

July 28, 2020

Senate Republicans Introduce COVID-19 Relief Package

Bills to set off intense negotiations between Republicans and Democrats

Senate Republicans yesterday [released a series of bills](#) aimed at addressing the COVID-19 pandemic. The bills represent Senate Republicans' offer on the next COVID-19 relief package.

The bills include a number of provisions to provide financial relief and resources to individuals, families and businesses particularly hard hit by the COVID-19 public health emergency. They also include provisions directly related to the delivery and financing of health care, including additional allocations to the Provider Relief Fund, meaningful liability protections for health care providers, and additional resources for testing and vaccine development. Key highlights of the health care-related provisions included in the package follow.

Please see the [AHA's latest Action Alert](#) and resources that you can use in discussions with your lawmakers to make sure that hospital and health systems' priorities are included in the relief package as a compromise bill begins to take shape.

HIGHLIGHTS OF PROVISIONS INCLUDED IN THE BILL THAT ARE IMPORTANT TO HOSPITALS AND HEALTH SYSTEMS

- **Provider Relief Fund.** The bill would provide an additional \$25 billion for the Provider Relief Fund.

Key Takeaways

Among other health care-related provisions, the package would:

- Provide an additional \$25 billion for the Provider Relief Fund.
- Delay the start of repayment from 120 days to 270 days after the issuance of the Medicare accelerated payment. It also would extend the repayment period from 12 months to 18 months.
- Protect health care providers and facilities from liability related to treatment, diagnosis or care directly affected by COVID-19.
- Ensure the Medicare telehealth flexibilities made available during the public health emergency are maintained through the length of the public health emergency, or Dec. 31, 2021, whichever is later.

- **Accelerated and Advance Payments.** The bill would delay the start of repayment from 120 days to 270 days after the issuance of the accelerated payment. It also would extend the repayment period from 12 months to 18 months. These changes would apply to those providers that were named eligible for accelerated payments in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (prospective payment system hospitals, critical access hospitals, cancer hospitals, and children's hospitals). For the advance payment program, Part B suppliers would begin repayment 270 days after the issuance of the advance payment, and would have a 14 month repayment period. The bill also would transfer funds from the General Fund of the Treasury to the Trust Fund to cover the amounts of the advance payment program.
- **Liability Protections.** The bill would specifically protect health care providers and facilities from liability related to treatment, diagnosis or care directly affected by COVID-19. It would extend this protection to doctors, nurses, administrators and volunteers for a period beginning Dec. 1, 2019 and ending at the conclusion of the emergency declaration or Oct. 1, 2024. The bill would provide a floor for liability protections but acknowledges that states are "free to further limit liability" for COVID-19 related claims. This protection would not apply to intentional discrimination and if a plaintiff can prove gross negligence or willful misconduct.
- **Access to Medical Resources.** The bill would make improvements to the Strategic National Stockpile (SNS) by requiring the SNS to partner with medical product manufacturers, distributors or other entities to increase the manufacturing and stockpiling of medical products that are necessary during or in advance of a public health emergency. Additionally, the bill would require the Department of Health and Human Services (HHS) to publish guidance detailing how states and tribal territories can request and access resources from the SNS. Further, the legislation would require a series of actions to improve and sustain state stockpiles. Specifically, it would require HHS to award grants, contracts or cooperative agreements to establish state stockpiles of necessary supplies, such as personal protect equipment (PPE), pharmaceutical products, vaccines and other supplies. It also would require each state to submit a stockpiling plan to the HHS Secretary outlining how the state will maintain and coordinate the stockpile. In addition, the bill would require HHS to provide guidance on how best to manage state stockpiles and includes auditing and fund withholding provisions in instances where a state fails to submit a plan or meet other requirements. The bill would authorize an additional \$2 billion for the SNS.
- **Domestic Supply Chain.** The bills include the US Made Act, which would require that any purchases by HHS of covered items for the SNS must be manufactured domestically and from components grown, reprocessed, reused or produced in the U.S. This includes PPE and clothing, sanitizing supplies and other ancillary medical supplies. In addition, it would provide U.S. manufacturers with a 30% tax credit against equipment costs associated with certain qualifying PPE manufacturing. Qualifying manufacturing includes any item in the SNS and any other textile products for medical applications.

