



Weekly Health Care Checkup: *COVID-19 and Beyond* July 13-17, 2020

IN BRIEF

What Happened This Week: While neither chamber was officially in session this week, a number of House committees did meet to conduct hearings, briefings, and markups – the majority of them were done remotely.

On Monday, the House Appropriations Committee voted 30-22 to [advance](#) its Labor-HHS-Education bill for Fiscal Year (FY) 2021. The bill would provide \$96.4 billion for HHS (\$1.5 billion more than the FY 2020 enacted level and \$11.1 billion above the President’s budget request).

On Wednesday, members of the House Energy and Commerce Committee approved a number of health-related [measures](#) during a virtual markup. A full summary can be found [here](#), though broadly speaking, the legislation focused on issues related to mental health treatment coverage, suicide prevention, and strengthening the Strategic National Stockpile.

A handful of committees also conducted COVID-19 hearings remotely this week. On Tuesday, the [House Homeland Security Committee](#) looked at federal and state efforts to procure pandemic supplies. That same day, the [House Oversight Subcommittee on Economic and Consumer Policy](#) held a virtual briefing on COVID-19 vaccines. The [House Financial Services Committee](#) held two hearings this week – the [first](#) looking at a number of bills tied to protections for workers during the pandemic; the [second](#) on oversight of mortgage servicers’ implementation of the CARES Act. The [House Small Business Committee](#) also held two hearings this week looking at [recovery for small businesses](#) and the [role of workforce development and small business rehiring](#).

Meanwhile, over at the White House, CMS [announced](#) plans distribute rapid point of care testing at nursing homes in COVID-19 “hot spots” beginning next week...CDC Director Redfield [clarified](#) HHS’ recent decision to transition data reporting from the CDC’s NHSN to a new HHS Protect System...and CMS Administrator Verma [suggested](#) that the rapid adoption of telemedicine during the pandemic has shown that telehealth is “here to stay.”

And lastly, in case you missed it, [Mehlman Castagnetti’s latest analysis on politics and policy](#) went live this week. In this latest quarterly report, our partner Bruce Mehlman explains how COVID-19, the protests in the wake of George Floyd killing, and other catalysts and crisis of 2020 are accelerating broader changes in technology, globalization, culture, and politics, bringing the future faster.

What to Expect Next Week: When lawmakers return next week, expect appropriations work in the House to continue and expect negotiations on the next COVID response bill to pick up in the Senate after Republicans [release](#) their fourth COVID response proposal.

DEEP DIVE

Senate GOP Leadership Reportedly Aiming to Release Fourth COVID Response Proposal Next Week: During a radio interview on Monday, Senate Majority Leader Mitch McConnell (R-KY) [said](#) he expects Republicans' fourth COVID-19 response bill to be released next week when lawmakers return from the July 4 recess. The details of what will ultimately be included in the GOP proposal are unclear at this point; however, McConnell reiterated in the interview that liability protections for businesses, etc. would be part of the legislation and added that the rest of the bill would focus largely around "kids and jobs and health care." We expect this GOP-driven approach to be relatively skinny – at least before any votes take place – and the inevitable bipartisan negotiations to occur later in July and likely into early August.

At least one of the sticking points right now is the bill's price tag (Senate Republicans and the White House are reportedly eyeing a bill in the range of \$1 trillion, while House Democrats' proposed fourth COVID bill – [HEROES Act](#) – was upwards of \$3 trillion). Nevertheless, Leader McConnell expressed optimism that leaders will be able to strike a deal before the August recess. "I do think we'll get there and do something that needs to be done," he said. Meanwhile, over in the House, Speaker Nancy Pelosi (D-CA) [said](#) she would "absolutely" be open to postponing or canceling the August recess if needed to continue negotiating and/or pass the legislation.

