



Policy Brief

March 27, 2020



Updates on COVID-19 Regulations

Since the COVID-19 pandemic, a flurry of regulatory and other government actions have been implemented to assist frontline health care workers responding to the pandemic. The updates below are the latest federal guidance and/or developments to help mitigate the economic and health impacts of COVID-19:

Supply Chain Relief

- FDA COVID-19 [Testing Guidance](#) to Increase Availability of Diagnostic Tests
- OSHA [Temporary Guidance](#) on Relaxed Requirements for N95 Filtering Masks
- President Trump Invokes the [Defense Production Act](#) to Prioritize COVID-19 Resources
- The [Department of Defense](#) to Provide Masks, Ventilators and Labs for COVID-19

Regulatory Waivers and Guidance

- CMS [Guidance](#) on Payment and Grace Periods
- FDA Ventilator and Other Respiratory Device [Guidance](#)
- New [COVID-19 ICD-10 Code](#) Effective April 1, 2020
- Exemptions from [Reporting Requirements](#) in Quality Programs
- CMS [Guidance](#) on Payment Updates
- CMS [Guidance](#) on Delaying Elective Surgeries and Procedures
- CDC Updated Infection Prevention and Control [Recommendations](#)
- CMS Updated Telehealth [Guidance](#)
- CMS [Limited Waiver](#) for HIPAA Privacy Sanctions and Penalties
- CMS Elder Care [Guidance](#)

- CMS Encourages the [Use of 1135 Waivers](#) for COVID-19 Relief
- CMS [Waiving](#) the 3-day Hospitalization Requirement for SNF Stay Coverage for Those Needing to be Transferred Due to COVID-19 Infection
- Other CMS Blanket [Waivers and Exceptions](#)

Additional Health Care Emergency Funding

- Increased Medicaid [Matching Funds by 6.2%](#) Under the Second COVID-19 Relief Package
- FEMA [Funds](#) for Not-For-Profit Providers
- CDC [Awards \\$560 Million](#) to State and Territories for COVID-19 Response



Congress Wrestles with the Third COVID-19 Relief Package

This week Congress has wrestled with the third and largest economic stimulus and relief package for the COVID-19 response. The Senate unanimously passed the [\\$2 trillion](#) package and the House is expected to vote on the bill today. This is the largest economic stimulus package in modern American history and is [expected to pass](#) due to strong bipartisan support and agreement over the need to help the economy, and American public, prepare for and recover from the impact of COVID-19.

Key Provisions in the Bill

Below are some key measures in the final Senate bill that impact the health care industry:

- **Includes \$100 billion to Health Care Providers**
All providers of Medicare would be eligible to receive funding for COVID-19-related expenses and lost revenue. The question remains on how lost revenue will be defined.
- **Temporarily Lifts the Medicare Sequester**
The Medicare sequester would be lifted from May 1st through the end of this year, providing only temporary relief.

- **Expands Telehealth Flexibilities**

The bill provides a number of flexibilities around telehealth including: allowing Medicare beneficiaries to use telehealth services even if they had not been seen by the provider in person in the preceding three years; and allowing providers to use telehealth technologies to fulfill the hospice face-to-face recertification requirement.

- **Provides a Medicare Inpatient Add-on Payment of 20%**

Hospital payments for patients admitted with COVID-19 would increase by 20%.

- **Delays DSH cuts through November 30th**

The current Disproportionate Share Hospital (DSH) scheduled reductions would be delayed through November 30, 2020.

- **Modifies IRF and LTCH Rules**

The Inpatient Rehabilitation Facilities (IRF) 3-hour rule as criteria for IRF admission would be waived. Long Term Care Hospitals (LTCH) would be able to maintain their designation even if more than 50% of cases are less intensive.

- **Provides \$16 billion for the Strategic National Stockpile**

Congress set aside \$16 billion to buy medical supplies for the Strategic National Stockpile (SNS) as well as \$1 billion for purchases under the Defense Production Act (DPA).

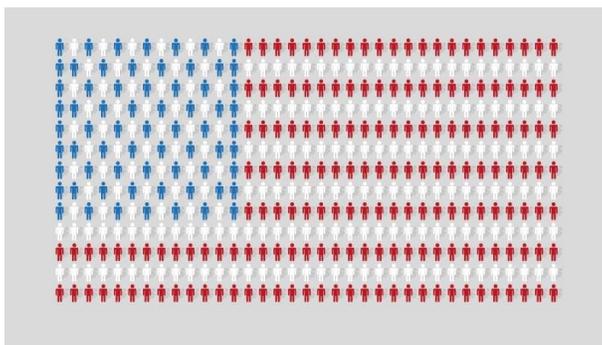
- **Increases Unemployment Insurance Benefits**

Existing unemployment benefits would be extended to people who may not have been fired but are unable to work as a result of the coronavirus.

- **\$1,200 checks to millions of Americans**

Taxpayers earning up to \$75,000 annually would receive \$1,200 per adult and \$500 per child. This amount is smaller for taxpayers earning more than \$75,000 and disappears for those earning more than \$99,000.

