risk adjustment for Medicare Advantage plans, and for other purposes; Sponsor: Rep. Sewell, Terri A. [D-AL-7]; Committees: House - Ways and Means; Energy and Commerce

H.R.7663 — To amend title XI of the Social Security Act to authorize the Secretary of Health and Human Services to waive or modify application of Medicare requirements with respect to telehealth services during any emergency period, and for other purposes; Sponsor: Rep. Thompson, Mike [D-CA-5]; Committees: House - Ways and Means; Energy and Commerce