



Health Policy Briefing

April 20, 2020

Congress Remains at Impasse on COVID 3.5, 4

Democratic lawmakers remain at odds with the Administration about the next stage of economic recovery legislation. Treasury Secretary Steven Mnuchin and congressional Republicans are supportive of passing a clean bill providing an additional \$251 billion in funding for the Paycheck Protection Program (PPP), which ran out of money last week. The Small Business Administration (SBA) has stopped accepting applications and enrolling new lenders. House Speaker Nancy Pelosi (D-Calif.) and Senate Majority Leader Chuck Schumer (D-N.Y.) support pairing this funding with some adjustments to the program plus \$250 billion in aid to hospitals as well as state and local governments.

Both sides also remain in talks about a larger follow-up package, though the timing of that bill and what it will entail remains unclear. Four senior House Democrats are arguing that it should include anti-profiteering language that would block patents on COVID-19 vaccines or treatments. Reps. Jan Schakowsky (D-Ill.), Lloyd Doggett (D-Texas), Rosa DeLauro (D-Conn.), and Peter DeFazio (D-Ore.) are working with House leadership to include language in the next piece of major COVID-19 legislation that would deny any company exclusive rights to coronavirus-related medicines or vaccines, bar unreasonable pricing for such products, and require public reporting of related research funding.

Any action on an eventual deal would likely require unanimous consent. Congress is not expected to return to Washington until May 4, rather than April 20 as previously scheduled, unless it is necessary to take action on legislation related to the coronavirus response. House Rules Committee Chair Jim McGovern (D-Mass.) is recommending a temporary change to the chamber's rules that would expand the use of voting by

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proxy. Any member who was unable to travel to Washington could provide another member who has been authorized to vote on their behalf with specific instructions for individual votes.

Over the weekend, some House Republicans suggested that negotiators are close to a deal and that they could return to Washington this week even if only to encourage the process and need for additional funding for the Paycheck Protection Program. On Saturday evening, Speaker Pelosi updated House Democrats saying that “bipartisan negotiations on our interim legislation and our progress is encouraging.” Members were advised that the House could meet as early as Wednesday to consider that bill, and that a recorded vote on the interim legislation was expected. House Rules Committee is expected to meet on Tuesday and consideration by the full House is expected on Wednesday. Reportedly the at least \$470 billion package will include \$310 billion for the Payment Protection Program and set aside \$60 billion for smaller community banks. In addition, the plan is expected to include \$65 billion for disaster loans, \$75 billion for hospitals, and \$25 billion for COVID testing.

Burgess Supports Assistance for 501(c)(6)s

Rep. Michael Burgess (R-Texas) has sent a [letter](#) to House leadership requesting that 501(c)(6) organizations be eligible to receive loans from the Paycheck Protection Program (PPP). The purpose of the program, which was created by the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, is to support small businesses in keeping employees on the payroll. Rep. Burgess’s letter focuses on the need for local chambers of commerce, many of which are 501(c)(6) organizations, to be made eligible for this assistance.

Crapo Asks for Details on PPP Rollout

Senate Banking Committee Chair Mike Crapo (R-Idaho) has [asked](#) Treasury Secretary Steven Mnuchin and Federal Reserve Chairman Jerome Powell for information about outstanding issues related to the Paycheck Protection Program (PPP), including the possibility of providing flexibility so that certain small businesses that are currently ineligible may access the program. The letter asks about necessary changes to achieve the broadest possible participation in the PPP by both borrowers and lenders and about opportunities to extend loans’ maturity beyond two years. The letter also comments on the implementation of the Main Street Lending program.

DeLauro Seeks Details on Hospital Fund Disbursement

House Appropriations Labor, Health and Human Services, and Education Subcommittee Chair Rosa DeLauro (D-Conn.) has [written](#) to U.S. Department of Health and Human Services Secretary (HHS) Alex Azar requesting information about the status of the \$100 billion Public Health and Social Services Emergency Fund (PHSSEF) allocation process. She asks for details about when money will be disbursed to hotspots and about payments already disbursed in the initial tranche of \$30 billion. DeLauro also asks about the administration’s guidance for nursing homes and senior living facilities and about its strategy for increasing testing to the scale that will be necessary to sufficiently monitor the transmission of COVID-19.