Senate Democrats Issue White Paper Laying Out COVID-19 Vaccine Proposals: A group of Senate Democrats – led by Democratic Leader Senator Chuck Schumer (D-NY) and Senate HELP Committee Ranking Member Patty Murray (D-WA) – released a [white paper](#) earlier this week laying out a number of proposals on COVID-19 vaccines. Within the document, the lawmakers propose the following eight areas for action:

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

In a [statement](#), Schumer urged Republicans to join Democrats in their effort and include the funding and policies laid out in their proposal in the next coronavirus response bill. In [response](#), however, HELP Committee Chairman Lamar Alexander (R-TN) said the US is "developing safe and effective vaccines for a new virus faster than at any other time in our history." He added: "Democrats and Republicans should be working together to help further accelerate the development, manufacturing, and distribution of new tests, treatments and vaccines, and I look forward to discussing these and other proposals with my colleagues."

HHS Announces Data Transition Plans: On Friday, July 10, HHS released [information and FAQs](#) related to the updated hospital reporting protocols. Within the document, the Department announced the transition of data reporting from the CDC's NHSN to a new HHS Protect System in an effort to allow for better data automation, more transparency, reduced burdens on hospitals, and greater data access for health care experts and government officials. Shortly after, a number

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258

of infectious disease experts expressed [concern](#) that the Administration's decision to transition was made in an effort to "snub" the CDC and could possibly thwart public access to data. In response, CDC Director Robert Redfield [said](#): "no one is taking access or data away from CDC." He added: "[a]ll of you have heard me say repeatedly—including before Congress—we need to dramatically improve public health data and case reporting in America. Everyone at CDC and every member of our team at HHS knows that data is the fuel of any effective public health response. The need to modernize these systems was one of the key goals I identified as soon as I arrived at CDC. HHS Protect was a way to provide real-time data during this crisis. In the long term, we will be working with all of our partners across HHS, as well as states and hospitals, to determine how we can build a system that provides this capability for the long term."

HHS Will Distribute Additional Provider Relief Payments: In a [press release](#) late last week, HHS announced it will soon distribute an additional \$4 billion in relief funding to health care providers nationwide – \$1 billion will go specifically to specialty rural hospitals, urban hospitals with certain rural Medicare designations, and hospitals in small metropolitan areas (click [here](#) for a state by state breakdown). The remaining \$3 billion will go to hospitals serving a large percentage of vulnerable populations (click [here](#) for a state by state breakdown). The CARES Act and subsequent Paycheck Protection Program and Health Care Enhancement Act allocated \$175 billion in relief funds to hospitals and other healthcare providers. Click [here](#) to view a timeline of HHS' distribution of these funds to date.

CMS Administrator Verma Says Telemedicine is "Here to Stay": CMS Administrator Verma published an [article](#) in *Health Affairs* blog this week titled: "Early Impact Of CMS Expansion Of Medicare Telehealth During COVID-19." Within the post, Verma acknowledged that the "rapid adoption of telemedicine among providers and patients has shown that telehealth is here to stay." She added that CMS "remains committed to ensuring that the government supports innovation in telehealth that leverages modern technology to enhance patient experience, providing more accessible care."

HHS Promotes New "Point of Care" Testing in Nursing Homes: HHS recently [announced](#) plans distribute rapid "point of care" testing at nursing homes in COVID-19 "hot spots" across the country. Beginning next week, the Department says it will distribute the tests to nursing homes prioritized by Centers for Medicare & Medicaid Services. Each nursing home will receive one diagnostic test instrument and associated tests. Following this initial distribution, nursing homes may then procure additional tests directly from the respective manufacturers. CMS says nursing homes must have the capability to screen and test residents, and test staff on a weekly basis or according to specific guidance by the state and local health departments. In a statement, CMS Administrator Seema Verma called the Department's latest effort "critical for keeping vulnerable older adults safe while delivering the quality of life they deserve." In separate, but related news, CMS recently updated its [toolkit](#) their toolkit on state actions to mitigate COVID-19 prevalence in nursing homes.

HHS Secretary and Surgeon General Highlight Administration's Efforts to Address Health Care Disparities: HHS Secretary Azar and Surgeon General Adams wrote about the work that the Department is doing to address health care disparities in an op-ed published in the *Dallas Morning News* this week, titled: [How the Trump Administration is Fighting COVID-19 in Communities of Color](#).

