

COVID-19: A Weekly Health Care Update from Washington
May 4-8, 2020

IN BRIEF

What Happened This Week: The Senate returned to Washington this week and conducted a handful of COVID-related hearings – all with modified layouts in an effort to adhere to social distancing guidelines. The Trump Administration posted several resources online for providers and facilities seeking clarification on the distribution of Provider Relief Funds. The Department also announced the distribution of over \$500 million in funding under the recently enacted Paycheck Protection Program and Health Care Enhancement Act to expand COVID-19 testing nationwide. Members of the House of Representatives still have not returned, but the Democratic majority continues to put the finishing touches on another round of legislation to respond to the pandemic.

What to Expect Next Week: Expect the Senate to reconvene in Washington next week. The House schedule is still fluid, although it's possible that Members could be called on to return to Washington as well. It's also possible that House Democratic Leadership will reveal the details of their next COVID-19 legislative response proposal (CARES Act "2.0").

DEEP DIVE

Senate Returns to Washington After Five Weeks of Working Remotely

Senators returned to Washington on Monday, May 4 after working remotely for weeks due to the coronavirus. In an effort to pick up with business as usual, the chamber conducted a handful of hearings this week, including one held by members of the Senate HELP Committee to [examine](#) new coronavirus tests. Witnesses included NIH Director Dr. Francis Collins and BARDA Acting Director Dr. Gary Disbrow. In his opening statement, Chairman Alexander (R-TN) emphasized that "[a]ll roads back to work and back to school lead through testing," and added: "there is no safe path forward to combat the novel coronavirus without adequate testing." In her own opening statement, however, Ranking Member Patty Murray (D-WA) expressed frustration for the Trump Administration's response to the pandemic thus far, saying: "[t]he problem isn't a lack of innovation—it's a lack of national leadership, and a plan from the White House." A full summary of the hearing can be found [here](#). The Committee is expected to hold another [hearing](#) next Tuesday, May 12 to examine the nation's strategy for reopening businesses and schools. **Note: This hearing and all other COVID-related hearings scheduled for next week are listed in the "Upcoming Congressional Hearings" section of this document.*

The House continued to work remotely this week, although the Appropriations Committee did conduct a [hearing](#) on Wednesday to examine the government's response to COVID-19. Much like the Senate hearings, attendance was limited, and the room layout was modified in an effort to adhere to social distancing guidelines. It's possible that the House will return to Washington next week, although Leadership has not made any formal announcement on this.

Looking ahead, it is almost certain that both chambers will move to take up additional measures to address the coronavirus public health crisis (CARES Act "2.0"). So far, House Democrats have been vocal about more funding for states, more funding for testing, and "putting money in the pockets of the American people." Senate Republicans, meanwhile, continue to emphasize the importance of balancing the nation's response with the impact to the economy

and the growing national debt. Majority Leader Mitch McConnell (R-KY) has signaled that, while he is open to new legislation, GOP leadership is focused primarily on oversight of the funds that have already been appropriated and that there is growing concern about deficit spending. He also has made clear that any new COVID-related legislation will have to include significant new liability protections for business owners who decide to open their doors. It is possible we may see details of that liability proposal over the next week or two.

Trump Administration Continues to Distribute CARES Act Funding to Health Care Providers and Facilities

Last Friday, HHS [announced](#) it would begin distributing \$12 billion to 395 hospitals who provided inpatient care for 100 or more COVID-19 patients through April 10, 2020. The Department said \$2 billion of the \$12 billion will be distributed to these hospitals based on their Medicare and Medicaid disproportionate share and uncompensated care payments. Click [here](#) to view a county and state breakdown of this funding. That same day, the Department also [announced](#) it would begin distributing \$10 billion for rural health care clinics and hospitals based on the facility's operating expenses using a methodology that distributes payments proportionately to each facility and clinic. Click [here](#) to view the state by state breakdown. Both funding announcements were part of the second "tranche" of funding that the Administration is distributing under the CARES Act.

