



## Health Policy Briefing

July 13, 2020

### House Appropriators Advance FY21 Spending Bills

The House Appropriations Committee is moving forward with fiscal year 2021 (FY21) spending legislation, advancing bills out of committee last week with floor votes set to begin later this week. The panel approved the Agriculture-Food and Drug Administration (FDA) bill by voice vote. The legislation includes nearly \$24 billion in discretionary funding, an increase of \$487 million over FY20. The FDA would receive \$3.2 billion, a \$40.8 million budget increase. Total FDA funding including user fees would be approximately \$6 billion. The panel added a provision to the bill that would give the FDA recall authority over prescription drugs and over-the-counter (OTC) products. The amendment’s sponsor, Subcommittee Chair Sanford Bishop (D-Ga.) stated that the FDA unofficially supports the change. The bill also strengthens the agency’s ability to regulate e-cigarettes and cosmetic products.

The Appropriations Committee also advanced the Military Construction-VA spending bill by a vote of 30-20. The bill includes \$115.5 billion in discretionary spending, a \$5.1 billion increase over current levels. The measure would provide a \$9.8 billion increase for veterans’ medical care totaling \$90 billion.

The FY 21 State and Foreign Operations spending bill was also approved by the committee last week, and includes more than \$10 billion in coronavirus-related funding: \$2.5 billion for global health programs; \$1.5 billion for the Economic Support Fund; nearly \$1.3 billion for international organizations and programs for the United Nations Global Humanitarian Response Plan; more than \$1.1 billion for International Disaster Assistance; \$955 million for diplomatic programs; and \$900 million for development assistance. It would also require the

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administration to send \$200 million to the World Health Organization (WHO) within 60 days of enactment, despite the President's recent decision to withdraw the U.S. from WHO.

The panel also approved top-line spending figures for all 12 appropriations bills by a 29-21 vote, which provide for \$1.3 trillion in discretionary spending plus \$247.4 billion in emergency spending in response to the coronavirus pandemic and for veterans' health care. Republicans objected to the inclusion of the emergency funds, arguing that the additional spending violates the two-year budget cap deal reached last summer.

On the subcommittee level, the Labor-Health and Human Services-Education Subcommittee advanced its \$196.5 billion spending measure by a 9-6 vote last week. The bill would provide the U.S. Department of Health and Human Services (HHS) with \$96.4 billion in discretionary spending, an increase of \$1.5 billion over current levels. The Centers for Disease Control and Prevention (CDC) would receive \$9 billion in emergency supplemental funding, including \$400 million toward modernizing public health data, \$2 billion toward improving state and local public health responses, and \$1.17 billion toward investing in the public health workforce, laboratory support, and state and local jurisdictions. The National Institutes of Health (NIH) would receive a record \$5.5 billion increase, bringing the agency's budget to \$47 billion. The measure includes \$4.5 billion for the Biomedical Advanced Research and Development Authority (BARDA) to develop and produce vaccines and therapeutics in response to public health emergencies. BARDA is directed to use \$500 million for antibacterial research and development and another \$500 million for next generation vaccine manufacturing facility enhancements. The spending bill would require HHS to provide weekly reports to Congress about the composition of and distributions from the Strategic National Stockpile (SNS). The bill would also prohibit a Trump administration regulation allowing health care workers to deny care based on their religious or moral beliefs from going into effect. The committee released the [Labor/HHS committee report](#) over the weekend. The full Appropriations Committee plans to mark up the [legislation](#) this afternoon.

Appropriators hope to finish all 12 markups before Wednesday. Chair Nita Lowey (D-N.Y.) is seeking to speed up floor consideration of the FY21 bills, potentially moving floor consideration of Defense legislation to Tuesday and consideration of the Homeland Security bill to Wednesday, in the hopes of voting on almost all of the spending bills by the end of the month. Senate appropriators have not yet spelled out the process they plan to use; it is likely that a stopgap spending measure will be needed to fund the federal government from the end of the current fiscal year past Election Day.

### ***Senate GOP, WH Coordinating on Next COVID Stimulus***

The Trump administration is pushing to include measures to address surprise medical billing, drug pricing transparency, and telehealth reimbursement in the next coronavirus stimulus package, according to a report last week from Politico. The White House and Senate Republicans are in agreement that the legislation should cost \$1 trillion or less. Senate Majority Leader Mitch McConnell (R-Ky.) has stated that the bill is being drafted by his office in consultation with the administration and will then be negotiated with Democrats. McConnell said that he is focused on provisions to help reopen schools and support jobs and health care.

