



Weekly Health Care Checkup: *COVID-19 and Beyond* July 27-31, 2020

IN BRIEF

What Happened This Week: On Monday, lawmakers paid their respects to civil rights icon and Georgia Representative [John Lewis](#) as he lay in state in the Capitol. Shortly after his passing, House Speaker Nancy Pelosi (D-CA) called Lewis the “conscience of the Congress” who was “revered and beloved on both sides of the aisle, on both sides of the Capitol.”

Later that evening, Senate GOP leaders unveiled the [details](#) of their long-awaited fourth COVID-19 response proposal, though the measure faces an uphill battle as both parties and the White House are still [far apart](#) on some of the major details in the bill.

On the Congressional hearings front, the House Judiciary Committee dominated the news this week with Tuesday’s Department of Justice oversight [hearing](#) (Attorney General Andy Barr testified) and Wednesday’s “big tech” [hearing](#) with the CEOs of Apple, Amazon, Facebook, and Google. Aside from that, however, several COVID-related hearings also took place in both chambers this week. On Wednesday, the Senate Veterans’ Affairs Committee held a [hearing](#) looking at VA use of telehealth during the pandemic. The Senate Finance Committee held a two-part hearing on [Tuesday](#) and [Thursday](#) looking at the US’ medical supply chain, and earlier today (Friday), the House Select Subcommittee on the Coronavirus Crisis conducted a [briefing](#) on the need for a national plan to contain the pandemic. And in other non-COVID, but still health-related news, the House Energy and Commerce Subcommittee on Health held a legislative [hearing](#) this week to examine a number of public health program reauthorization bills.

Just moments ago, the House passed another appropriations package ([H.R. 7617](#)) which includes Defense, Commerce-Justice-Science, Energy and Water, Financial Services, Homeland Security, Labor-HHS-Education, and Transportation-HUD funding for FY 2021; however it is unclear when both chambers will be able to move to conference on this package – or another four-bill package ([H.R. 7608](#)) that the chamber approved last week – as the Senate has yet to advance any of its own spending bills for FY 2021.

Over at the White House, HHS released a [report](#) urging Congress to address the issue of surprise medical bills, CMS [released](#) more data looking at the impact of the COVID-19 pandemic on Medicare beneficiaries, and more [details](#) about the President’s recent Executive Orders on prescription drugs circulated around Washington this week following his announcement at the White House last Friday.

What to Expect Next Week: Expect negotiations to continue on a path forward for the next COVID-19 response bill. It's possible that Senate Majority Leader McConnell (R-KY) will move forward with debate on a bill that would allow for a short term extension of the CARES Act's unemployment benefits (which expire today), though it is unlikely Democrats – who have said they instead want to focus on hammering out a deal on the larger package – will vote in favor of a short term extension.

Mehlman Castagnetti will host a briefing on Wednesday, August 5 at 1pm ET with COVID-19 expert, Dr. Michael Osterholm. Dr. Osterholm, a professor of public health and director of the Center for Infectious Disease Research and Policy at the University of Minnesota, is a visible media presence these days, sharing his expertise on COVID-19. His research and teaching focuses on epidemiology and infectious diseases – particularly pandemic preparedness. He has written extensively on the critical concern regarding our preparedness for an influenza pandemic, and previously served as a personal advisor to King Hussein of Jordan, specializing in preparedness against the use of biological agents on civilian populations. Please RSVP to Jake Brennan at jbrennan@mc-dc.com for Zoom meeting information. Click [here](#) for more information.

No COVID-related hearings have been announced for next week, though it's possible hearings will still be scheduled.

DEEP DIVE

Bipartisan Negotiations on Fourth COVID-19 Stimulus Bill Continue After Senate GOP Releases Long-Awaited Proposal: Senate GOP leaders unveiled the [details](#) of their long-awaited fourth COVID-19 response proposal this week, though the measure still faces an uphill battle as both parties and the White House are still [far apart](#) on some of the major details in the bill. Broadly speaking, the \$1 trillion Health, Economic Assistance, Liability, and Schools (HEALS) Act – which was released in separate pieces by Senate GOP Committee Leaders with relevant jurisdiction on Monday – includes:

- \$25 billion for the CARES Act's Provider Relief Fund; \$20 billion for vaccine / therapeutics research; and \$16 billion for testing and contact tracing.
- \$100 billion to support schools.
- Direct stimulus checks (\$1,200 for individuals / \$2,400 for couples / \$500 for dependents).
- \$190 billion for the CARES Act's Paycheck Protection Program to support small businesses.
- \$200 unemployment insurance payment / week through September (payments would then be capped at 70 percent of the employee's previous wages beginning in October).
- Liability protections for schools and business retroactive as of December 2019 (except in instances of gross negligence)

In an attempt to hammer out some of the differences between the HEALS Act and the House Democrats' [HEROES Act](#) (which passed along party lines in mid-May), Congressional leaders and White House officials met throughout the week, though both parties acknowledged that little progress has been made thus far. As it stands now, some of the major [sticking points](#) include:

- The bill's price tag (Senate Republicans' proposal is in the \$1 trillion range, while House Democrats' HEROES Act was upwards of \$3 trillion);
- Liability protections for schools and businesses (House Democrats do not favor the liability protection language in the Senate GOP's bill); and

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- Funding for state and local governments (no new funding for state and local governments was included in the GOP proposal, though House Democrats' HEROES Act calls for upwards of \$1 trillion in state and local aid).

