

COVID-19: A Weekly Update from Washington March 16-20, 2020

As the number of coronavirus cases in the United States continues to grow at a rapid pace, both Congress and the Trump Administration are working to address the crisis from a variety of different angles. Mehlman Castagnetti Rosen & Thomas summarizes the latest news in this document.

IN BRIEF

What Happened This Week: On Wednesday, Congress approved its second major emergency coronavirus supplemental and got right to work on a third major piece of legislation. The Trump Administration announced updated policies intended to increase testing for the coronavirus nationwide, expanded telehealth coverage under Medicare in an effort to mitigate the spread of the virus, and issued guidance allowing Americans to defer tax payments until mid-July. On Wednesday, the President also announced he will invoke – if needed – the Defense Production Act in response to the outbreak.

What to Expect Next Week: Expect action on the third stimulus package to be swift. Senate lawmakers are expected to work throughout the weekend and it's possible the chamber could hold a vote on the bill as early as Monday, March 23.

In Short: The response to this pandemic has been – and will continue to be – fluid as both Congress and the White House continue to grapple with a crisis that no American in our lifetime has ever experienced.

DEEP DIVE

President Trump Signs Second Emergency Coronavirus Bill Into Law; Congress Begins Work on a Third Major Piece of Funding Legislation

On Wednesday, March 18, the Senate voted 90-8 to pass a second emergency supplemental coronavirus bill ([H.R. 6201](#), the Families First Coronavirus Response Act), which passed in the House late last week. The bill includes provisions to expand paid leave, food assistance, and unemployment insurance. It increases Medicaid funding for states, requires insurers, Medicare, Medicaid, and other federal health programs to fully cover virus testing and related services, and also provides emergency funding for several nutrition programs and other federal health programs.

Prior to sending the bill to the Senate, the House made several technical corrections to the legislation. The initial House-passed bill provided two weeks of sick leave to workers who: are in quarantine, caring for family members with Covid-19, and those who have children whose schools or day-care centers have closed. Under the modified bill, paid leave is limited for the next ten weeks only to workers caring for a child whose school or day care had been shut. Health care providers, emergency responders, and workers who were in quarantine and/or caring for a family member will not be eligible for the additional 10 weeks of leave (in the original version of the bill, all the workers who received paid sick time would be eligible for another 10 weeks of paid leave at two-thirds pay). The revised bill also permits the Labor Department Secretary to issue regulations exempting businesses with fewer than 50 employees from the paid leave requirement if it "would jeopardize the viability of the business." Tax credits for the paid sick leave and family leave that the bill would create were increased to include amounts employers pay for an employee's health care plan while they are on leave. President Trump signed the legislation into law on March 18.

*Click [here](#) for a summary of H.R. 6201, as passed by the House on Saturday, March 14. Click [here](#) for a summary of paid leave provisions outside the Appropriations Committee's jurisdiction, incorporating changes made by technical correction.

Looking ahead, the Senate will take the lead on a third major piece of legislation to address the crisis, this time focusing more heavily on stimulating the economy. On Thursday, March 19, Senate Republicans unveiled their proposal for the third bill, the Coronavirus Aid, Response, and Economic Security Act (CARES Act). Broadly speaking, the legislation calls for:

- Recovery checks of up to \$1,200 for individuals (\$2,400 for married couples) based on 2018 tax returns. This amount is completely phased-out for single taxpayers with incomes exceeding \$99,000 / \$198,000 for joint filers.
- \$300 billion for loan guarantees for small businesses.
- \$208 billion worth of loans to provide sufficiently collateralized loans and loan guarantees to eligible entities, broken out in the following amounts:
 - Up to \$50 billion for passenger air carriers;
 - Up to \$8 billion for cargo air carriers; and
 - Up to \$150 billion for other eligible entities.

*Click [here](#) for a more in-depth summary of the GOP proposed bill (as introduced on March 19), and click [here](#) for a separate summary of the health-related provisions.

