

## COVID-19: A Weekly Health Care Update from Washington April 20-24, 2020

### IN BRIEF

**What Happened This Week:** Congressional negotiators were able to reach consensus on legislation to provide additional support for small businesses this week (additional funding for health care providers was ultimately also included). The bill passed by voice vote in the Senate on Tuesday, by roll call vote in the House on Thursday, and was signed into law earlier today (Friday). On Wednesday, the Trump Administration laid out how it intends to allocate the second “tranche” of health care funding from the CARES Act. All of this and more is summarized in the “deep dive” section of this week’s health care update.

**What to Expect in the Weeks and Months Ahead:** Looking ahead, it is almost certain that lawmakers will move to take up additional measures to address the public health crisis (“CARES 2.0”); however, what that legislation will look like and when that will happen is still up in the air. So far, Democrats have been vocal about the need to bolster state and local response efforts with more funding. Meanwhile, Republicans continue to emphasize the importance of balancing the nation’s response with the impact to the economy and the growing national debt.

### DEEP DIVE

#### Congress Passes “Interim” COVID-19 Funding Bill

The House followed the Senate and [voted](#) 388-5 to approve a \$484 billion coronavirus funding bill yesterday (Thursday, April 23) – the fourth piece of COVID-related legislation to pass Congress with bipartisan support in recent weeks. The legislation was first proposed earlier this month by Senate Majority Leader Mitch McConnell (R-KY) as a way to quickly provide additional funding for a small business support program under the CARES Act ([HR 748](#)); however Congressional Democrats rejected the initial plan, arguing that any “interim” funding bill also needed to [include](#) additional funding for hospitals, community health centers and health systems, additional funding for state and local governments, and increased SNAP benefits. After approximately two weeks of negotiating, the final bill ([HR 266](#), Paycheck Protection Program and Health Care Enhancement Act) passed both chambers with the following:

- \$310 billion in additional lending authority for the Small Business Administration’s Paycheck Protection Program
- \$60 billion for separate disaster loans to small businesses
- \$75 billion for reimbursement to hospitals and health care providers to support the need for COVID-19 related expenses and lost revenue

- \$25 billion for virus testing

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### **House Adopts Resolution to Form New Coronavirus Oversight Subcommittee; Speaker Pelosi Puts Anticipated Vote on Proxy Voting on Hold – For Now**

The House voted 212-182 yesterday (Thursday, April 23) to adopt a [resolution](#) to form a new Coronavirus Oversight Subcommittee. The measure passed primarily with support from House Democrats; several Republicans questioned whether a new committee was necessary given that several oversight provisions were already included in the first three COVID response bills and that several House committees with jurisdiction over this kind of oversight already exist. The vote took place while Members were already in town for the vote on the interim COVID-19 funding bill.

A separate [expected](#) vote to change the House rules and allow proxy voting during the COVID-19 pandemic was put on hold by House Speaker Nancy Pelosi (D-CA) this week following opposition from House Republicans (although leaders in both parties did agree to form a bipartisan group of House lawmakers to discuss the idea of proxy voting and other options for reopening the House during the pandemic).

### **Trump Administration to Begin Distributing Second “Tranche” of CARES Act Funding to Health Care Providers and Facilities**

On Wednesday, April 22, the Trump Administration laid out how it intends to allocate the second “tranche” of funding provided under the CARES Act ([HR 748](#)). According to the press release, HHS said it will distribute an additional \$20 billion in what they refer to as “general allocation” funding for health care providers and facilities. This follows an earlier [announcement](#) of \$30 billion in “general allocation” funding. The second tranche of funding will be going out weekly (beginning April 24), on a rolling basis. Payments will be automatically sent to providers based on the 2018 patient revenue data that they submitted via CMS’s cost reports. Providers who receive their money automatically will still need to submit their revenue information so that it can be verified. Payments will be automatically sent to providers based on the 2018 revenue data that they submitted via CMS’s cost reports. Providers who are seeking *additional* general distribution funds (but do not have adequate cost reporting data on file) will be required to submit revenue information to a new [HHS portal](#) (which has not yet gone live). Much like the first \$30 billion tranche of funding, any / all providers who receive funds from this general distribution will be required to [sign an attestation](#) confirming receipt of funds and agree to the terms and conditions of payment and confirm the CMS cost report. And in an effort to prevent fraud and misuse, HHS will require all recipients to submit documents sufficient to ensure that these funds were used for health-related expenses or lost revenue attributable to COVID-19.