The issue of health care disparities is sure to be a continued area of focus for lawmakers in the future, as committees in both the House and Senate conduct hearings on the issue and legislation in both chambers is proposed. Earlier this week, Senate Democrats [unveiled](#) the Economic Justice Act, which proposes to make \$350 billion in immediate and long-term investments in communities of color (click [here](#) for the full summary).

In separate, but related news, Mehlman Castagnetti recently hosted a briefing on health care and racial disparities featuring Dr. David Williams, a Professor of Public Health and Chair of the Department of Social and Behavioral Sciences

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258

at the Harvard T.H. Chan School of Public Health. Dr. Williams' research and teaching focuses on race and health, and he is a widely respected and highly-in-demand speaker on health disparities. Click [here](#) to view the briefing (PW: 3Z*ozRg4).

CMS Posts FAQ Document on Medicare Fee-for-Service Billing: CMS recently released an updated [COVID-19 FAQ Document](#) on Medicare fee-for-service billing. In the document, the Agency notes that the general statements of the FAQs have been superseded by COVID-19-specific legislation, emergency rules, and waivers granted under section 1135 of the Act specifically to address the COVID-19 public health emergency (PHE). The policies set out in this FAQ are effective for the duration of the PHE unless superseded by future legislation.

FDA Updates FAQs on Testing for COVID-19: The FDA updated its [FAQ Document](#) on COVID-19 testing to include a list of laboratories that were removed from the FDA's notification list after it was determined there were significant problems with their tests that could not be, or have not been, addressed in a timely manner and should no longer be used.

ICYMI: CMS Administrator on Latest Episode of "Learning Curve" Podcast: CMS Administrator Seema Verma spoke with HHS Assistant Secretary Michael Caputo on the latest episode of the "Learning Curve" podcast to discuss the Agency's ongoing efforts to address nursing homes, telehealth expansion, and the importance of getting back to health care during the pandemic. Click [here](#) to listen.

Noteworthy CDC Guidance on Mitigation: In an article recently published by the Journal of the American Medical Association (JAMA), CDC Director Robert Redfield cited increasing evidence that [cloth face coverings](#) help prevent people who have COVID-19 from spreading the virus to others. CDC also updated information on [social distancing](#) in indoor and outdoor spaces, and released additional guidance and tools for [colleges and universities](#) to use when making decisions about students, instructors, and communities.

Are You Using Hand Sanitizer Correctly?: Through this new [quiz](#), the FDA provides questions and answers to some of the most frequently asked questions related to hand sanitizer.

OTHER NOTEWORTHY HEALTH-RELATED ANNOUNCEMENTS COMING OUT OF WASHINGTON

House Energy and Commerce Committee Votes on Several Health-Related Bills During Markup: The House Energy and Commerce Committee approved a number of health-related measures during a virtual [open markup session](#) on Wednesday, July 15. A full summary of the markup can be found [here](#), although broadly speaking, the legislation aims to address issues related to mental health treatment coverage, telehealth expansion, suicide prevention, and strengthening the Strategic National Stockpile. Some of the highlights included:

- [H.R. 7539](#), the Strengthening Behavioral Health Parity Act, would require insurance plans to make available certain analyses of how plans are applying non-quantitative treatment limits (NQTLs) to mental health and substance use disorder benefits, in comparison to medical and surgical benefits; Sponsor: Reps. Kennedy (D-MA) and Bilirakis (R-FL).
- [H.R. 5201](#), the Telemental Health Expansion Act, would permanently include the patient's home as an eligible originating site for mental health services delivered via telehealth and remove Medicare's geographic restrictions for such services; Sponsor: Rep. Rep. Matsui (D-CA).
- [H.R. 5619](#), the Suicide Prevention Act, would establish two grant programs to prevent self-harm and suicide; Sponsors: Reps. Stewart (R-UT) and Matsui (D-CA).
- [H.R. 7574](#), the Strengthening America's Strategic National Stockpile Act, would authorize the sale of products to other Federal departments or agencies from the SNS within six months of product expiration and direct the

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258

Comptroller General to conduct a study of the public sector procurement process for single source materials from the SNS and examine the feasibility and benefits of a user fee agreement. The bill also seeks to improve the ability of the SNS to maintain and procure medical supplies.