### ***Health Leaders Push for Testing Coverage***

House Energy and Commerce Committee Chair Frank Pallone (D-N.J.) and Senate Health, Education, Labor, and Pensions (HELP) Committee Ranking Member Patty Murray (D-Wash.) have spearheaded a [letter](#) to Trump administration officials urging them to revisit COVID-19 testing coverage guidance. The lawmakers argue that the guidance allows insurance companies to deny coverage claims for back-to-work or surveillance testing. “With COVID-19 cases skyrocketing and our testing capacity nowhere near where it needs to be, it is unacceptable that this Administration’s priority seems to be giving insurance companies loopholes instead of getting people the free testing they need,” the letter states. “We believe this guidance is contrary to statute, and urge you to take immediate action to clarify the obligations of group health plans and insurers to provide robust and comprehensive coverage of COVID-19 testing.” The letter was signed by House Education and Labor Chair Bobby Scott (D-Va.), House Ways and Means Chair Richard Neal (D-Mass.), and Senate Finance Ranking Member Ron Wyden (D-Ore.).

### ***Lawmakers Raise Concerns About OPO Oversight***

Reps. Katie Porter (D-Calif.) and Karen Bass (D-Calif.) have [written](#) to the Trump administration urging officials to finalize a rule that would establish new accountability requirements for organ procurement organizations (OPOs). The U.S. Department of Health and Human Services (HHS) issued a proposed regulation last year regarding oversight and reporting requirements for OPOs, which are asking that the rule be deferred because of the COVID-19 pandemic. The lawmakers ask that HHS Secretary Alex Azar and Centers for Medicare and Medicaid Services (CMS) Administrator Seema Verma move forward with the rulemaking process and establish clear and concise guidelines for OPOs.

### ***WH Moves to Withdraw US from WHO***

The White House has given the United Nations a one-year notice of the United States’ intention to withdraw from the World Health Organization (WHO). President Trump has blamed the organization for deferring to China and failing to provide accurate information throughout the coronavirus pandemic. His decision has been widely criticized by congressional lawmakers on both sides of the aisle, who have raised concerns about the impact of the move as COVID-19 cases continue to spike across the country.

### ***HHS Announces Additional CARES Act Provider Relief Fund Distributions***

On July 10, HHS [announced](#) \$4 billion in additional distributions, including up to \$3 billion in funding to hospitals serving a large percentage of vulnerable populations on thin margins and approximately \$1 billion to specialty rural hospitals, urban hospitals with certain rural Medicare designations, and hospitals in small metropolitan areas, in addition to previous funds allocated for these entities. HHS also stated that it is opening the provider portal to allow dentists to apply for relief, with applications being due by July 24. With this additional allocation, the Fund has approximately \$50 billion dollars left (less any funds for the dentists).

### ***FDA to Resume Inspections July 20***

The Food and Drug Administration (FDA) will resume prioritized domestic inspections of regulated facilities the week of July 20, as long as the current trajectory of COVID-19 will permit personnel to perform their duties in a safe manner. The FDA has developed a rating system to help determine when and where it is safest to conduct prioritized domestic inspections. The COVID-19 Advisory Rating system (COVID-19 Advisory Level) uses real-time data to qualitatively assess the number of COVID-19 cases in a local area based on state and national data.

## **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](#)
- [Re-Opening America](#)
- [Small Business Resources](#)
- [Small Business - Paycheck Protection Program](#)
- [Small Business – PPP FAQ](#)
- [State Resources](#)
- [Tax Provisions](#)
- [Telehealth Overview](#)
- [Timeline for Implementation](#)

## **Upcoming Congressional Hearings and Markups**

*House Appropriations Committee markup of FY’21 Energy and Water Development, and Related Agencies, and Labor, Health and Human Services, Education, and Related Agencies; 1:00 p.m., 1100 Longworth Bldg.; July 13*

*House Homeland Security Subcommittees on Emergency Preparedness, Response, & Recovery and Oversight, Management, & Accountability hearing “Reviewing Federal and State Pandemic Supply Preparedness and Response;” 12:00 p.m., virtual; July 14*

*House Foreign Affairs Subcommittee on Europe, Eurasia, Energy, and the Environment hearing “The Importance of Transatlantic Cooperation During the COVID-19 Pandemic;” 2:00 p.m., via Cisco WebEx; July 14*

*House Budget Committee hearing “Software Update Required: COVID-19 Exposes Need for Federal Investments in Technology;” 2:00 p.m., via Cisco WebEx; July 15*