President Trump has [already endorsed](#) the bill and is set to sign when it hits his desk. While this stimulus package is robust, there are discussions in Congress about a fourth relief package centered on health care specifically.



Census 2020 and the COVID-19 Pandemic

Census Day, [April 1st](#), is the biggest kick-off event for Census 2020. The data gathered from the census is used to allocate federal funds to many important public programs, including Medicaid and nutrition programs. With much of the country practicing social isolation, many of the official activities meant to drum up enthusiasm around the census are being [suspended](#) or cancelled. A robust response is extremely important now, as the impact of the COVID-19 pandemic will increase the need for health care and social services. In addition, responding now via mail, phone or online reduces the need for door-to-door census workers later. The current completion goal for census counting is July 31st, however, Commerce Secretary Wilbur Ross is considering pushing this back in the interest of accuracy.

“Hard-to-Count” Communities at Risk of Undercounting

When talking about the census, we call communities that face additional barriers “hard-to-count.” These can be neighborhoods with large amounts of seniors, lower-income and minority communities, or those who primarily speak a language other than English. The data that the census provides inform the allocation of hundreds of billions of dollars in federal funding for Medicaid, Medicare and various nutrition programs. When hard-to-count communities are undercounted, they end up with less of these resources than they actually need. Much of the in-person census support is aimed at increasing response rates in these communities.

State and Local Officials Get Creative

With even small gatherings posing a serious public health risk, top census officials are turning to the internet to promote census participation. Counties’ Complete Count Committees have launched social media campaigns and advertisements on streaming services aimed at educating the public. In his [latest statement](#), Secretary Ross said, “It has never been easier to respond on your own, whether online, over the phone or by mail—all without having to meet a census taker.”

Census 2020 Employment Down

Officials at the Census Bureau originally aimed to hire a half-million new workers to help with field outreach. As COVID-19 quarantine and shelter-in-place orders increase, the Bureau is now unsure if it will be able to meet this goal. As it is, job fairs and in-person trainings have been cancelled. And while not cancelled, the “in the field” phase of the campaign has been suspended until April 1st; meaning employees will not go door-to-door until May 28th at the earliest. Resuming

field operations will depend largely on how well we, as a country, practice smart social distancing to decrease the virus' spread.



Election Watch 2020: News from the Campaign Trail

The journey to the 2020 presidential election continues. Below are the latest highlights from the campaign trail:

- Former Vice President Joe Biden has won the [March 17th primaries](#) in Florida, Illinois and Arizona. Ohio's governor decided to postpone their primary in light of the public health emergency.
- Including Ohio, [seven states](#) have postponed their 2020 presidential primaries in response to the COVID-19 pandemic.
- 1,991 delegates are needed to secure the Democratic nomination. Joe Biden has won 1,214 delegates thus far; Sen. Bernie Sanders has been awarded 910.



A Look at the Federal Register

TRICARE: Addition of Physical Therapist Assistants and Occupational Therapy Assistants

The Department of Defense has published a [final rule](#) adding licensed or certified physical therapist assistants and occupational therapy assistants as TRICARE-authorized providers, as long as they are supervised by a licensed, registered physical therapist or occupational therapist.

To Research, Evaluate, Assess, and Treat (TREAT) Astronauts Interim Rule

The National Aeronautics and Space Administration has issued an [interim final rule](#) to provide for the medical monitoring and diagnosis of conditions that are potentially spaceflight-associated. Monitoring, diagnosis and treatment would be available to current and former U.S. government astronauts and payload specialists. **Comments are due on May 18, 2020.**

Extension: Simplifying Meal Service and Monitoring Requirements in the National School Lunch and School Breakfast Programs

The Food and Nutrition Services has extended the comment period for the [proposed rule](#) modifying school nutrition standards and reporting requirements. **Comments are now due on April 22, 2020.**

Foreign Quarantine: Suspension of Introduction of Persons from Foreign Countries

The Centers for Disease Control and Prevention (CDC) and the Department of Health and Human Services (HHS) have issued an [interim final rule](#) with request for comments on amended Foreign Quarantine Regulations. The interim final rule provides a procedure for the CDC to suspend the introduction of persons from designated countries or places in the interest of public health. The interim rule is effective as of March 20, 2020. **Comments are due on April 24, 2020.**

Employment and Training Opportunities in the Supplemental Nutrition Assistance Program

The Food and Nutrition Service has issued a [proposed rule](#) that would change elements of States' Employment and Training programs. The proposal would require State agencies to consult with workforce development boards, redefine job search requirements for enrollees and require that case management services be offered to participants. **Comments are due on May 18, 2020.**

IN OTHER NEWS

[The Virus Can Be Stopped, but Only with Harsh Steps](#) – New York Times

[Apps Checking COVID-19 Symptoms Pose Data Collection Risks](#) – Bloomberg Law

[Why COVID-19 Could Make SDOH Even Worse](#) – Advisory Board

[Aetna Waives Cost-sharing for COVID-19 Inpatient Hospital Admissions](#) – Modern Healthcare

[High Rates of Depression and Anxiety Reported in Doctors and Nurses](#) – Vox