Looking ahead, expect negotiations to continue. It's possible that Senate Majority Leader McConnell (R-KY) will move forward with debate on a bill next week that would allow for a short term extension of unemployment benefits (which expire today), though it is unclear whether Democrats – who have called the one-week extension “worthless” – will vote in favor of it. Instead, Democratic leaders say they want to continue negotiating a path forward for the larger package. In response McConnell suggested that “if that is their position, they will have to vote on for the entire country to see.”

Senate Finance Committee Holds Two-Part Hearing on Protecting US Medical Supply Chain: The Senate Finance Committee held a two-part hearing this week looking at ways to protect the US medical supply chain. During both meetings, several Republican members – including Chairman Chuck Grassley (R-IA) – emphasized the importance of increasing domestic manufacturing capabilities / relying less on China for medical supplies. Democrats, meanwhile, panned the Trump Administration's decision to leave much of the medical supply acquisition decisions to the states and called for the President to develop a national strategy to respond to the pandemic. A summary of Tuesday's hearing can be found [here](#). A summary of Thursday's hearing can be found [here](#).

Senate VA Committee Examines VA's Use of Telehealth During the Pandemic: On Wednesday, the Senate Veterans' Affairs Committee held a hearing looking at VA use of telehealth during the pandemic. During the meeting, members on both sides of the aisle touted the benefits of telehealth, but also expressed concern about the limitations that veterans in rural areas face due to lack of high-speed internet / technology. To remedy these problems, witnesses from the VA testified that the Agency used a portion of the funding it received from the CARES Act to provide devices (iPads, speakers, tablets, etc.) for Veterans and providers and expanded its help desk. The witness also explained that the Agency continues to develop relationships with service providers / cellular providers (via the already-established VA's [Center for Strategic Partnerships](#)) on efforts to expand connectivity in rural areas. A full summary of the discussion can be found [here](#).

Senate Judiciary Committee Approves Bill to Allow Americans to Sue China Over COVID-19: Members of the Senate Judiciary Committee voted 13-9 on a bill, the Civil Justice for Victims of COVID Act ([S.4212](#)), that would allow American citizens to sue China in federal court for damage done to their families and businesses by the coronavirus. In a statement shortly after the vote, Senate Judiciary Committee Chairman Lindsey Graham (R-SC) – and cosponsor of the bill – said “I promised to hold China accountable for coronavirus and I am.”

Senate HELP Committee Chair Introduces Legislation to Make Telehealth Changes Permanent; Urges Congress to Act: Senate HELP Committee Chairman Lamar Alexander (R-TN) introduced a new bill yesterday, the [Telehealth Modernization Act](#), which would:

- Permanently remove Medicare's so-called “geographic and originating site” restrictions on telehealth.
- Permanently allow Medicare beneficiaries to continue receiving telehealth services from Rural Health Clinics or Federally Qualified Health Centers.
- Provide the HHS Secretary with the authority to allow Medicare to permanently expand the types of health care providers that can offer telehealth services.
- Provide the HHS Secretary with authority to allow Medicare flexibility to reimburse for more telehealth services.
- Provide the HHS Secretary with authority to allow telehealth visit to fulfill the requirement for an in-person visit.

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In his [remarks](#) on the Senate floor yesterday, Chairman Alexander urged Congress to: 1) pass the [HEALS Act](#) (the Senate GOP's proposed fourth COVID-19 response bill that includes provisions to extend coverage of telehealth services during the pandemic through the end of next year); 2) pass the [CONNECT for Health Act](#) (a bipartisan bill that would expand the use of telehealth and remote patient monitoring services under Medicare); and 3) pass his latest bill, the [Telehealth Modernization Act](#).