All legislation now heads to the full House for consideration, though it is unlikely – given the number of items on the “to do” list this fall – that any of these measures will be brought to the House floor for a vote *individually* before the November elections. A more likely scenario is that some of these proposals *could* be attached to a larger package that Congress takes up in the near future.

House Ways and Means Committee Democrats Release Report on Barriers to Health Equity for Rural and Underserved Communities: On Tuesday, July 14, House Ways and Means Committee Democrats released a [report](#) looking at barriers to health care in underserved communities, the challenges associated with overcoming these barriers, and analyzes the ways in which the barriers themselves are biproducts of systemic racism and economic inequality. In a statement, full Committee Chairman Richard Neal (D-MA) called the report an “important first step in taking meaningful action toward achieving health and economic equity across our country.” He added that the Committee will use the findings in the report to develop policies that “make optimal health a reality for all Americans and eliminate inequities based on race and geography.”

Members of the House Ways and Means Committee’s Rural and Underserved Communities Health Task Force Release Summary of Responses From Last Year’s RFI: Earlier this week, members of the House Ways and Means Committee’s Rural and Underserved Communities Health Task Force released a [summary](#) of responses to their [November 2019 Request for Information \(RFI\)](#). Through those responses, Task Force members said they identified four policy areas of focus moving forward: 1) Addressing direct social determinants of health; 2) Enacting payment system reforms; 3) Strengthening technology and infrastructure; and 4) Reinforcing our workforce. In a joint statement, full Committee Chairman Richard Neal (D-MA) and full Committee Ranking Member Kevin Brady (R-TX) said the COVID-19 pandemic “has exacerbated already dire conditions for millions living in rural and underserved areas who lack access to the care they need.” They added: “[w]e must work together on a bipartisan basis to address these inequities in our society, and I applaud the Task Force’s Co-Chairs for their work in bringing us one step closer to delivering the health care Americans in rural and underserved areas deserve.” The Committee created the Task Force last summer in an effort to better understand the health and social inequities facing those who live in rural and underserved areas and work toward policies that would eliminate these inequities and strengthen the American health care system for them.

House Appropriations Committee Advances FY 2021 Labor-HHS-Education Bill: The House Appropriations Committee voted 30-22 to [advance](#) its Labor-HHS-Education bill for Fiscal Year (FY) 2021 on Monday, July 13. The bill would provide \$96.4 billion for HHS (\$1.5 billion more than the FY 2020 enacted level and \$11.1 billion above the President’s budget request). Included in that amount is \$24.425 billion in emergency spending to “support state and local public health departments, public health laboratories, and global health activities.”

The full Committee also adopted an amendment during the markup – offered by Rep. Mark Pocan (D-WI) – that would direct the HHS Secretary to create guidelines for employer-sponsored health plans to submit annual public compliance reports related to coverage of mental and behavioral health services (in separate, but related news, mental health parity was a topic of discussion during a recent House Energy and Commerce Health Subcommittee [hearing](#) to examine several mental health [bills](#)).

A full summary of the Committee-approved Labor-HHS-Education bill can be found [here](#). The text of the bill, prior to adoption of amendments in full committee, can be found [here](#). The bill report can be found [here](#). Looking ahead, it is

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258

unclear when both chambers will be able to move to conference on this bill or any other funding legislation as the Senate has yet to advance any of the 12 spending bills for FY 2021.

President Trump Highlights Administration's Deregulatory Actions: In a speech at the White House this week, President Trump touted his Administration's [deregulatory actions](#). "Before I came into office, American workers were smothered by a merciless avalanche of wasteful and expensive and intrusive federal regulation," Trump [said](#), adding that his Administration "ended this regulatory assault on the American worker, and launched the most dramatic regulatory relief campaign in American history by far."