While this proposed GOP bill is just the opening salvo into the negotiating process, expect lawmakers to move swiftly on this third piece of legislation given pressure from the American public and the White House. Leader McConnell is reportedly telling lawmakers that he wants to see a swift bipartisan agreement happen as soon as today (Friday, March 20) followed by a vote on Monday, March 23. During a meeting with Senators this morning, he reportedly instructed the Committees with relevant jurisdiction to work through the day today and attempt to produce a deal by midnight, with the goal of being able to file cloture on the motion

to proceed to a vehicle for the deal by tomorrow (Saturday, March 21). We are told that meeting attendees included:

- Leaders McConnell and Schumer
- Senate Republican Whip Thune and Senate Democratic Whip Durbin
- Senators Crapo/Toomey/Brown/Reed (Banking Committee)
- Senators Grassley/Portman/Wyden/Stabenow/Menendez (Finance Committee)
- Senators Rubio/Collins/Cardin/Shaheen (Small Business Committee)
- Senators Alexander/Murray (Senate HELP Committee)
- Senators Wicker/Cantwell (Senate Commerce Committee)

Senate GOP Leadership will also work with Democrats, who introduced their own \$750 billion [proposal](#) earlier this week, and with Republican lawmakers on some of the bill's major details. While there is broad support for taking up some version of an economic stimulus, at least a handful of Senate GOP lawmakers have expressed concern for the bill's proposal to distribute cash payments to Americans despite the fact that President Trump appears – for now – to be on board with the idea (a similar proposal was included in the Administration's [term sheet](#) earlier this week). A reminder that Leader McConnell will need the support of all Republicans and at least seven Democrats to pass the bill in the Senate (60 votes) and will also need support from Democrats in the House given their majority in that chamber.

Leaders will also need to determine how they intend to handle supplemental appropriations to federal agencies. On Tuesday, the White House's Office of Management and Budget sent a [letter](#) to Congress requesting \$45.8 billion in supplemental spending in an effort to bolster funding for federal agencies' response to the pandemic. Senate Republicans chose not to include this in their initial package. Democrats, however, not only remain insistent that additional federal budgetary resources be added but are looking to increase the administration request by as much as \$100 billion. Given how fast things are moving on the third legislative package, it's very likely that lawmakers could move to take up a fourth major piece of legislation – focused on supplemental appropriations.

Lawmakers Calling for Virtual Voting Amid the Coronavirus Outbreak

A growing bipartisan group of lawmakers is [calling](#) for a rule change that would allow for remote voting in the midst of the outbreak; however, Congressional Leadership appears to be opposed to the idea – at least for now. On Tuesday, Leader McConnell said the Senate would "deal with the social distancing issue without fundamentally changing the Senate rules" and instead, suggested that the chamber could stretch the time for roll call votes to limit the number of lawmakers on the Senate floor. Meanwhile, in the House, Majority Leader Steny Hoyer (D-MD) said he expects that the chamber to "adjust" its voting procedures in order to be more in line with guidance from the Centers for Disease Control and Prevention (CDC), however he added

that no decisions have been made as to what that would look like. For now, House lawmakers will not return to Washington until the Senate has passed the third stimulus package (in an effort to minimize contact and possible exposure to the virus). So far, at least two lawmakers have tested positive for the virus and several others are self-quarantining after coming into contact with an individual who tested positive.

President Trump Invokes Defense Production Act

Earlier this week, President Trump signed off on an [executive order](#) to invoke the Defense Production Act, a 1950 law that essentially would give the Health and Human Services (HHS) Secretary the authority to require US manufacturers to build medical equipment for hospitals in the midst of the outbreak. A number of Congressional Democrats and state governors are [calling](#) on the President to move forward with the order, however Trump has since said that the order will only be used as a "worst case scenario." "Hopefully there will be no need, but we are all in this TOGETHER," he [Tweeted](#) Wednesday. In the past, Presidents have invoked the Defense Production Act primarily during times of war.

White House Recommends Americans Avoid Gatherings of 10 or More After CDC Issues Guidance Asking Americans Cancel Gatherings of 50 or More for Next Eight Weeks

In a new "Guidelines for America" [document](#), the Trump Administration is urging Americans to avoid gatherings of ten or more people for the foreseeable future. The Administration is also recommending that Americans avoid eating and / or drinking at bars / restaurants, and instead order takeout or use deliver options. The announcement follows earlier CDC [guidance](#) recommending that Americans postpone or cancel in-person events that consist of 50 people or more throughout the United States for the next eight weeks.

FDA Announces Updated Policies to Increase Testing Nationwide

Over the weekend, the FDA [announced](#) updated policies aimed at increasing testing for the coronavirus across the nation. Under these new policies, states will be able to unilaterally authorize laboratories to conduct testing for the coronavirus. More specifically, the Agency's guidance will:

- Allow states to set up a system in which they take responsibility for authorizing tests and the laboratories will not engage with the FDA. Under this new guidance, labs developing tests in these states can engage directly with the appropriate state authorities, instead of with the FDA. The labs also will not be required to pursue an Emergency Use Authorization (EUA) with the FDA under this new policy.
- Expand its policy on commercial manufacturers developing tests for coronavirus and labs using new commercially developed tests prior to the FDA granting an EUA, under certain circumstances. During this public health emergency, the FDA says it will does not intend

to object to the distribution and use of these tests for specimen testing for a reasonable period of time after the manufacturer's validation of the test and while the manufacturer is preparing its EUA request where the manufacturer provides instructions for use of the test and posts data about the test's performance characteristics on the manufacturer's website.