Ways and Means Committee Democrats Introduce Legislation Aimed at Protecting Seniors and Individuals With Disabilities Amid the Pandemic: Earlier this week, House Ways and Means Worker and Family Support Subcommittee Chairman Danny Davis (D-IL) and Social Security Subcommittee Chairman John Larson (D-CT) [introduced](#) the Fairness for Seniors and People with Disabilities During COVID-19 Act, specifically aimed at preventing seniors, surviving spouses, children, and individuals with severe disabilities from being forced to repay extra Social Security and Supplemental Security Income benefits they may have received in error due to the COVID-19 pandemic. In a statement, Committee Chairman Richard Neal (D-MA) explained: "[d]ue to the COVID-19 pandemic, the Social Security Administration rightly prioritized paying benefits to eligible Americans, and temporarily suspended actions to reduce or cut off benefits. As a result, by no fault of their own, some of the most vulnerable members of our society unknowingly received extra benefit payments. Collecting these COVID-19 overpayments would be unjust, throwing affected seniors and people with disabilities into crisis during an ongoing recession."

CMS Releases First Monthly Update on Impact of COVID-19 on Medicare Beneficiaries: On Tuesday, CMS [released](#) more data looking at the impact of the COVID-19 pandemic on Medicare beneficiaries which revealed that while Black beneficiaries continue to be hospitalized at higher rates than other racial and ethnic groups, American Indian/Alaskan Native beneficiaries have the second highest rate of hospitalization.

HHS Issues New Report Highlighting Trends in Medicare Beneficiary Telehealth Utilization During the Pandemic: On Tuesday, HHS [released](#) a new report showing telehealth utilization trends for primary care delivery in Fee-for-Service (FFS) Medicare from January through June 2020 (the period including the first part of the COVID-19 pandemic). In its report, HHS found that in April 2020, nearly half (43.5%) of Medicare primary care visits were provided through telehealth compared with less than one percent (0.1%) in February 2019 (before the pandemic). The Department credits the expanded use on its [actions](#) broaden access to telehealth services under Medicare and its [decision](#) not to impose HIPAA penalties on covered health care providers for HIPAA violations in connection with the good faith delivery of telehealth using non-public facing technologies. "As soon as we declared COVID-19 a public health emergency, the Trump Administration took bold and rapid action to dramatically expand services that can be provided via telehealth and make it far more convenient for patients and providers," said HHS Secretary Alex Azar. "Today's ASPE report shows that Medicare providers and beneficiaries rapidly embraced these new opportunities. The meteoric rise of telehealth during the pandemic has not only helped us combat the virus, but also prompted a new conversation around the future of patient-centered care."

DOE, HHS, VA Form New Health Data Sharing Partnership: On Tuesday, the Department of Energy (DOE), Department of Health and Human Services (HHS), and Department of Veterans Affairs (VA) [announced](#) the formation of a new COVID-19 Insights Partnership intended to coordinate and share health data as well as research and expertise to aid in the fight against COVID-19. According to the Agency press release, research and analysis conducted by the Partnership will focus on vaccine and therapeutic development and outcomes, virology, and other critical scientific topics aimed at understanding more about COVID-19. HHS and VA say they will provide additional updates and information on research projects as they become available.

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CDC Releases COVID-19 Response Health Equity Strategy: Earlier this week, the CDC [released](#) a COVID-19 response health equity strategy aimed at reducing health disparities, using data-driven approaches, fostering meaningful engagement with community institutions and diverse leaders, leading culturally responsive outreach, and reducing stigma (including stigma associated with race and ethnicity).

FDA Issues FAQ Document on Antibody Testing: The FDA recently posted an [FAQ](#) for patients and consumers with regard to antibody / serology testing during the pandemic. At one point in the document, FDA explains that a positive antibody test does not necessarily mean total immunity from COVID-19, nor does it indicate whether or not that person can infect other people with the virus.

OTHER NOTEWORTHY HEALTH-RELATED ANNOUNCEMENTS COMING OUT OF WASHINGTON

Trump Administration Issues Report on Surprise Medical Billing, Urges Congress to Act: On Wednesday, HHS Secretary Alex Azar released a [report](#) urging Congress to address the issue of surprise medical bills using Administration's [principles](#) (which were initially released in May 2019) as a guide:

- Patients receiving emergency care should not be forced to shoulder extra costs billed by a care provider but not covered by their insurer;
- Patients receiving scheduled care should have information about whether providers are in or out of their network and what costs they may face;
- Patients should not receive surprise bills from out-of-network providers they did not choose; and
- Federal healthcare expenditures should not increase.

Shortly after the report was released, a bipartisan, bicameral group of health committee leaders (with jurisdiction over issues related to surprise medical bills) issued a [statement](#) saying "[i]t's time for Congress to solve this problem for the American people," though notably absent from the statement was House Ways and Means Chairman Richard Neal (D-MA). The Ways and Means Committee approved their own legislation last year to address surprise medical billing, though a deal between the Ways and Means Committee and the other health committees that have also worked on this issue has thus far failed to come to fruition after policymakers were unable to reach consensus on the method for settling billing disputes.

