



## Policy Brief

July 24, 2020



### Senate Releases COVID-19 Proposal

The Senate recently reached an agreement with the White House for another COVID-19 relief bill and the bill's language is expected to be released soon. This kicks-off negotiations with the House of Representatives, with the goal of passing a final legislative package before the Congressional August recess. Below are the policies that are included in the Senate's proposal.

**Adopt liability protections for health care providers.** The proposal extends liability protections to health care providers for issues related to COVID-19. To prevail, plaintiffs must show that the provider was grossly negligent, engaged in willful misconduct, and violated relevant state/local public health guidelines in place at the time the incident occurred. Although extending liability protections is a priority to Senate leadership, the House has already expressed opposition to this policy.

**Appropriate \$25 billion for the Provider Emergency Relief Fund.** Although the proposal does not include an additional \$100 billion for the Fund as requested by AHPA and other organizations, it does provide additional funds. The proposal also includes:

- \$25 billion for COVID-19 testing.
- \$26 billion for vaccine research, distribution and use.
- \$1.3 billion for workplace training on social distancing.
- \$15.5 billion for NIH labs/research.

- \$4.5 billion to SAMSA for mental health, suicide prevention and overdose response programs.
- \$7.6 billion for Community Health Centers.

**Grant additional time for providers to repay CARES' Act Medicare Accelerated Payments.** The proposal extends the time for providers to repay the Medicare Accelerated payments received under the CARES Act until January 1, 2021. The interest free repayment period is also extended for an additional four months as well.

**Extend telehealth reimbursement policies, without making waivers permanent.** Although the proposal does *not* make any of the COVID-19 telehealth waivers permanent, it does extend them until the end of 2021.

**Adopt tax deductions for employer purchases related to COVID-19.** The proposal adopts tax deductions for employer purchases of Protective Personal Equipment, COVID-19 testing and other supplies.

**Extension of enhanced unemployment benefits.** The proposal extends the enhanced unemployment benefits previously approved by Congress but those benefits will likely be lower than \$600 a week. The Senate wants to adopt a new federal unemployment benefit that would cover 70% of the wages a person was previously earning; a cap would probably also be adopted.

### Other Congressional Efforts

Below are other parallel efforts taking place in Congress that could potentially be incorporated in a final COVID-19 legislative package or future legislation. Other top policies being promoted by health trade groups can be found [here](#).

**House Ways and Means Committee releases a discussion draft to promote telehealth.** The [draft](#) legislation would make permanent several of the current COVID-19 waivers, including the removal of the originating site requirements and allowing various clinicians to provide telehealth services.

**House committees seek to tackle health disparities.** COVID-19 has exposed the significant health disparities present in our nation. In an effort to better understand and address those disparities, the House Ways and Means Committee recently released a [report](#) that outlines systemic barriers to health. The Energy and Commerce Committee has also hosted several [hearings](#) on the issue of health disparities. Future legislation is expected on this issue, whether it is included on the COVID-19 relief bill or not.

**Senators introduce legislation to waive 340B eligibility requirements.** A bipartisan group of six senators introduced [legislation](#) to waive 340B eligibility requirements for hospitals participating in the program during the COVID-19 pandemic. This policy is also being promoted by most health trade groups.



## Joe Biden's Health Care Recommendations

As the 2020 presidential election approaches, former Vice President Joe Biden continues to make health care central to his campaign. Along with his existing health care [platform](#), Mr. Biden has released additional policy recommendations on strengthening the American health care system. These recommendations, developed in collaboration with Senator Bernie Sanders and a cabinet of health policy advisors, provide additional insight into Mr. Biden's health care priorities. President Trump is also expected to unveil his health care platform soon. Below is more on Mr. Biden's health care platform and the new health policy recommendations.

### **Mr. Biden's Health Care Platform**

Supporting the Affordable Care Act (ACA) is the bedrock of Mr. Biden's health care platform, with much of the platform's priorities focusing on boosting its efficacy and building on the law's public health successes. The platform also explores ideas to lower prescription drug costs by importing them from other countries, capping consumer health care spending and launching a "Medicare-like" public option. Undocumented immigrants would be able to buy into the public option but would not be able to receive governmental subsidies.

### **The Biden-Sanders Health Policy Recommendations**

The new recommendations build on Mr. Biden's existing platform, providing additional implementation details for many of the original ideas. These do *not* include a proposal to provide Medicare for all. According to the new document, the public option would require that patients be shielded from out-of-pocket prescription costs and allow Americans to be eligible for Medicare once they reach 60. The recommendations also include policy priorities for the environment, the workforce and infrastructure.

### **Priorities for the COVID-19 Pandemic**

Should the current public health emergency last into 2021, the newly released health platform also includes recommendations related to the pandemic. A special enrollment period would be launched, allowing individuals to purchase coverage on the ACA's Health Insurance Exchanges.

The plan also suggests that the federal government cover the cost of individuals retaining their health benefits under the existing [continuation of health coverage](#) policies.



