



## Policy Brief

October 16, 2020



### President Trump's Final Push Before the Election

With the election approaching, the President is introducing additional policies to appeal to his voters that could have long-term consequences regardless of the election outcome. President Trump has been running on a [platform](#) to repeal the Affordable Care Act (ACA), reduce immigration and boost the economy. More recently, the President has been pushing priorities that include the development of a COVID-19 [vaccine](#) and rolling out \$200 drug discount [cards](#) for Medicare beneficiaries. With only a few weeks left until the election, it may be difficult to achieve his goals in time, but they may still have policy implications regardless of who wins.

#### **President Trump's Push for a Vaccine**

The goal of President Trump's Operation Warp Speed is to accelerate vaccine development in order to [reopen](#) the economy, a key element of the President's platform. However, this unusual speed of vaccine development has caused many Americans to have safety [concerns](#), which could discourage people from taking a vaccine once released. In an attempt to assure the American people, the FDA [released](#) stricter guidelines for vaccines to meet before approval. Despite White House [efforts](#) to block these guidelines in order to have a vaccine released by election day, the FDA has since moved forward, cementing a later timeline for approval.

#### **President Trump's Push for More Benefits for Americans**

President Trump [recently](#) restarted talks for another COVID-19 relief bill despite Republican Senate Majority Leader Mitch McConnell's reluctance. The President's goal was to [provide](#) another round of stimulus checks for Americans. However, this effort imploded as parties could not agree on the provisions in the bill. The President had initially [declared](#) that talks were over

until after the election, but, in a recent interview, he [stated](#) that he was waiting on Secretary of the Treasury Steve Mnuchin to reach a deal with Congress. President Trump has since pivoted to [providing](#) a \$200 drug discount card to Medicare beneficiaries.

### **The President's Priorities Matter, Even After the Election**

President Trump has continued to make promises to voters, some of which may be difficult to achieve. Most recently, he [declared](#) that Americans would have access to the same COVID-19 treatment that he received, calling on the FDA Commissioner to speed up the experimental treatment's approval. This intervention shows that the President's sway over the regulatory process could have lasting effects even after the election. There may continue to be an influx of promises from both presidential candidates before the election, but we have to wait until after the election to see if they will be held up.



### **COVID-19 Job Loss Hurts Both Financial and Physical Health**

In the U.S., the majority of the American workforce obtains health insurance through their Employer-Sponsored Insurance (ESI) plans. However, pandemic-related safety measures have caused some employers to conduct mass layoffs or shutter their doors completely, cutting off the access to care that ESI provides. Between March and May, [78 million](#) people reported at least one job lost in their household—56% of these people have also lost their insurance coverage. These newly unemployed individuals are at an increased risk for adverse financial, physical and emotional health effects. Read more on the impact rising unemployment is having on American families' access to health care.

#### **Pandemic-related unemployment has hit some families hard...**

More conservative analyses estimate that approximately 31 million people (including health care workers) have filed for unemployment support during the pandemic; this count does not consider the under-employed or infrastructure failings of local unemployment systems. Hospitals have lost [between 30-55%](#) of their elective patient volumes this year, translating into millions of dollars in lost revenue. By the end of the first wave of infections, some hospitals had to lay off team members to stay afloat while bearing such large financial losses. The high rates of turnover during the pandemic has led to the [highest rate](#) of ESI loss in history, dwarfing those seen during the Great Recession.

**...and it's not just the wages they're missing.**

Many newly-uninsured individuals report delaying routine care because of financial uncertainty, something [some physicians](#) believe will contribute to a higher rates of disease and more avoidable illnesses. For people living in non-expansion states, falling into the “coverage gap” is an increasing danger, as these people may not qualify for Medicaid despite having lost the insurance provided through their employer. Approximately [5.7 million people](#) who lost their jobs will not be eligible for subsidized insurance coverage on the Exchanges.

**If the ACA thrown out, unemployment's impact could be even greater.**

As it stands, the ACA can serve as a safety net for people losing their ESI. Before the passing of the ACA, [nearly half](#) of all people facing unemployment did not have health insurance. After the ACA, this amount decreased by 35%. The ACA also prevents insurers from denying coverage to people with preexisting conditions. Currently, approximately [54 million adults](#) under the age of 65 have a preexisting condition that would have made them uninsurable prior to the ACA. Oral arguments on the [severability](#) of the ACA are scheduled to take place exactly one week after the presidential election.

### Supreme Court Confirmation Hearings Begin for Amy Coney Barrett

This week, the Senate Judiciary Committee began hearings for Amy Coney Barrett, President Trump's nominee to the Supreme Court. On Wednesday, Barrett tried to ease mounting anxiety about the future of the ACA, [suggesting](#) that the law might survive its upcoming legal challenge from the Trump Administration. Barrett declined to answer questions, however, about her willingness to [uphold Roe v. Wade](#) or the [White House's duty](#) to a peaceful transfer of power. The Judiciary Committee is expected to vote on Barrett's nomination on October 22<sup>nd</sup>, with a full Senate vote to follow.