President Trump Signs Executive Orders Tied to Rx Drug Prices: During an [event](#) at the White House late last week, President Trump announced he would be taking "bold and historic" action to reduce the price of prescription drugs for American patients and seniors through a series of Executive Orders, including:

- [Executive Order on Access to Affordable Life-saving Medications](#): Aims to provide Americans without access to affordable insulin and injectable epinephrine through commercial insurance or Federal programs to purchase insulin and injectable epinephrine pharmaceuticals from a Federally Qualified Health Center (FQHC) at a price that aligns with the cost at which the FQHC acquired the medication.
- [Executive Order on Increasing Drug Importation to Lower Prices for American Patients](#): Would allow for the importation of certain prescription drugs from Canada.
- [Executive Order on Lowering Prices for Patients by Eliminating Kickbacks to Middlemen](#): Would permit health plan sponsors, pharmacies, and PBMs to apply discounts at the patient's point-of-sale in order to lower the patient's out-of-pocket costs.

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The President also signed a fourth [Executive Order](#) – the so-called “most favored nation rule” – that would require Medicare to only pay the lowest price paid for a drug among other foreign governments; however, the text of this order has not yet been released (a White House meeting with prescription drug executives to discuss this Order was [cancelled](#) earlier this week). Looking ahead, it is important to note that although the Orders are quite extensive, it is highly unlikely that they will be implemented in the near future.

House Approves Fiscal Year 2021 Funding for HHS: Earlier today, the House passed a second appropriations package ([H.R. 7617](#)), which includes \$96.4 billion in funding for the Department of Health and Human Services for FY 2021. The chamber approved a different package of appropriations bills ([H.R. 7608](#)) last Friday; however it is unclear when both chambers will be able to move to conference on either package as the Senate has yet to advance any of its own spending bills for FY 2021. Further complicating matters – the White House Office of Management and Budget issued a [veto threat](#) over some concerns for provisions in the second package of bills (H.R. 7617). Given the very few legislative working days between now and the September 30, 2020 deadline, a more likely scenario is that both chambers will instead move to pass a continuing resolution (CR), which would fund government agencies at current levels through at least after the November elections.

Ways and Means Committee Democrats Issue Report on Abuse of Antipsychotics in Nursing Homes: Earlier this week, House Ways and Means Committee Democratic staff released a [report](#) suggesting that many nursing home facilities are resorting to giving antipsychotic drugs to residents in lieu of proper staffing. The report also suggests that the Trump Administration has “under-utilized” the oversight tools at its disposal to address the situation. “Just as the COVID-19 pandemic has laid bare harsh realities in nursing home care, this abuse is another unfortunate example of the patient harm, inadequate oversight, and insufficient staffing plaguing residents of skilled nursing facilities (SNFs),” the report reads.

UPCOMING COVID / HEALTH-RELATED CONGRESSIONAL HEARINGS

N/A - TBA

ADMINISTRATION ANNOUNCEMENTS

Department of Health and Human Services

- [Webinar: Rethinking Employment Services and Supports in the COVID-19 Era](#)
- [HHS Issues New Report Highlighting Dramatic Trends in Medicare Beneficiary Telehealth Utilization amid COVID-19](#)
- [DOE, HHS, VA Announce COVID-19 Insights Partnership](#)
- [HHS Reserves and Rapidly Expands Manufacturing Capacity for COVID-19 Vaccines at Texas Center for Innovation in Advanced Development and Manufacturing](#)

Centers for Medicare & Medicaid Services

- [CMS Announces New Hospital Procedure Codes for Therapeutics in Response to the COVID-19 Public Health Emergency](#)
- [CMS and CDC Announce Provider Reimbursement Available for Counseling Patients to Self-Isolate at Time of COVID-19 Testing](#)
- [CMS Updates Data on COVID-19 Impacts on Medicare Beneficiaries](#)
- [CMS Administrator Seema Verma Hosts Roundtables in Cleveland](#)

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National Institutes of Health

- [Phase 3 Clinical Trial of Investigational Vaccine for COVID-19 Begins](#)

Food and Drug Administration

- [FDA Posts New Template for At-Home and Over-the-Counter Diagnostic Tests for Use in Non-Lab Settings](#)
- [FDA Reiterates Warning About Dangerous Alcohol-Based Hand Sanitizers Containing Methanol, Takes Additional Action to Address Concerning Products](#)
- [Click here for the full list of all new FDA updates.](#)

Noteworthy Guidance from the Centers for Disease Control and Prevention

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

QUICK LINKS

- [Mehlman Castagnetti Infographics: The Great Acceleration: How 2020's Crises Are Bringing the Future Faster](#)
- [Mehlman Castagnetti Infographics: After COVID-19: A Look at Politics and Policy in the Age of Pandemic](#)
- [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](#)

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