Senate HSGAC Launches Probe into COVID-19

According to Senate Homeland Security and Governmental Affairs Committee Chair Ron Johnson (R-Wisc.), the committee will launch an investigation into the origin of, and government response to, the coronavirus pandemic. The panel plans to examine why the Strategic National Stockpile (SNS) was not prepared for the public health emergency, the reasons for pharmaceutical ingredients and medical devices being manufactured abroad, the role of the World Health Organization (WHO), and how coronavirus initially spread.

Members of CARES Oversight Commission Selected

Congressional leadership have chosen several fellow lawmakers to serve on the commission charged with overseeing the Trump administration's implementation of coronavirus relief efforts. House Speaker Nancy Pelosi (D-Calif.) named Rep. Donna Shalala (D-Fla.), Senate Majority Leader Mitch McConnell (R-Ky.) chose Sen. Pat Toomey (R-Penn.), House Minority Leader Kevin McCarthy (R-Calif.) named Rep. French Hill (R-Ark.), and Senate Minority Leader Chuck Schumer (D-N.Y.) picked Bharat Ramamurthi. Ramamurthi most recently served as Deputy Policy Director for Economic Policy on the presidential campaign of Sen. Elizabeth Warren (D-Mass.). The Congressional Oversight Commission was established by the ***Coronavirus Aid, Relief, and Economic Security (CARES) Act*** to oversee the \$500 billion provided by the law to major industries. McConnell also announced last week that he would tap Sen. Mike Crapo (R-Wyo.) to lead the Senate's own oversight effort to monitor CARES Act implementation. Pelosi had previously indicated that she would launch a new select committee, chaired by Majority Whip Jim Clyburn (D-S.C.), for such a purpose.

Lawmakers Push to Relax Physician Visa Regulations

A bipartisan, bicameral group of lawmakers is pushing for the U.S. Citizenship and Immigration Services (USCIS) to allow doctors working on certain employment-based visas, like the Conrad 30 program, to provide care outside of the restrictions for their immigration status. The [letter](#) warns that, unless certain restrictions are waived, physicians on visas could be putting their immigration status in jeopardy by taking certain actions in response to the COVID-19 pandemic. The letter was led by Sen. Amy Klobuchar, Reps. Tom Cole (R-Okla.), Abby Finkenauer (D-Iowa), and Brad Schneider (D-Ill.) and signed by 31 other lawmakers.

FDA Says Research Still Needed on Impact of Vaping on COVID-19

The Food and Drug Administration (FDA) has rejected a call from Democratic lawmakers to pull e-cigarettes from the market in response to the COVID-19 pandemic. The House Oversight Subcommittee on Economic and Consumer Policy announced that committee leaders had been told by the agency that more research is necessary to determine whether vaping increases the risk of COVID-19. The FDA will not suspend approvals for e-cigarette marketing approvals, as requested by Chairman Raja Krishnamoorthi (D-Ill.). Officials from the National Institute of Health (NIH) have warned that lung damage, which can be caused by vaping, exacerbates symptoms of COVID-19.

Ryan Calls for Additional Flexibility in Provision of Behavioral Health

Rep. Tim Ryan (D-Ohio) is [urging](#) the Trump administration to fix several Medicare reimbursement issues for mental health providers. Ryan notes that current regulations requiring therapists to have a qualified supervisor physically present where the service is being delivered and restrictions around telehealth telephone-only therapy calls are negatively impacting the quality and quantity of behavioral health services during the current public health emergency. He asks that the Centers for Medicare and Medicaid Services (CMS) allow that supervisors only be required to be immediately accessible by telephone and that audio-only counseling sessions have billing parity with audio/visual telehealth sessions and in-person sessions.