- **Telehealth.** The bill would ensure the Medicare telehealth flexibilities made available during the public health emergency are maintained through the length of the public health emergency, or Dec. 31, 2021, whichever is later, and allow rural health centers and federally qualified health centers to continue serving as distant sites for the provision of telehealth services for five years beyond the end of the public health emergency. In addition, it would allow employers to offer telehealth as an excepted benefit to employees who are not full-time or do not qualify for their employer's coverage. Finally, it would establish new data reporting on telehealth. Specifically, it would require the Medicare Payment Advisory Commission (MedPAC) to report by June 15, 2021, on the impact of telehealth flexibilities on access, quality and cost; which flexibilities should be made permanent; how Medicare should pay for telehealth services after the public health emergency; and other topics. The bill also requires HHS to post data on the use of telehealth throughout the pandemic; study the impact of telehealth and other virtual services furnished during the pandemic on access, outcomes and spending; and provide legislative recommendations to Congress.
- **Children's Hospitals Graduate Medical Education (GME).** The bill would authorize \$250 million to remain available until Sept. 30, 2022, for supplemental payments to children's hospitals that receive GME to prevent, prepare for and respond to COVID-19.
- **Expand Resources for Testing, Domestic Manufacturing of Medical Countermeasures, Contact Tracing and Vaccine Development and Distribution.** The bill would take steps to improve earlier access to diagnostic tests and would require the HHS Secretary, in coordination with the Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA), to consult with medical product manufacturers, suppliers and other stakeholders to identify specific test supply needs; identify projected demand and availability of such supplies; and support activities to increase the availability of such supplies or appropriate alternatives. It also would amend the Biomedical Advanced Research and Development Authority (BARDA) to improve and support sustained domestic manufacturing surge capacity and capabilities to produce needed medical countermeasures, such as vaccines and therapeutics to respond to public health threats like COVID-19. The bills would authorize \$20 billion to BARDA for vaccine, therapeutic and diagnostic development; \$16 billion for testing, contact tracing and surveillance in states; and \$6 billion to develop and execute a new COVID-19 vaccination distribution campaign coordinated through the CDC. The bill also provides \$3.4 billion to the CDC, including \$1.5 billion to support state, local and territorial public health needs; \$500 million to enhance influenza vaccination efforts; and \$200 million each for global public health security and public health data reporting modernization.
- **Laboratory Testing Integrated into Infectious Disease Data Collection.** The bill would integrate laboratory testing and epidemiology systems into existing public health preparedness and situational awareness surveillance programs. This is intended to improve the exchange of electronic health information between health care providers, public health departments and federal agencies

so as to better provide detection of infectious diseases and inform public health preparedness and response.

- **Centers for Public Health Preparedness.** The bill would authorize a network of 10 regional Centers for Public Health Preparedness, which will support state and local health departments, health care coalitions and the public by disseminating research related to public health preparedness and response; identifying and developing relevant evidence-based practices; helping to prepare through drills, exercises and trainings; and providing technical assistance and expertise during public health emergencies.
- **COVID-19 Emergency Support and Protection for Nursing Homes.** The bill would establish COVID-19 strike teams for “nursing facilities,” which include nursing homes and skilled nursing facilities that are enrolled in Medicare and Medicaid. These teams are intended to supplement, not supplant, the efforts of state strike teams or any technical assistance team launched by HHS during the emergency period. These teams would augment local assessment, testing and clinical teams; perform medical examinations; conduct COVID-19 testing; and assist with improving infection control practices. The bill also would strive to enhance testing and infection control by developing online training courses and training materials; and improving diagnostic testing and testing frequency. In addition, the HHS Secretary would be required to create training courses on infection control and prevention best practices for strategies, such as cohorting and the use of telehealth, along with an interactive COVID-19 website. The bill also would strive to increase transparency in reporting COVID-19 data by requiring data sharing with the states. Finally, to fund these activities, the bill would allow the use of COVID-19 funds authorized by the CARES Act and subsequent legislation.
- **Federal Trust Fund Solvency.** The bill would create a process whereby Congress would use bipartisan Committees to develop legislative approaches to reduce financial pressures on federal trust funds, including the Medicare Part A Trust Fund. Any legislation developed by these Committees could not be amended by committees of jurisdiction or Members of the House and Senate. Any vote on the Committee’s recommendations would be fast-tracked through Congress. Previous specially-appointed deficit committees have recommended hundreds of billions of dollars in cuts to Medicare and other health care programs.
- **Part B Premiums.** The bill would hold the 2021 Medicare Part B monthly premium at the 2020 amount for all beneficiaries. It also would add a surcharge, \$3 for the vast majority of seniors, to the monthly premium until the shortfall in the Part B Trust Fund from holding premiums constant in 2021 is recouped.
- **Paycheck Protection Program (PPP).** The bill would add additional money to the PPP to target certain smaller businesses in recovery sectors and enable certain existing borrowers to apply for additional monies through the program, as well as increase the flexibility of some of the existing terms of the program.

- **Certified Community Behavioral Health Clinics.** The bill would appropriate \$600 million to help expand access to treatment of mental illnesses and substance use disorders through community-based clinics.
- **Provisions Not Included:** The bills do not include any provisions related to the Occupational Safety and Health Administration, health care coverage, specific support for health care heroes, the Federal Medical Assistance Percentages for state Medicaid programs, the Medicaid Fiscal Accountability Rule, Medicaid disproportionate share hospital payments, or surprise medical billing.

FURTHER QUESTIONS

If you have questions, please contact AHA at 800-424-4301.