In addition to this “general allocation” of funding, HHS said it also plans to target funding to the following:

- **COVID-19 High Impact Areas (\$10 Billion)** – This funding will go to hospitals in areas that have been particularly impacted by the COVID-19 outbreak. In order for HHS to determine which facilities will qualify for these targeted funds, hospitals will be expected to apply via an authentication portal before 3pm on Saturday, April 25 (updated from the previous deadline of Thursday at midnight). The Department says it will take into consideration the challenges faced by facilities serving a significantly disproportionate number of low-income patients, as reflected by their Medicare Disproportionate Share Hospital (DSH) Adjustment.
- **Treatment of the Uninsured (Amount TBD)** – Although the total allocated amount has not yet been revealed, HHS says it will use a portion of the total \$100 billion Provider Relief Fund to reimburse healthcare providers, at Medicare rates, for COVID-related treatment of the uninsured. Any health care provider who has treated an uninsured COVID-19 patient on or after February 4, 2020 will be allowed to request a claims reimbursement beginning April 27, 2020 (subject to available funding). For more information, click [here](#).
- **Rural Providers (\$10 Billion)** – Starting next week, HHS will begin allocating \$10 billion for rural health care clinics and hospitals based on the facility’s operating expenses. The Department will use a methodology that distributes payments proportionately to each facility and clinic.
- **Indian Health Service (\$400 Million)** – Starting next week, HHS will begin to distribute \$400 million for Indian Health Service facilities (on the basis of operating expenses).

Looking ahead, the Trump Administration is expected to announce the distribution of the remaining \$30 billion in Provider Relief Funding in the near future. The details of who / where this funding will be going is still unclear, however HHS Secretary Alex Azar recently suggested that these funds will be distributed to targeted groups, such as Medicaid-only providers, dentists, skilled nursing facilities, and for the treatment of uninsured patients.

### **CMS Issues Recommendations to Re-Open Health Care Systems in Areas with Low Incidence of COVID-19**

On Sunday, April 19, the Centers for Medicare & Medicaid Services (CMS) issued new [recommendations](#) for re-opening health care facilities to provide non-emergency, non-covid-related care in areas that are in Phase 1 of the Guidelines for President Trump’s Opening Up America Again with low incidence or relatively low and stable incidence of COVID-19 cases. In the guidelines, the Administration encourages health care providers to coordinate with local and state public health officials and review the availability of personal protective equipment, workforce availability, facility readiness, and testing capacity when making the decisions on opening up in-person care visits again, etc.

## CMS Issues Updated Guidance for MA / Part D Plan Sponsors

CMS issued [updated guidance](#) to Medicare Advantage and Part D plan sponsors this week regarding obligations and permissible flexibilities related to disasters and emergencies resulting from COVID-19. The document updates an earlier memo that CMS issued on March 10 after the Agency says it received several inquiries about CMS's expectations with respect to other CMS and MAO and Part D sponsor policies and requirements during the COVID-19 public health emergency.

## HHS ONC & CMS Delay Implementation Timeline of Interoperability / Info Blocking Final Rules

On Tuesday, April 21, the Department of Health and Human Services (HHS) Office of the National Coordinator for Health IT (ONC) and the Centers for Medicare & Medicaid Services (CMS) [announced](#) that in light of COVID-19, the Department will "exercise its discretion in enforcing all new requirements under 45 CFR Part 170 that have compliance dates and timeframes until 3 months after each initial compliance date or timeline identified in the ONC Cures Act Final Rule." ONC's full Enforcement Discretion Statement can be found [here](#), and the Agency's Enforcement Discretion Dates and Timeframes can be found [here](#). The final rules can be found [here](#).

## **ADMINISTRATION ANNOUNCEMENTS**

### Department of Health and Human Services

- [SAMHSA Moves Quickly to Begin Releasing \\$110 Million in Emergency Grant Funding to Provide Americans with Substance Use Treatment and Mental Health Services During the COVID-19 Pandemic](#)
- [Oracle Donates Therapeutic Learning System to HHS to Gather Crowd-Sourced Data on COVID-19](#)
- [Tribal and Urban Indian Organization Leader Message on COVID-19](#)
- [Trump Administration Announces New Nursing Homes COVID-19 Transparency Effort](#)
- [Expert U.S. Panel Develops NIH Treatment Guidelines For COVID-19](#)
- [HHS Announces Nearly \\$1 Billion in CARES Act Grants to Support Older Adults and People with Disabilities in the Community During the COVID-19 Emergency](#)
- [OIG Proposes Rule For Civil Money Penalties For Information Blocking](#)
- [Stimulus Information & Wednesday, April 22, Noon Deadline for Social Security Beneficiaries with Children](#)
- [Health Resources And Services Administration's \(HRSA\), Federal Office Of Rural Health Policy Has Released A Notice Of Funding Opportunity \(NOFO\) Announcement For Tribal Organizations](#)
- [Trump Administration Champions Reporting of COVID-19 Clinical Trial Data through Quality Payment Program, Announces New Clinical Trials Improvement Activity](#)
- [Solving a Problem by Working Together on Local, State, and Federal Levels](#)
- [Remarks to Press on the Announcement of Additional Allocations of CARES Act Provider Relief Fund](#)