HHS OIG Releases Report on CMS' Use of Communications Consultants: On Tuesday, July 15, the HHS Office of the Inspector General (OIG) released a [report](#) which found that CMS – under the leadership Administrator Seema Verma – did not administer and manage contracts for strategic communications services in accordance with Federal requirements. Shortly after the report was released, a bicameral group of House Democrats – including House Energy and Commerce Chairman Frank Pallone (D-NJ), House Oversight and Reform Chairwoman Carolyn Maloney (D-NY), Senate HELP Committee Ranking Member Patty Murray (D-WA), and Senate Finance Ranking Member Ron Wyden (D-OR) – issued a [statement](#) saying the Administrator's "blatant refusal to acknowledge the IG's findings, or take steps to fix the problem, raises concerns about her ability to continue to run the agency during the current health crisis." Another group of Democratic lawmakers – led by Rep. Joe Kennedy (D-MA) – is [calling](#) for Verma to be fired "immediately." Verma has not publicly commented on the OIG's report except to say that the findings were "disingenuous."

UPCOMING COVID / HEALTH-RELATED CONGRESSIONAL HEARINGS

Monday, July 20

1:30pm

House Oversight and Reform Subcommittee on Government Operations Hearing
[Federal IT Modernization: How the Coronavirus Exposed Outdated Systems](#)

Tuesday, July 21

9:00am

House Select Subcommittee on the Coronavirus Crisis Hearing
[The Urgent Need for a National Plan to Contain the Coronavirus](#)

9:30am

Senate Aging Committee Hearing
[COVID-19 and Seniors: A Look at Racial Health Disparities](#)

10:00am

House Energy and Commerce Oversight and Investigations Subcommittee Hearing
[Pathway to a Vaccine: Efforts to Develop a Safe, Effective and Accessible COVID-19 Vaccine](#)

10:00am

House Veterans' Affairs Subcommittee on Economic Opportunity Hearing
[Getting Veterans Back to Work After COVID-19](#)

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258

2:30pm

Senate Commerce Subcommittee on Manufacturing, Trade, and Consumer Protection Hearing
[Protecting Americans from COVID-19 Scams](#)

Thursday, July 23

10:00am

Senate Energy and Natural Resources Full Committee Hearing
[Examining the Impacts of the COVID-19 Pandemic on Users of Public Lands, Forests, and National Parks](#)

10:15am

House Education and Labor Subcommittee on Early Childhood, Elementary, and Secondary Education Hearing
[Underfunded & Unprepared: Examining How to Overcome Obstacles to Safely Reopen Public Schools](#)

2:00pm

House Ways and Means Subcommittee on Trade Hearing
[Trade, Manufacturing, and Critical Supply Chains: Lessons from COVID-19](#)

ADMINISTRATION ANNOUNCEMENTS

Department of Health and Human Services

- [Prepared Remarks from Media Call with CDC Director Redfield and CIO Arrieta on COVID-19 Data Collection](#)
- [Trump Administration Announces Initiative for More and Faster COVID-19 Testing in Nursing Homes](#)

Centers for Medicare & Medicaid Services

- [CMS Directs Additional Resources to Nursing Homes in COVID-19 Hotspot Areas](#)

National Institutes of Health

- [Experimental COVID-19 Vaccine Safe, Generates Immune Response](#)

Food and Drug Administration

- [FDA Launches New Era of Smarter Food Safety Initiative, Releases Blueprint and Pilot Study](#)
- [FDA Prepares for Resumption of Domestic Inspections With New Risk Assessment System](#)
- [Click here for the full list of all new FDA updates.](#)

Noteworthy Guidance from the Centers for Disease Control and Prevention

- [CDC Calls on Americans to Wear Masks to Prevent COVID-19 Spread](#)
- [Click here for the full list of all new CDC updates.](#)

QUICK LINKS

- [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](#)

MEHLMAN CASTAGNETTI
— ROSEN & THOMAS —

1341 G Street NW
Washington, DC 20005
www.mehlmancastagnetti.com
202-585-0258