*House Natural Resources Subcommittee for Indigenous Peoples of the United States (SCIP) hearing “Native Youth Perspectives on Mental Health and Healing;” 1:00 p.m., via Cisco WebEx; July 16*

**Recently Introduced Health Legislation**

- S.4151 — A bill to amend title XVIII of the Social Security Act to allow payments under the Medicare program for certain items and services furnished by off-campus outpatient departments of a provider to be determined under the prospective payment system for hospital outpatient department services, and for other purposes; Sponsor: Sen. Hoeven, John [R-ND]; Committees: Senate – Finance*
- S.4160 — A bill to enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID-19 public health emergency to temporarily maintain eligibility for such program, and for other purposes; Sponsor: Sen. Thune, John [R-SD]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4163 — A bill to amend the Public Health Service Act to provide for timely and effective systematic testing to improve biosurveillance activities and practices; Sponsor: Sen. Gardner, Cory [R-CO]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4175 — A bill to secure the supply of drugs in the United States, and for other purposes; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4179 — A bill to update the blood donation public awareness campaign of the Department of Health and Human Services to include public awareness on plasma donation; Sponsor: Sen. Klobuchar, Amy [D-MN]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4182 — A bill to provide nursing homes with resources for responding to the COVID-19 public health emergency to protect the health and safety of residents and workers, to reauthorize funding for programs under the Elder Justice Act of 2009, and for other purposes; Sponsor: Sen. Grassley, Chuck [R-IA]; Committees: Senate – Finance*
- S.4184 — A bill to require States to meet assisted living facility reporting requirements to qualify for future COVID-19 response funds; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate – Finance*
- S.4185 — A bill to establish an independent dispute resolution process for surprise air ambulance bills, and for other purposes; Sponsor: Sen. Wicker, Roger F. [R-MS]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4191 — A bill to require a report on foreign investment in the pharmaceutical industry of the United States; Sponsor: Sen. Warren, Elizabeth [D-MA]; Committees: Senate - Banking, Housing, and Urban Affairs*
- S.4198 — A bill to require health plans to provide coverage for COVID-19 serology testing; Sponsor: Sen. Scott, Rick [R-FL]; Committees: Senate - Health, Education, Labor, and Pensions*
- S.4199 — A bill to amend titles XI, XVIII, and XIX of the Social Security Act to lower prescription drug prices in the Medicare and Medicaid programs, to improve transparency related to pharmaceutical prices and transactions, to lower patients' out-of-pocket costs, and to ensure accountability to taxpayers, and for other purposes; Sponsor: Sen. Grassley, Chuck [R-IA]; Committees: Senate – Finance*
- S.4211 — A bill to amend title XVIII of the Social Security Act to expand access in frontier States to mental health services furnished through telehealth, and for other purposes; Sponsor: Sen. Sullivan, Dan [R-AK]; Committees: Senate - Finance*
- H.R.7493 — To require the Administrator of the Centers for Medicare & Medicaid Services to conduct a study on temporary family health care structures; Sponsor: Rep. Griffith, H. Morgan [R-VA-9]; Committees: House - Ways and Means; Energy and Commerce*



*H.R.7504 — To require the Secretary of Veterans Affairs to establish standards and requirements for non-Department mental health care providers participating in Department of Veterans Affairs Community Care program, and for other purposes; Sponsor: Rep. Blunt Rochester, Lisa [D-DE-At Large]; Committees: House - Veterans' Affairs*

*H.R.7507 — To authorize the Secretary of Health and Human Services to award grants to States to expand or maintain a strategic stockpile of products deemed to be essential in the event of a public health emergency, and for other purposes; Sponsor: Rep. Carter, Earl L. "Buddy" [R-GA-1]; Committees: House - Energy and Commerce*

*H.R.7510 — To provide for a study by the National Academies of Sciences, Engineering, and Medicine on the potential benefits on population health outcomes of incorporating into the Federal legislative process tools that measure the impacts of proposed legislation (including in areas outside of health care) on health and health disparities, and for other purposes; Sponsor: Rep. Cox, TJ [D-CA-21]; Committees: House - Energy and Commerce*

*H.R.7514 — To amend title XVIII of the Social Security Act to require, as a condition of participation under the Medicare program, each hospital to adopt and implement evidence-based sepsis protocols, and for other purposes; Sponsor: Rep. Davis, Rodney [R-IL-13]; Committees: House - Ways and Means; Energy and Commerce*