- [Remarks to Press on HRSA Telehealth and COVID-19 Funding Announcement](#)
- [Confirmation of COVID-19 in Two Pet Cats in New York](#)
- [Trump Administration Launches New Toolkit to Help States Navigate COVID-19 Health Workforce Challenges](#)
- [HHS Awards Nearly \\$165 Million to Combat the COVID-19 Pandemic in Rural Communities](#)
- [Health Providers: Join the Telehealth Revolution](#)
- [Resources for Integrated Care \(RIC\) Webinar: Supporting Family Caregivers of Older Adults through Times of Stress and Isolation](#)
- [Administration for Children and Families to Release Funding to Support Child Welfare Services](#)
- [IHS Statement On Allocation Of Final \\$367 Million From CARES Act](#)
- [HHS Announces More Time for Hospitals to Apply for COVID-19 High-Impact Payments](#)
- [Court Grants FDA's Request for Extension of Premarket Review Submission Deadline for Certain Tobacco Products Because of Impacts from COVID-19](#)
- [NIAID Strategic Plan Details COVID-19 Research Priorities](#)
- [HHS Awards Nearly \\$5 Million to Poison Control Centers as Calls Spike Due to COVID-19](#)
- [HHS Announces CARES Act Funding Distribution to States and Localities in Support of COVID-19 Response](#)

### Centers for Medicare & Medicaid Services

- [CMS Issues Guidance Allowing Independent Freestanding Emergency Departments to Provide Care to Medicare and Medicaid Beneficiaries during the COVID-19 Public Health Emergency](#)
- [Trump Administration Champions Reporting of COVID-19 Clinical Trial Data through Quality Payment Program, Announces New Clinical Trials Improvement Activity](#)
- [Trump Administration Launches New Toolkit to Help States Navigate COVID-19 Health Workforce Challenges](#)
- [Statements from the Office of the National Coordinator for Health IT and the Centers for Medicare & Medicaid Services on Interoperability Flexibilities amid the COVID-19 Public Health Emergency](#)
- [Trump Administration Releases COVID-19 Telehealth Toolkit to Accelerate State Use of Telehealth in Medicaid and CHIP](#)

### Centers for Disease Control and Prevention

- [Interim Guidance for Public Health Professionals Managing People With COVID-19 in Home Care and Isolation Who Have Pets or Other Animals](#)
- [Interim Infection Prevention and Control Guidance for Veterinary Clinics During the COVID-19 Response](#)
- [Interim Guidance for Reopening Employers with Vulnerable Workers](#)
- [Clinical Care Guidance for Healthcare Professionals about Coronavirus \(COVID-19\)](#)
- [Guidance for U.S. Healthcare Facilities about Coronavirus \(COVID-19\)](#)

- [Interim Operational Considerations for Public Health Management of Healthcare Workers Exposed to or Infected with COVID-19: non-US Healthcare Settings](#)
- [Contact Tracing : Part of a Multipronged Approach to Fight the COVID-19 Pandemic](#)
- [Interim Guidance for Implementing Safety Practices for Critical Infrastructure Workers Who May Have Had Exposure to a Person with Suspected or Confirmed COVID-19](#)

## Food and Drug Administration

- [FDA Authorizes First Test for Patient At-Home Sample Collection](#)
- [Court Grants FDA's Request for Extension of Premarket Review Submission Deadline for Certain Tobacco Products Because of Impacts from COVID-19](#)
- [FDA Warns Companies Illegally Selling CBD Products to Treat Medical Conditions, Opioid Addiction](#)

## QUICK LINKS

- [Mehlman Castagnetti's Infographics Analysis on Post-Pandemics Politics and Policy](#)
- [Additional Mehlman Castagnetti Resources on COVID-19](#)
- [Johns Hopkins University Map of Global Cases of Coronavirus](#)
- [CDC Map of Coronavirus Cases in the US](#)
- [CMS COVID-19 Stakeholder Call Recording/Transcripts](#)
- [Kaiser Family Foundation: State Data and Policy Actions to Address Coronavirus](#)
- [CRS Report: COVID-19 – Global Implications and Responses](#)