Looking ahead, the Trump Administration is expected to soon announce the distribution of the remaining \$30 billion in Provider Relief Funding under the CARES Act, as well as the additional \$75 billion that was included in the subsequent Paycheck Protection Program and Health Care Enhancement Act ([H.R. 266](#)). The details of which providers will receive this additional funding is still unclear. HHS Secretary Alex Azar recently [suggested](#) that at least a portion of these funds would be distributed to targeted groups who may not have received substantial funding so far, including Medicaid-only providers, dentists, skilled nursing facilities, and those who are treating high percentages of uninsured patients.

HHS Releases Data on Recipients of "General Allocation" Funding Under the CARES Act

The HHS Health Resources and Services Administration (HRSA) recently posted [information](#) about where the \$50 billion in "general allocation" funding under the CARES Act was being distributed (as of May 6, 2020). Facilities and providers were allotted a portion of this funding based on their share of net patient revenue and were required to sign an attestation confirming receipt of the funds and agreeing to the terms and conditions within 30 days of payment.

On Thursday, May 7, two House Democratic health committee leaders – Ways and Means Chairman Richard Neal (D-MA) and Energy and Commerce Chairman Frank Pallone (D-NJ) sent a [letter](#) to HHS Secretary Alex Azar and CMS Administrator Seema Verma expressing concern over the methodology used to distribute the COVID-19 relief funds. "We write to raise serious concerns about the Provider Relief Fund and the Accelerated and Advance Payment Programs," Neal and Pallone wrote. "With respect to each, we are concerned about the lack of transparency with Congress and the American people about how funds are being spent or loans are being made. We also have grave concerns regarding the methodology being used to distribute \$175 billion Congress appropriated for the Provider Relief Fund."

HHS Distributes \$583 Million in Funding to Expand COVID-19 Testing Nationwide

On Thursday, May 7, HHS [announced](#) it would be distributing approximately \$583 million to 1,385 HRSA-funded health centers nationwide to expand COVID-19 testing. The funding is coming from the Paycheck Protection Program and

Health Care Enhancement Act ([H.R. 266](#)), which Congress passed and the President signed into law late last month (the so-called “interim” COVID-19 funding bill). Click [here](#) for the full list of recipients.

HHS Launches New Website on Community-Based Testing Sites

HHS just launched a new [website](#) with information on community-based testing sites and other resources, including information on how and where individuals can get a drive-through coronavirus test. The FDA also recently posted new [Q&A for consumers](#) focused on the different kinds of COVID-19 tests. Within this page, the Agency attempts to clarify questions surrounding the investigational antiviral drug, Remdesivir.

HHS Extends Deadline for Provider Relief Fund Payments Attestation / Acceptance of Terms and Conditions to 45 Days

HHS recently [extended](#) the deadline for providers and facilities to sign an attestation confirming receipt of Provider Relief Funds and agreeing to the terms and conditions from 30 days of payment to 45 days from payment.

HHS Posts Additional Information for Providers on HRSA’s New COVID-19 Uninsured Program

HRSA recently posted a [Q&A document](#) online in an effort to clarify questions related to who is eligible, what claims are eligible, and how reimbursement / payment will work under the new [COVID-19 Uninsured Program](#). Providers who have conducted COVID-19 testing or provided treatment for uninsured individuals with COVID-19 on or after February 4, 2020 can use this [portal](#) to begin filing claims for reimbursement for testing and treating the uninsured. The Families First Coronavirus Response Act ([H.R. 6201](#)) and the Paycheck Protection Program and Health Care Enhancement Act ([H.R. 266](#)) appropriated approximately \$2 billion to reimburse providers for conducting COVID-19 testing for the uninsured, and the CARES Act ([H.R. 748](#)) instructed HHS to use a portion of the \$100 billion in relief funds to “support healthcare-related expenses attributable to the treatment of uninsured individuals with COVID-19.”