## 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 July 11<sup>th</sup> to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the last [Policy Brief](#).

### **HHS Releases May and June COVID-19 State Testing Plans**

- HHS has made [publicly available](#) the May and June COVID-19 testing plans from all states, territories and localities on HHS.gov.

### **HHS Makes Changes to COVID-19 Daily Reporting**

- The CDC's National Healthcare Safety Network (NHSN) COVID-19 module will no longer be an option for daily data reporting; instead, the data will now be [reported](#) to HHS directly, effective July 22<sup>nd</sup>.

### **HHS To Begin Distributing \$10 Billion from the Provider Relief Fund to High Impact Hospitals**

- HHS [announced](#) that they will begin to distribute \$10 billion from the Provider Relief Fund starting this week to high impact hospitals with more than 161 COVID-19 admissions as of June 10<sup>th</sup>. Find the state payment allocations [here](#) and the hospital recipients [here](#).

### **CMS Announces Quality Improvement Organizations for Nursing Homes**

- CMS has [announced](#) that it will deploy Quality Improvement Organizations across the country to provide assistance to nursing homes in COVID-19 hotspot areas. An enhanced survey process will also be implemented to meet the needs of specific hotspot areas.

### **Civil Rights Protections During COVID-19 Pandemic**

- The Office for Civil Rights has issued a [new bulletin](#) on the prohibition of discrimination during the COVID-19 public health emergency.

### **Additional COVID-19-related EUAs Issued by the FDA**

- The FDA has issued Emergency Use Authorizations (EUAs) to [electroCore](#) for a vagus nerve stimulator and [Circadiance](#) for a CPAP-and-N95 combination mask.
- The FDA has also granted the first [Emergency Use Authorization](#) (EUA) to Quest Diagnostics for a COVID-19 pooling test, which would allow up to four specimens to be tested at once.



### **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:

- After the death of Representative John Lewis (D-GA), Georgia Democrats have chosen State Sen. [Nikema Williams](#) to fill his Atlanta-area Congressional seat on the November ballot.
- In several recently [released polls](#), Americans rated Mr. Biden as better able to handle the COVID-19 pandemic when compared to President Trump.

### **Site Neutral Payments Update: Appeals Court Upheld Cuts**

Last week, the U.S. Court of Appeals [upheld](#) HHS' payment cuts to hospital off-site outpatient departments for clinic visits, reversing last year's [decision](#) by a lower court. The appeals court [ruled](#) that the cuts do not have to be budget neutral because they were made to control unnecessary increases in the volume of covered outpatient services. This ruling comes as another loss to hospitals who are already dealing with the COVID-19 pandemic. The American Hospital Association is still [reviewing](#) the decision and deciding on next steps.



## A Look at the Federal Register

### **Community Health Needs Assessment (CHNA) Deadline Extension Due to COVID-19**

The IRS has [extended](#) the deadline for conducting a CHNA and adopting an implementation strategy to meet community needs. Hospitals must state on the Form 990 narrative section of Part V.C. of Schedule H that they would like to rely on this relief. **Hospitals will have until December 31, 2020 to comply with any CHNA requirements.**

### **Confidentiality of Substance Use Disorder Patient Records: 42 CFR Part 2**

The Substance Abuse and Mental Health Services Administration (SAMHSA) has released a [final rule](#) changing regulations governing the confidentiality of Substance Use Disorder patient records. This rule does not fully align CFR Part 2 with HIPAA; another rule implementing the [CARES Act provisions](#) will be released in the future. **The final rule is effective August 14, 2020.**

### **Control of Communicable Diseases: Importation of Human Remains**

The CDC has issued a [final rule](#) amending safeguards to prevent the importation and spread of communicable diseases via human remains. **This final rule is effective August 14, 2020.**

### **Medicare Program: End-Stage Renal Disease Prospective Payment System**

CMS has released a [proposed rule](#) updating and revising the End-Stage Renal Disease Prospective Payment System for CY 2021. The rule also proposes updates to the payment system for renal dialysis services. **Comments are due September 4, 2020.**

### **National Vaccine Injury Compensation Program Revisions**

HHS has issued a [proposed rule](#) to revise the Vaccine Injury Table. The proposal will be effective for petitions for compensation under the National Vaccine Injury Compensation Program.

**Comments are due January 12, 2021.**



## AHPA Resources

- [Loma Linda IHPL Issue Brief: Minority Health in the United States](#)
- [AHPA Webinar: FY 2021 IPPS Proposed Rule](#)
- [Outline of FY 2021 IPPS Proposed Rule](#)
- [AHPA FY 2021 IPPS Webinar Slides](#)

## IN OTHER NEWS

[Early Impact of CMS Expansion of Medicare Telehealth During COVID-19](#) – Seema Verma, Health Affairs

[Fairness in a Pandemic](#) – LLUH Institute for Health Policy and Leadership

[Amazon is Launching Health Clinics for Select US Employees](#) – Business Insider

[Black Children More Likely to Die After Surgery than White Counterparts, New Study Finds](#) – STAT News