

COVID-19: A Weekly Update from Washington March 9-13, 2020

As the number of coronavirus cases in the United States continues to grow, 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 health news coming out of Washington in this document.

World Health Organization Officially Declares Coronavirus a Pandemic

On Wednesday, March 11, the World Health Organization (WHO) officially [declared](#) the coronavirus a pandemic. During the press briefing, WHO Director-General Tedros Adhanom Ghebreyesus said the organization was “deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction,” but added that it’s not too late for countries to change the course of this pandemic by working to “detect, test, treat, isolate, trace and mobilize their people in the response.”

President Trump Issues Federal Emergency Declaration

President Trump issued a federal [emergency declaration](#) on Friday, March 13, freeing up \$50 billion in additional funding to help combat the virus. During his speech, the President also said the declaration will give the Department of Health and Human Services (HHS) the authority to waive certain regulations and laws in an effort to deliver care and increase the amount of testing available nationwide. Click [here](#) for a full transcript of the President’s remarks. Click [here](#) for a fact sheet on the declaration.

President Trump Addresses the Nation in Primetime Speech

President Trump spoke to the nation in a primetime [address](#) on Wednesday, March 11. During his speech, the President announced that his Administration would be implementing a new 30-day ban on travel to the US by Europeans beginning at 12am on Friday, March 13. He also said he would be asking Congress to provide an additional \$50 billion in funding for a Small Business Administration (SBA) program to administer low-interest loans in affected states and territories and also would be asking Congress to provide Americans with “immediate payroll tax relief.”

House Sends Second Emergency Coronavirus Bill to Senate

Earlier this month, lawmakers approved a coronavirus supplemental funding bill ([H.R. 6074](#)), which included \$8.3 billion to combat the virus (with \$6.5 billion going to the Health and Human

Services Department and \$1.25 billion going to the State Department and U.S. Agency for International Development). The bill also waives Medicare telehealth restrictions and would permit telehealth services to be covered regardless of the beneficiary location during the coronavirus emergency. Click [here](#) for a full section by section summary of the legislation. The President signed that legislation on Friday, March 6.

About one week later, on Friday, March 13, the House voted 363-40 on a second emergency coronavirus bill. At this point, the legislation (H.R. 6201, the Families First Coronavirus Response Act) is expected to have the support needed to pass in the Senate and sources have said the President intends to sign the legislation. Click [here](#) for the text of the House-passed bill and click [here](#) for a summary.

Looking ahead, it appears that leaders in both chambers will be working on additional legislation to address the crisis. Speaking to reporters over the weekend, Senate Majority Leader Mitch McConnell (R-KY) said he intends to work with the Committees with jurisdiction to pass legislation that:

- Further steps to directly help Americans overcome financial challenges in the weeks and months ahead;
- Further significant steps to secure our nation's economy, particularly Main Street small businesses; and
- Further steps to ready our healthcare system and support medical professionals.

"The Senate is eager to work with the Administration and the House to deliver the solutions our nation deserves," he added. House Speaker Nancy Pelosi (D-CA) has also said she intends to pass additional legislation.

Coronavirus Hearing Coverage

Several committees on both sides of the Capital have conducted hearings to examine the coronavirus from a number of different angles. During a recent House Oversight and Reform Committee [hearing](#), Dr. Anthony Fauci, NIH's Director of the National Institute of Allergy and Infectious Diseases warned that the US "will see more cases and things will get worse than they are right now." When [asked](#) the following day about the shortage of test kits in the US, Dr. Fauci acknowledged that the "system is not really geared to what we need right now," adding: "that is a failing. It is a failing. Let's admit it." In addition to looking at how the outbreak is affecting the health care system, the House Education and Labor Subcommittee on Workforce Protections held a hearing last week to examine the best ways to implement sick paid leave that both protect vulnerable workers while also considering the limitations of small businesses. Click [here](#) for a full summary.

White House Hosts Meeting With Health Insurers to Discuss Response to the Coronavirus Outbreak

President Trump and Vice President Pence met with a group of health insurers on Tuesday, March 10 to discuss what companies are doing to respond to the outbreak. During the meeting, the executives [told](#) the Administration they would not charge patients copays when getting tested for coronavirus.

