



## Policy Brief

April 24, 2020

### Congress Passes COVID-19 Relief Package



Congress passed a \$484 billion COVID-19 [funding package](#), the *Paycheck Protection Program and Health Care Enhancement Act*, which is now headed to the President for his signature. The bill includes an additional \$75 billion for hospitals and other health providers, as well as an extra \$310 billion for the Paycheck Protection Program for small business loans. Below are details on the bill and the \$75 billion health funding.

**\$75 Billion for Hospitals and Health Care Providers.** These funds add to the \$100 billion in grants to hospitals, public entities, not-for-profit entities and Medicare and Medicaid enrolled suppliers allocated in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*. This extension will cover unreimbursed health care related expenses or lost revenues related to COVID-19. The legislative text on this issue is similar to the CARES Act, which seems to indicate that the funds will be direct deposited to providers similarly to how the first [\\$30 billion of the CARES Act](#) emergency fund was distributed. The payments are *not* loans and will not need to be repaid.

**\$25 billion for COVID-19 Diagnostic Tests.** Of the \$25 billion appropriated, up to \$1 billion may be used to cover costs of testing for the uninsured. The funds also include:

- \$11 billion for states, localities, territories and tribes to develop, purchase, administer, process and analyze COVID-19 tests; scale-up laboratory capacity; trace contacts and support employer testing.

- \$2 billion provided to states consistent with the Public Health Emergency Preparedness grant formula.
- \$1 billion provided to the Centers for Disease Control and Prevention for surveillance, epidemiology, laboratory capacity expansion, contact tracing, public health data surveillance and analytics infrastructure modernization.
- \$1.8 billion provided to the National Institutes of Health to develop, validate, improve and implement testing and associated technologies.
- \$1 billion for the Biomedical Advanced Research and Development Authority for advanced research, development, manufacturing, production and purchase of diagnostic, serologic or other COVID-19 tests or related supplies.
- \$22 million for the Food and Drug Administration to support activities associated with diagnostic, serological, antigen and other tests, and related administrative activities.
- \$825 million for Community Health Centers and rural health clinics.

**\$320 Billion for Small Business Loans.** The funds are geared towards organizations, including not-for-profits and faith-based organizations, with less than 500 employees. Specifically, the bill increases funding by:

- \$310 billion for the U.S. Small Business Administration [Paycheck Protection Program](#).
- \$10 billion for the [Economic Injury Disaster Loan \(EIDL\) Emergency Advance loans](#).



### CMS Announces Second Wave of CARES Act Provider Relief Funding

CMS has [announced](#) how the second wave of funding from the CARES Act provider relief fund will be distributed. This second wave, which will total \$20 billion, will be distributed on April 24<sup>th</sup> via direct deposit. HHS already distributed \$30 billion from the relief fund on April 17<sup>th</sup>. The amount providers receive will be based off of the 2018 net revenue data they have submitted in CMS cost reports. Additional funding will also be provided for certain providers:

- \$10 billion will be allocated to hospitals in areas that have been particularly impacted by the COVID-19 outbreak.
- Every health care provider who has provided treatment for uninsured COVID-19 patients on or after February 4, 2020 can request claims reimbursement by [registering online](#) via

the HRSA website on April 27<sup>th</sup>. Providers will be reimbursed at Medicare rates as payment in full.

- \$10 billion will be allocated to rural health clinics and hospitals.
- \$400 million will be allocated to Indian Health Service facilities and distributed on the basis of operating expenses.



### Updates on COVID-19 Regulations

AHPA continues to follow new COVID-19 regulations, guidance and other government actions. The updates below are the latest guidance and other developments since April 12<sup>th</sup> to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the last [Policy Brief](#).

#### **Elective Surgeries**

- CMS has released [guidelines](#) for hospitals that want to resume elective surgeries.

#### **Reopening the Economy**

- President Trump has released *Opening Up America Again*, [non-binding guidelines](#) that form a framework for reopening the country.

#### **CARES Act**

- CMS has released new [guidance](#) regarding certain provisions of the CARES Act, including Medicare add-on inpatient payments.

#### **Interoperability Compliance**

- CMS and the Office of the National Coordinator for Health IT have [announced](#) new flexibilities regarding the implementation of the interoperability final rules released on March 9, 2020. The enforcement discretion gives hospitals an additional six months to implement the new requirements.

#### **Long-Term Care**

- CMS has provided [additional guidance](#) on transferring residents between nursing facilities.

#### **Infectious Diseases**

- The Infectious Diseases Society of America has released [guidelines for providers](#) on the treatment and management of patients with COVID-19.