Grassley Urges Support for LTC Facilities

Sen. Chuck Grassley (R-Iowa), chairman of the Senate Finance Committee, has sent a [letter](#) to U.S. Department of Health and Human Services (HHS) Secretary Alex Azar calling on the administration to ensure that long-term care (LTC) facilities receive adequate resources in combatting the coronavirus pandemic. The letter, which was co-signed by 26 other lawmakers, urges federal agencies not to overlook these providers in its response to COVID-19. They request that a meaningful level of support from the Public Health and Social Services Emergency Fund (PHSSEF) is allocated to the nursing home, skilled nursing facility (SNF), and LTC industries.

Democrats Reiterate Calls for COVID-19 Special Enrollment Period

House and Senate Democratic health leaders continue to [urge](#) the Trump administration to immediately establish a special enrollment period to allow individuals to access health coverage through the Affordable Care Act (ACA) marketplace during the coronavirus pandemic. The lawmakers point to recent spikes in claims for unemployment benefits, and the fact that most Americans receive their health insurance through their employer, to illustrate the need to help these individuals access comprehensive health care coverage. Rep. Chris Pappas (D-N.H.) is also [telling](#) House leadership to ensure that the next coronavirus response package include measures to assist families struggling to afford access to their existing health coverage because of job losses. He is requesting that the bill include federal subsidies for COBRA.

FDA Permits Expanded Hospital Compounding

The Food and Drug Administration (FDA) announced that it will allow hospitals to compound sedatives to prevent shortages of products used for coronavirus patients. Because of pressures on the global supply chain stemming from COVID-19, the agency will relax its compounding rules to permit hospitals to make 13 drugs given to individuals on ventilators, including forms of fentanyl, hydromorphone, and ketamine. Hospitals have expressed increasing concerns about low supplies of such products.

Trump to Use DPA for Testing Swabs

President Trump has invoked the Defense Production Act (DPA) to compel an unnamed company to produce an additional 20 million coronavirus testing swabs every month. States and public health officials have repeatedly warned about the impact of swab shortages on efforts to increase COVID-19 testing across the country. The DPA gives the federal government the authority to direct the production and distribution of goods during emergency situations.

Hart Health Strategies COVID-19 Resources

Hart Health Strategies Inc. continues to update the following resources related to the coronavirus pandemic. Please remember to clear your cache to ensure you download the most recent documents.

- [COVID-19 Testing](#)
- [Disaster Primer](#)
- [Federal Relief Overview](#)
- [Health Care Workers on the Front Lines](#)
- [Hospice and Palliative Care](#)
- [Nursing Resources](#)
- [Personal Protective Equipment](#)
- [Physician Provisions](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)
- [Timeline for Implementation](#)

Recently Introduced Health Legislation

H.Res.918 — Promoting minority health awareness and supporting the goals and ideals of National Minority Health Month in April 2020, which include bringing attention to the health disparities faced by minority populations of the United States during the novel coronavirus global pandemic; Sponsor: Rep. Correa, J. Luis [D-CA-46]; Committees: House - Energy and Commerce

H.R.6474 — To provide for the expansion of the Rural Health Care Program of the Federal Communications Commission in response to COVID-19, and for other purposes; Sponsor: Rep. Eshoo, Anna G. [D-CA-18]; Committees: House - Energy and Commerce

H.R.6475 — To amend the Small Business Act to expand eligibility for the paycheck protection program, and for other purposes; Sponsor: Rep. Green, Al [D-TX-9]; Committees: House - Small Business

H.R.6476 — To amend the CARES Act to establish a loan program to provide liquidity to eligible lenders for the purpose of providing loans under the Paycheck Protection Program, and for other purposes; Sponsor: Rep. Green, Al [D-TX-9]; Committees: House - Small Business; Financial Services

H.R.6480 — To require the President, after the World Health Organization declares a global pandemic, to report to the Congress on the status of Federal planning to respond to the pandemic; Sponsor: Rep. Cicilline, David N. [D-RI-1]; Committees: House - Energy and Commerce; Financial Services