CDC Issues Guidance Asking Americans Cancel Gatherings of 50 or More for Next Eight Weeks

The CDC issued [guidance](#) over the weekend 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 Grants Additional Flexibility to New York State Department of Health and Issues Emergency Use Authorization Diagnostic in Attempt to Address Testing Shortage

On Thursday, March 12, the FDA [announced](#) two new actions to address the coronavirus testing shortage. First, the agency issued enforcement discretion and said it will not object to the New York State Department of Health authorizing certain laboratories in the state to start testing patients after validating their tests and notifying the New York State Department of Health. Under NYSDOH's approach, laboratories will provide validation data to NYSDOH within 15 days in lieu of pursuing an Emergency Use Authorization with FDA. Second, the FDA authorized the Roche cobas SARS-CoV-2 Test, the third Emergency Use Authorization (EUA) granted for a diagnostic test during the COVID-19 outbreak.

CMS Announces Payment Amounts for COVID-19 Lab Tests

On Thursday, March 12, CMS announced the payment amounts for COVID-19 lab tests. As with other laboratory tests, the Agency says there is generally no beneficiary cost sharing under Original Medicare. Medicare will pay between \$35.91 and \$35.92 for the tests developed by the Centers for Disease Control and Prevention (CDC) and between \$51.31 and \$51.33 for non-CDC developed tests. The payment amounts for each test by Medicare Administrative Contractor jurisdiction can be found [here](#).

CMS Issues FAQ Regarding Essential Health Benefits and the Coronavirus

On Friday, March 13, CMS issued Frequently Asked Questions (FAQ) [document](#) on Essential Health Benefit Coverage and the coronavirus.

CMS Issues Guidance for Infection Control and Prevention in Dialysis Facilities

CMS released a guidance document regarding infection control and prevention of coronavirus disease in dialysis facilities. To view CMS's guidance, click [here](#).

CMS Issues FAQ Intended to Help Medicare Providers During Coronavirus Outbreak

CMS issued frequently asked questions and answers (FAQs) [document](#) for healthcare providers regarding Medicare payment for laboratory tests and other services related to COVID-19. The Agency says it created the document in an effort to be transparent and share answers to some of the most common questions. The FAQ document includes the following:

- Guidance on how to bill and receive payment for testing patients at risk of COVID-19;
- Details of Medicare's payment policies for laboratory and diagnostic services, drugs and vaccines under Medicare Part B, ambulance services, and other medical services delivered by physicians, hospitals, and facilities accepting government resources; and
- Information on billing for telehealth or in-home provider services. Since 2019, the Trump Administration has expanded flexibilities for CMS to pay providers for virtual check-ins and other digital communications with patients, which will make it easier for sick patients to stay home and lower the risk of spreading the infection.

CMS Issues Guidance Documents for Providers During Coronavirus Outbreak

CMS released several guidance documents intended to support health care workers in hospices in the midst of the outbreak. To view, CMS's guidance for Hospice providers, click [here](#). To view, CMS's guidance for Nursing Homes, click [here](#).

CMS Issues Guidance Intended to Help Medicare Advantage and Part D Plans Respond to the Coronavirus Outbreak

The Centers for Medicare & Medicaid Services (CMS) published a [memorandum](#) to Medicare Advantage (MA) and Part D health and prescription drug plans informing them of the flexibilities they have to provide healthcare coverage to Medicare beneficiaries for COVID-19 testing, treatments, and prevention. The announcement came after President Trump and Vice President Pence met with several insurers and industry association representatives, who told the Administration they would not charge patients copays when getting tested for coronavirus.

CMS Taking Additional Action to Limit Spread of Coronavirus

On Wednesday, March 4, CMS [announced](#) a series of new actions intended to limit the spread of coronavirus, including:

- Issuing a call to action to health care providers across the country to ensure they are implementing their infection control procedures.
- Directing State Survey Agencies and Accrediting Organizations to focus their facility inspections exclusively on issues related to infection control and other serious health and safety threats (beginning with nursing homes and hospitals).
- Issuing three memoranda to State Survey Agencies, State Survey Agency directors and Accrediting Organizations to inspect thousands of Medicare-participating health care providers nationwide (including nursing homes and hospitals).