#### **Compounding Policy for Hospitalized COVID-19 Patients**

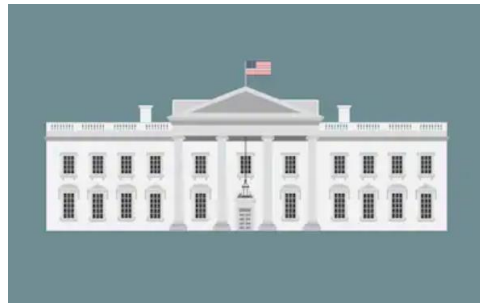
- The FDA has issued a [temporary guidance](#) announcing that they will not take action, in certain circumstances, against facilities compounding particular drugs to treat hospitalized COVID-19 patients.

### **Electronic Prescriptions of Controlled Substances**

- The DEA has released [additional clarifications](#) and extended the comment period concerning the electronic prescribing of controlled substances during the pandemic.

### **Merit-Based Incentive Payment System (MIPS)**

- CMS has [created](#) a new clinical improvement activity, “MIPS COVID-19 Clinical Trials,” that will allow clinicians to earn MIPS credit for participation in a COVID-19 clinical trial and reporting clinical information.

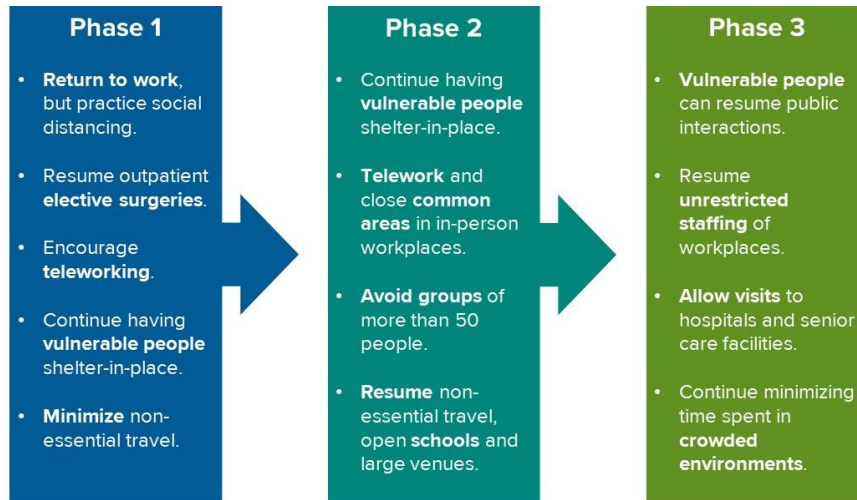


### **The White House Plan to Open America**

Last week, President Trump released [Opening Up America Again](#): the White House’s guide for easing lockdown restrictions across the country. The proposal comes after one of the worst economic months the U.S. economy has ever seen, with more than [26 million people](#) filing for unemployment in the last four weeks. Various approaches to reopening are being taken by governors, based on the specific readiness of each state. While the President hopes that these guidelines will help to repair the economy and return people to work, public health experts warn that premature reopening could trigger a spike in COVID-19 infections and deaths.

### **What’s in the White House guidance?**

*Opening Up America Again* is structured in three phases and gives prerequisites for states looking to reopen. Before states can begin, they are advised to have 14 days of downward-trending numbers of influenza-like illnesses and actual COVID-19 cases. States should be able to treat all patients without crisis care and offer robust testing for health care workers, including antibody testing. Once these criteria are met, states can consider moving through the following three phases if they see no spike in COVID-19 cases:



### What role will it play in states' decisions?

President Trump emphasized that states should “call the shots,” leaving it to [governors to decide](#) on the most prudent time to lift lockdowns or relax social distancing. Select states are already drafting plans to reopen based on the President’s guidelines; some, [like Georgia](#), plan to begin reopening as early as today. Other governors have begun working together, drafting [regional plans](#) with longer timelines. While the White House plan repeatedly says that these decisions should be made at the state or local levels, the President has [taken to Twitter](#), calling for states to be “liberated” from stay-at-home orders.

### Where do we still need more clarity?

Although the presidential plan stresses the importance of testing during its phases, it does not address the shortages of equipment and test kits that have caused rates of testing to [decline](#) since April 13<sup>th</sup>. The guidelines list widespread, readily available testing as one of the prerequisites that should be met prior to any large-scale reopening plan. It is unclear whether states’ infrastructures are ready to support the testing, treatment and tracking necessary to continue combating the virus’ spread.