- Provide recommendations for test developers who may wish to develop serological tests (which measure the amount of antibodies or proteins present in the blood when the body is responding to a specific infection) for use during the coronavirus outbreak.

FDA Working With Private Sector to Facilitate Development of Treatments

The FDA [announced](#) Thursday that it has been working with the public and private sector to facilitate the development of drugs for patients who are infected with the virus. In a press release, the Agency said it has been focusing particularly on the drug chloroquine (already approved for treating malaria, lupus and rheumatoid arthritis), to determine whether it can be used to treat patients with mild-to-moderate COVID-19 symptoms as well as viral shedding. Studies are currently underway to determine its efficacy.

CMS Expands Medicare Telehealth Coverage

CMS announced Tuesday that it is expanding telehealth coverage under Medicare in an effort to provide beneficiaries with a wider range of services from their doctors without having to travel to a health care facility and possibly exposing themselves to the virus. Beginning on March 6, 2020, Medicare will temporarily pay clinicians to provide telehealth services for beneficiaries residing across the entire country. Click [here](#) for the full fact sheet.

CISA Releases Guidance on Essential Critical Infrastructure Workers During COVID-19

On Thursday, March 19, the Cybersecurity and Infrastructure Security Agency (CISA) issued [guidance](#) in an effort to help state and local jurisdictions and the private sector identify and manage their essential workforce while responding to the outbreak. "If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as healthcare services and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule," the guidance reads. According to CISA, the list of Essential Critical Infrastructure Workers was developed in coordination with Federal agencies and the private sector as "a guide to help decision-makers within communities understand how to ensure continuity of essential functions and critical workforce as they consider COVID-related restrictions in certain communities." CISA adds that the list also helps to "inform critical infrastructure community decision-making to determine the sectors, sub sectors, segments, or critical functions that should continue normal operations, appropriately modified to account for Centers for Disease Control (CDC) workforce and customer protection guidance."

Treasury and IRS Issue Guidance on Deferring Tax Payments Due to COVID-19 Outbreak

The Department of the Treasury issued [guidance](#) earlier this week to allow all individual and other non-corporate tax filers to defer up to \$1 million of federal income tax payments until July 15, 2020, without penalties or interest. “Americans should file their tax returns by April 15 because many will receive a refund,” Treasury Secretary Steve Mnuchin said, but added that the deferment will ensure “hardworking Americans and businesses have additional liquidity for the next several months.”

OTHER MAJOR ADMINISTRATION ANNOUNCEMENTS

Department of Health and Human Services

- [Secretary Azar hosts call with counterparts of G7 countries on COVID-19 response](#)
- [Secretary Azar Statement on President Trump’s Invoking the Defense Production Act](#)
- [HHS Announces New Public-Private Partnership to Develop U.S.-Based, High-Speed Emergency Drug Packaging Solutions](#)
- [HHS Supports Mesa Biotech to Develop a Rapid Diagnostic to Detect Novel Coronavirus Infections](#)
- [HHS Takes New Action to Cut Red Tape to Support COVID-19 Response](#)
- [Secretary Azar Announces Historic Expansion of Telehealth Access to Combat COVID-19](#)
- [OCR Announces Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#)
- [Secretary Azar Statement on Launch of Phase 1 COVID-19 Vaccine Trial](#)

Centers for Medicare & Medicaid Services

- [CMS Releases Recommendations on Adult Elective Surgeries, Non-Essential Medical, Surgical, and Dental Procedures During COVID-19 Response](#)
- [COVID-19 Response News Alert: CMS FAQs for State Medicaid and CHIP Agencies](#)
- [CMS Issues Frequently Asked Questions on Catastrophic Health Coverage and the Coronavirus](#)
- [CMS Sends Guidance to Programs of All-Inclusive Care for the Elderly \(PACE\) Organizations](#)
- [CMS Approves First State Request for 1135 Medicaid Waiver in Florida](#)
- [President Trump Expands Telehealth Benefits for Medicare Beneficiaries During COVID-19 Outbreak](#)