NIH Blog Post Discusses Results of Recent Study on COVID-19 Antibodies

A May 7 NIH [blog post](#) discussed the findings of a recent Nature Medicine study which looked into coronavirus antibodies. The researchers found that the immune systems of people who survive COVID-19 “have been be primed to recognize SARS-CoV-2 and possibly thwart a second infection,” although they emphasized that more follow-up work is needed to determine how protective the antibodies are and for how long.

House Leadership Appoints Members to Serve on New Coronavirus Oversight Subcommittee

House Republican Leadership named the following members to a new Coronavirus Oversight Subcommittee this week despite recently expressing skepticism over whether such a group 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.

- House Minority Whip Steve Scalise (R-LA)
- Rep. Jim Jordan (R-OH)
- Rep. Blaine Luetkemeyer (R-MO)
- Rep. Mark Green (R-TN)

- Rep. Jackie Walorski (R-IN)

House Speaker Pelosi (D-CA) appointed the following Democratic members last month:

- House Majority Whip Jim Clyburn (D-SC)
- Rep. Maxine Waters (D-CA)
- Rep. Carolyn Maloney (D-NY)
- Rep. Nydia Velázquez (D-NY)
- Rep. Bill Foster (D-IL)
- Rep. Jamie Raskin (D-MD)
- Rep. Andy Kim (D-NJ)

The House voted mostly along party lines last month (212-182) to adopt a [resolution](#) which formed the new Subcommittee.

UPCOMING CONGRESSIONAL HEARINGS

[COVID-19: Safely Getting Back to Work and Back to School](#)

Date: Tuesday, May 12 at 10am

Committee: Senate HELP Committee

Witnesses:

- Anthony Fauci, MD, NIH Director of the National Institute of Allergy and Infectious Diseases
- Robert Redfield, MD, CDC Director
- ADM Brett Giroir, MD, HHS Assistant Secretary for Health
- Stephen Hahn, MD, FDA Commissioner of Food and Drugs

[Examining Liability During the COVID-19 Pandemic](#)

Date: Tuesday, May 12 at 2:30pm

Committee: Senate Judiciary Committee

Witnesses:

- TBA

[The State of Broadband Amid the COVID-19 Pandemic](#)

Date: Wednesday, May 13 at 10am

Committee: Senate Commerce, Science and Transportation Committee

Witnesses:

- Steven Berry, President and Chief Executive Officer, Competitive Carriers Association
- Shirley Bloomfield, Chief Executive Officer, NTCA - The Rural Broadband Association
- Gene Kimmelman, Senior Advisor, Public Knowledge
- Jonathan Spalter, President and Chief Executive Officer, USTelecom - The Broadband Association

[Protecting Scientific Integrity in the COVID-19 Response](#)

Date: Thursday, May 14 at 10am

Committee: House Energy and Commerce Subcommittee on Health

Witnesses:

- TBA

ADMINISTRATION ANNOUNCEMENTS

Department of Health and Human Services

- [HHS Deploys New Portable Dialysis Machines to New York for COVID-19 Response](#)
- [HHS Extends Deadline for Attestation, Acceptance of Terms and Conditions for Provider Relief Fund Payments](#)
- [HHS Awards More than Half Billion Dollars Across the Nation to Expand COVID-19 Testing](#)
- [HHS Secretary Azar Statement on National Nurses Day](#)
- [OCR Issues Guidance on Covered Health Care Providers and Restrictions on Media Access to Protected Health Information about Individuals in Their Facilities](#)

Centers for Medicare & Medicaid Services

- [CMS Announces Final Payment Notice for 2021 Coverage Year](#)
Note: Within this announcement, CMS also said it would grant a one-week extension of the Qualified Health Plan certification and rate review timelines to "allow issuers and states to better collect and assess data around the effects of COVID-19 and thereby establish more accurate premium rates."

Centers for Disease Control and Prevention

- [Click here for the full list of all new CDC guidance and updates.](#)

Food and Drug Administration

- [FDA Continues to Combat Fraudulent COVID-19 Medical Products](#)
- [FDA Authorizes First Diagnostic Test Using At-Home Collection of Saliva Specimens](#)

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](#)