### COVID-19 Impact on Disadvantaged and Vulnerable Populations

The COVID-19 pandemic has taken a toll on the economy, straining the health care industry and threatening the health of every American. This disease has [disproportionately led to hospitalizations and death](#) for the elderly, minority populations and those with comorbidities.

Additionally, nursing homes and prisons are experiencing rampant spread of the disease. The CDC [defines health disparities](#) as preventable differences in the burden of disease by socially disadvantaged populations. Policy makers need to keep these populations top of mind in order to effectively mitigate the impact of COVID-19.

### **Impact on Minority Populations**

Evidence of the disparities in COVID-19 cases emerged when Hispanic and Black New Yorkers began dying from COVID-19 at [twice the rate](#) of White New Yorkers. Research has found that socially disadvantaged populations have [more comorbid conditions](#) overall, which is one factor placing minority groups at higher risk for complications and death. Minority populations are also facing [high COVID-19 infection rates. Often, this is because](#) minority populations are more likely to have essential jobs, such as [transit workers](#), and take public transportation, which exposes them to the disease. Demographic data collected by some states have revealed that these disparities in COVID-19 infection rates and fatalities [exist across several states](#) for Black populations.

### **Impact on Nursing Homes and Prisons**

In addition to racial disparities, nursing homes and prisons have seen a rampant spread of COVID-19 cases due to being underfunded and overcrowded. Recent data demonstrates that a [fifth of U.S. COVID-19 deaths](#) have been linked to nursing homes. Nursing home residents are more vulnerable to succumbing to COVID-19, yet [many facilities](#) lack enough protective gear, proper staffing and the ability to isolate patients. U.S. prisons and jails have also seen an alarming rate of infections, such as one Ohio prison where [73% of inmates tested positive](#). While [many](#) states have released nonviolent offenders, [several reports](#) have found that prison facilities are still overcrowded and lack adequate sanitizing supplies.

### **Addressing the Needs of the Most Impacted Populations**

In order to properly address the risks that COVID-19 poses, policy makers need to consider the populations that are disproportionately affected. It is widely acknowledged that people experiencing poverty and marginalized groups have [historically been the most impacted](#) by infectious disease epidemics. Physicians, nurses and hospital leaders have [sent a letter](#), urging HHS to respond to the needs of these populations. Some argue that [legal policy responses](#) are needed to address social determinants, support social distancing and other mandated interventions, and address long-standing root problems to protect socioeconomically disadvantaged communities during the pandemic.



## 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 continues to collect endorsements on his path to the Democratic nomination, including one from Former President [Barack Obama](#).
- New Jersey is the latest state to postpone its primary. It joins [15 other states](#) (and a few territories) that have taken similar action because of the pandemic.
- Wisconsin is being [heavily criticized](#) for refusing to postpone its in-person primary on April 7<sup>th</sup>. Despite the governor's stay-at-home order, hundreds of people gathered to vote in person, in part because the ballots needed to vote by mail did not arrive in time.



## A Look at the Federal Register

### **Prioritization and Allocation of Certain Scarce or Threatened Health and Medical Resources for Domestic Use**

The Federal Emergency Management Agency (FEMA) has released [a temporary final rule](#) to allocate certain “scarce or threatened” materials for domestic use only. These materials may not be exported from the U.S. without FEMA’s approval. Exceptions can be found [here](#). The temporary rule is effective from April 7 – August 10, 2020.

### **Medicare Program: FY 2021 Hospice Wage Index and Payment Rate Update**

CMS has released a [proposed rule](#) to update the hospice wage index, payment rates and cap amount for Fiscal Year 2021. **Comments on the proposed rule are due no later than 5 p.m. on June 9, 2020.**

## **Medicare Program: FY 2021 Inpatient Rehabilitation Facility Prospective Payment System**

CMS has released a [proposed rule](#) to update the prospective payment rates for inpatient rehabilitation facilities. The proposed rule includes weighting factors for case-mix groups.

**Comments on the proposed rule are due no later than 5 p.m. on June 15, 2020.**

### **IN OTHER NEWS**

[We Can't Reopen the Country Without Answering These Three Questions](#) – Advisory Board

[Protests Against Stay-At-Home Orders are Spreading](#) – Vox

[What Happens If U.S. Reopens Too Fast?](#) – NPR

[Trump Halts New Green Cards, But Backs Off Broader Immigration Ban](#) – New York Times

[It Took a Pandemic for Cities to Finally Address Homelessness](#) – Vox