*H.R.7517 — To provide that the rules entitled "Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act" and "Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act" shall have no force or effect, and for other purposes; Sponsor: Rep. DeGette, Diana [D-CO-1]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor*

*H.R.7518 — To amend title XVIII of the Social Security Act to promote preparedness and Medicare beneficiary access to safer, more accurate sterile intravenous drug preparations through automated hospital infrastructure; Sponsor: Rep. Doyle, Michael F. [D-PA-18]; Committees: House - Ways and Means*

*H.R.7527 — To rescue domestic medical manufacturing activity by providing incentives in economically distressed areas of the United States and its possessions; Sponsor: Rep. Gonzalez-Colon, Jenniffer [R-PR-At Large]; Committees: House - Ways and Means; Energy and Commerce*

*H.R.7531 — To direct the Secretary of Health and Human Services to increase Federal efforts to prepare for and respond to public health emergencies with respect to the spread of infectious diseases, and for other purposes; Sponsor: Rep. Higgins, Brian [D-NY-26]; Committees: House - Energy and Commerce*

*H.R.7534 — To amend title XVIII of the Social Security Act to direct the Secretary of Health and Human Services to conduct a study on potential disparities in incurred costs for rural and urban hospitals under the inpatient prospective payment system and to authorize appropriate payment adjustments; Sponsor: Rep. Keller, Fred [R-PA-12]; Committees: House - Ways and Means*

*H.R.7537 — To amend the Internal Revenue Code of 1986 to provide an exception from the passive loss rules for investments in specified medical research small business pass-thru entities; Sponsor: Rep. Kelly, Mike [R-PA-16]; Committees: House - Ways and Means*

*H.R.7538 — To amend the Families First Coronavirus Response Act to provide paid sick leave for health care providers and emergency responders, and for other purposes; Sponsor: Rep. Kelly, Mike [R-PA-16]; Committees: House - Judiciary; House Administration; Oversight and Reform; Education and Labor*

*H.R.7539 — To strengthen parity in mental health and substance use disorder benefits; Sponsor: Rep. Kennedy, Joseph P., III [D-MA-4]; Committees: House - Ways and Means; Energy and Commerce; Education and Labor*

*H.R.7541 — To direct the Secretary of Veterans Affairs to establish the Zero Suicide Initiative pilot program of the Department of Veterans Affairs; Sponsor: Rep. Lee, Susie [D-NV-3]; Committees: House - Veterans' Affairs*

*H.R.7543 — To amend title VII of the Public Health Service Act to provide for a loan repayment program for the HIV clinical and dental workforce, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce*

*H.R.7544 — To amend the Public Health Service Act to require reporting by the National Institutes of Health on requests for funding research that were not granted and had the greatest potential for improving public health, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Energy and Commerce*

*H.R.7546 — To direct the Secretary of Health and Human Services to ensure that minority and medically underserved communities have meaningful and immediate access to public health interventions and medically necessary health care services during the COVID-19 pandemic, and for other purposes; Sponsor: Rep. Lewis, John [D-GA-5]; Committees: House - Ways and Means; Energy and Commerce*

*H.R.7548 — To amend title 41, United States Code, and the Internal Revenue Code of 1986, to ensure availability of personal protective equipment during pandemics and other public health emergencies through stockpile requirements and domestic manufacturing incentives, and for other purposes; Sponsor: Rep. Maloney, Carolyn B. [D-NY-12]; Committees: House - Ways and Means; Oversight and Reform*

*H.R.7555 — To amend the Internal Revenue Code of 1986 to add a new medical research component to the credit for increasing research activities; Sponsor: Rep. Nunes, Devin [R-CA-22]; Committees: House - Ways and Means*

*H.R.7556 — To amend the Internal Revenue Code of 1986 to make a portion of research credit refundable for certain small businesses engaging in specified medical research; Sponsor: Rep. Nunes, Devin [R-CA-22]; Committees: House - Ways and Means*

*H.R.7567 — To amend the Federal Food, Drug, and Cosmetic Act to improve the treatment of rare diseases and conditions, and for other purposes; Sponsor: Rep. Tonko, Paul [D-NY-20]; Committees: House - Energy and Commerce*

*H.R.7571 — To amend title XVIII of the Social Security Act to expand access in frontier States to mental health services furnished through telehealth, and for other purposes; Sponsor: Rep. Young, Don [R-AK-At Large]; Committees: House - Ways and Means; Energy and Commerce; Agriculture*