### CMS Expands Medicare's Telehealth Services list

On October 14<sup>th</sup>, CMS announced that it has added 11 new services to the Medicare telehealth services list. CMS is also extending additional telehealth support to State Medicaid and Children's Health Insurance Program agencies. The Trump Administration hopes that these actions will increase access to telehealth during the COVID-19 pandemic. Click [here](#) to read the press release or [here](#) for the full list of newly-added telehealth services.

## Update on Surprise Billing Legislation

Following the President's [Executive Order](#) urging Congress to prohibit surprise billing, federal lawmakers have resumed discussions on a legislative package. Senate HELP Committee Chairman Lamar Alexander (R-TN) and Senator Bill Cassidy (R-LA) [announced](#) that they have reached a compromise with three Congressional Committees that have jurisdiction on the issue. Although the legislative text has not been released, the bill is expected to ban surprise billing and establish a "baseball-style" arbitration process. The payment amount that out-of-network providers would receive has not been shared yet. With the elections approaching, it is still uncertain whether Congress will take any action before December. The Senate bill would need to first be approved by the Democrat-controlled House of Representatives, which has its own competing [proposals](#) on surprise billing. Depending on the outcome of the upcoming election, Democrats may want to wait until next year to take any action. However, if President Trump retains the White House, failure to pass legislation by the end of the year would result in HHS seeking a regulatory remedy.

## New Guidelines for COVID-19 Provider Relief Funds Could Strain Hospitals' Resources

A new [Post-Payment Notice of Reporting Requirements](#), released by HHS on September 19<sup>th</sup>, adopts a new definition of hospital lost revenue that would result in hospitals having to return already-received payments from the Provider Relief Fund. In response to this guidance, AHPA will be sending a letter to its Congressional delegation urging lawmakers to convey our concerns to HHS. Similarly, 31 [Republican senators](#) and 22 [Democrat senators](#) sent separate letters to HHS Secretary Alex Azar expressing their concerns with the reporting requirement changes. A summary of the new reporting requirements can be found [here](#).



## 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 October 3<sup>rd</sup> to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the previous [Policy Brief](#).

### **HHS Announces \$20 Billion in Additional Provider Relief**

- HHS recently [announced](#) \$20 billion in new funding for providers on the frontlines of the pandemic. Providers that have already received Provider Relief Fund payments are invited to apply from today until November 6<sup>th</sup>. Eligibility for these funds will also be extended to behavioral health providers and those who began practicing at the beginning of 2020.

### **CMS Releases Interpretative Guidance on Mandatory COVID-19 Data Reporting for Hospitals**

- CMS has released [guidance](#) on how it will implement an [interim final rule](#) that makes collecting and reporting COVID-19 data a Condition of Participation (CoP) for hospitals that participate in Medicare. For highlights on the guidance, click [here](#).

### **CDC Revises Guidelines to Include Sustained Airborne Transmission**

- The CDC has updated its COVID-19 guidelines to include that the virus can be spread through aerosols, can linger in the air sustained periods of time and may travel farther than six feet. This presents new challenges for operators developing indoor social-distancing guidelines.

[Updated CDC Guidance](#) | [EPA Indoor Air and COVID-19 Guidance](#)

### **FDA Releases Stricter COVID-19 Vaccine Guidelines**

- The FDA recently released [updated guidelines](#) for COVID-19 vaccine developers, despite disagreements with White House officials. The FDA has [expressed](#) its desire to accelerate vaccine development without sacrificing safety.



### **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:

- On October 7<sup>th</sup>, Vice President Mike Pence and Sen. Kamala Harris (D-CA) met in their [only chance](#) to debate before the November election. Health policy was a key topic of the vice-presidential debate, with Sen. Harris criticizing the Trump Administration's handling of the pandemic.

- Sen. Harris also needled the Vice President over the Administration’s attempt to strike down the ACA as unconstitutional, [warning voters](#) of the public health dangers of losing preexisting conditions protections.
- Despite being diagnosed with COVID-19, President Trump has announced that he will not participate in a virtual debate, calling anything less than a face-to-face debate a “[waste of time](#).”
- Mail-in voting has already begun in many states and is on track to reach record highs. Some swing states are already [feeling the pressure](#), with local election officials facing an arduous process for mail ballot processing.



### AHPA Resources

- [Webinar Recording: FY 2021 IPPS Final Rule](#)
- [Webinar Recording: FY 2021 OPPS Proposed Rule](#)

### IN OTHER NEWS

[New Executive Order Seeks to Address COVID-19 Impact on Mental Health](#) – Lexology

[Supreme Court Allows Trump Administration to End Census Counting on Oct. 15](#) – NPR

[Which States Had the Best Pandemic Responses?](#) – Politico

[Opinion: Kamala Harris Knows How to Win Elections](#) – NY Times

[Medicare Advisers Toy with MA Payment Overhaul as Major Payers Expand for 2021](#) – Healthcare Dive