H.R.6482 — To require the Secretary of Health and Human Services to maintain a list of the country of origin of all drugs marketed in the United States, to ban the use of Federal funds for the purchase of drugs manufactured in China, and for other purposes; Sponsor: Rep. Gallagher, Mike [R-WI-8]; Committees: House - Energy and Commerce; Ways and Means; Armed Services; Veterans' Affairs

H.R.6484 — To require employers to pay hazard pay to health care employees during public health emergencies, and to provide a tax credit for the cost of such pay; Sponsor: Rep. Neguse, Joe [D-CO-2]; Committees: House - Ways and Means; Education and Labor

H.R.6486 — To amend the Patient Protection and Affordable Care Act to require the Secretary of Health and Human Services to establish a special enrollment period during the COVID-19 emergency period, to require the Secretary to carry out outreach and educational activities for such special enrollment period, to require group health plans and health insurance issuers offering group or individual health insurance coverage to provide coverage without any cost sharing for certain items and services furnished during any portion of such emergency period, and for other purposes; Sponsor: Rep. Ruiz, Raul [D-CA-36]; Committees: House - Energy and Commerce; Ways and Means; Education and Labor

H.R.6487 — To increase the ability of nursing facilities to access telehealth services and obtain technologies to allow virtual visits during the public health emergency relating to an outbreak of coronavirus disease 2019 (COVID-19), and for other purposes; Sponsor: Rep. Schakowsky, Janice D. [D-IL-9]; Committees: House - Appropriations; Energy and Commerce; Ways and Means; Budget

H.Res.924 — Promoting minority health awareness and supporting the goals and ideals of National Minority Health Month in April 2020, which include bringing attention to the health disparities faced by minority populations of the United States during the novel coronavirus global pandemic; Sponsor: Rep. Correa, J. Luis [D-CA-46]; Committees: House - Energy and Commerce

H.R.6495 — To amend title XI of the Social Security Act to eliminate the general Medicaid funding limitations for territories of the United States, and for other purposes; Sponsor: Rep. Sablan, Gregorio Kilili Camacho [D-MP-At Large]; Committees: House - Energy and Commerce

H.R.6500 — To reduce Federal spending and fund the acquisition of unexpired personal protective equipment (including face masks) for the strategic national stockpile by terminating taxpayer financing of Presidential election campaigns; Sponsor: Rep. Gallagher, Mike [R-WI-8]; Committees: House - Ways and Means; House Administration

H.R.6503 — To provide housing support services to the elderly and individuals with disabilities living in Federal Government housing or federally subsidized housing during the Pandemic or Declared Public Health Emergency; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House - Appropriations

H.R.6504 — To direct the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to develop a plan to improve surveillance with respect to diseases that are viral pandemic threats, and for other purposes; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House - Energy and Commerce

H.R.6505 — To amend the Homeland Security Act of 2002 to clarify the role of the National Biosurveillance Integration Center of the Department of Homeland Security regarding an emerging highly communicable infectious disease event of national concern, and for other purposes; Sponsor: Rep. Jackson Lee, Sheila [D-TX-18]; Committees: House - Homeland Security; Energy and Commerce

H.R.6506 — To amend the Small Business Act to modify the paycheck protection program, and for other purposes; Sponsor: Rep. Kilmer, Derek [D-WA-6]; Committees: House - Small Business

H.R.6508 — To amend title VI of the Social Security Act to expand the permissible use of funds under the Coronavirus Relief Fund; Sponsor: Rep. Morelle, Joseph D. [D-NY-25]; Committees: House - Oversight and Reform

H.R.6511 — To amend titles XIX and XXI of the Social Security Act to require coverage under the Medicaid program and Children's Health Insurance Program for vaccines and treatment for COVID-19 without the imposition of cost sharing requirements, and for other purposes; Sponsor: Rep. Pappas, Chris [D-NH-1]; Committees: House - Energy and Commerce

H.R.6514 — To provide premium assistance for COBRA continuation coverage and furloughed continuation coverage for individuals and their families during the COVID-19 emergency period and 180-days thereafter, and for other purposes; Sponsor: Rep. Scott, Robert C. "Bobby" [D-VA-3]; Committees: House - Education and Labor; Energy and Commerce; Ways and Means