Food and Drug Administration

- [FDA Continues to Facilitate Development of Treatments](#)
- [FDA Coronavirus \(COVID-19\) Update: Blood Donations](#)
- [FDA Approves New Treatment for Pediatric Patients with Any Strain of Hepatitis C](#)
- [FDA Focuses on Safety of Regulated Products While Scaling Back Domestic Inspections](#)
- [FDA Issues Guidance for Conducting Clinical Trials](#)
- [FDA Issues Temporary Policy for FSMA Onsite Audit Requirements](#)

- [FDA Requires New Health Warnings For Cigarette Packages And Advertisements](#)
- [FDA Issues Diagnostic Emergency Use Authorization to Hologic and LabCorp](#)
- [FDA Provides More Regulatory Relief During Outbreak, Continues to Help Expedite Availability of Diagnostics](#)

Centers for Disease Control and Prevention

- [Severe Outcomes Among Patients with Coronavirus Disease 2019 \(COVID-19\) — United States, February 12–March 16, 2020](#)
- [Interim Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons for Coronavirus Disease 2019 \(COVID-19\)](#)
- [Global Case Numbers Are Reported By The World Health Organization \(WHO\)](#)
- [Discontinuation of Home Isolation for Persons with COVID-19 \(Interim Guidance\)](#)

Department of Transportation

- [Making Public Transit Safer During COVID-19 Outbreak](#)
- [How DOT is Helping Truckers Expedite Delivery of Groceries and Medical Supplies](#)

Department of the Treasury

- [Treasury and IRS Issue Guidance on Deferring Tax Payments Due to COVID-19 Outbreak](#)

Department of Labor

- [Department of Labor Announces Availability of Up to \\$100 Million In National Health Emergency Dislocated Worker Grants in Response to COVID-19 Outbreak](#)
- [Department of Labor Takes Actions to Facilitate Response Efforts For COVID-19 Outbreak](#)

QUICK LINKS

- [CDC Map of Coronavirus Cases in the US](#)
- [CMS COVID-19 Stakeholder Call Recording/Transcripts](#)
- [Congressional Research Service \(CRS\) Coronavirus Resource Page](#)
- [National Institute for Health Care Management \(NIHCM\) COVID-19 Webinar Miniseries](#)
- National Journal Analyses:
 - [Coronavirus and the Impact on the Legislative Agenda](#)
 - [Coronavirus and the Impact on the Transportation Sector](#)
 - [Coronavirus and the Impact on the Tech Sector](#)
- White House Remarks:
 - [Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing – March 16, 2020](#)
 - [Remarks by President Trump in Meeting with Tourism Industry Executives on COVID-19 Response – March 17, 2020](#)
 - [Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing – March 18, 2020](#)

- [Remarks by President Trump and Vice President Pence in a Briefing with Nurses on COVID-19 Response – March 18, 2020](#)
- [Remarks by President Trump and Vice President Pence in a Video Teleconference with Governors on COVID-19 - March 19 2020](#)
- [Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing – March 19, 2020](#)
- Correspondence:
 - [Health Care Provider Groups Calling on Congress for Additional Coronavirus Supplemental Funding](#)
 - [Hospital Groups Urging Congress to Suspend Medicare Payment Cuts for Remainder of the Outbreak](#)
 - [America’s Health Insurance Plans and the Blue Cross Blue Shield Association Send Legislative Recommendations to Congress RE: COVID-19](#)
 - [State Governors Call on Congress to Increase the Federal Medical Assistance Percentage \(FMAP\)](#)
 - [Business Roundtable Letter to the President on Essential Services Guidelines](#)
 - [Business Roundtable Letters to President and Congressional Leaders Outlining Actions to Provide Economic Security and Recovery](#)
 - [Chamber of Commerce Letter to US Government Leaders on Coronavirus Response](#)

IN THE NEWS

[Seven Dangerous Myths About COVID-19](#)

Forbes

[A Promising Treatment for Coronavirus Fails](#)

The New York Times

[Japanese Flu Drug ‘Effective’ Against Coronavirus In Clinical Trials, Chinese Officials Say](#)

Forbes

[Coronavirus Can Persist in Air for Hours and on Surfaces for Days – Study](#)

Reuters

[As Pandemic Spreads Swiftly, China Reports Zero New Infections](#)

New York Times

[As China’s Virus Cases Reach Zero, Experts Warn of Second Wave](#)

Bloomberg News

[Younger Adults Make Up Big Portion of Coronavirus Hospitalizations in U.S.](#)

New York Times