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Capital Minute

Every other Thursday at 3pm ET, ACEP members will have the opportunity to hear updates and have their questions answered live by Laura Wooster, ACEP's Associate Executive Director of Public Affairs. [Click here](#) to register for the next live ACEP Capital Minute on Thursday, April 30th.

NEMPAC Pulse: COVID-19 Special Edition

This special edition of the NEMPAC Pulse newsletter and subsequent editions will be dedicated to updating you on the work ACEP is doing right now on behalf of ACEP members like you who are managing the COVID-19 pandemic in your communities. [Click here](#) to read the NEMPAC Pulse.

NEMPAC VIP Donor "Virtual Happy Hour" Series

The NEMPAC Board of Trustees is hosting a series of NEMPAC VIP "Virtual Happy Hours" with special guests. The series will give you an opportunity to socialize online, unwind, share stories and hear from congressional speakers and political experts. Next **Thursday, April 30th**, we will be joined by special guest emergency physician and member of Congress, Rep. Raul Ruiz (D-CA). [Click here](#) to view the schedule of upcoming events. Participation is limited to the first 100 NEMPAC VIP donors who register. Not sure of your VIP status? [Contact us](#) to check or renew.

CARES "3.5" Package Signed Into Law

On Friday, April 24, President Trump signed the latest COVID-19 response legislation into law, a stopgap measure providing an infusion of \$484 billion into ongoing coronavirus response efforts. The package, referred to by legislators as "CARES 3.5," shores up existing programs as legislators continue monitoring the impact of the COVID-19 outbreak on the health care system and the economy. The Senate passed the measure by unanimous consent earlier in the week, but the House was forced to vote on the measure, doing so in an unorthodox fashion as legislators in masks were only allowed into the chamber in small blocs to maintain social distancing protocols. The measure ultimately passed in a 388-5 vote.

The bill provides an additional \$321 billion for the Paycheck Protection Program (PPP) that ran out of its initial round of funding a week ago, another \$60 billion for economic disaster loans for small

businesses, and an additional \$75 billion for hospitals, physicians, and other providers. Negotiations continue on the next CARES package which is expected to address other unresolved issues, though much of the bipartisanship that marked earlier bills has cooled considerably. Negotiations between Republicans and Democrats have all but stalled out, as U.S. Treasury Secretary Steve Mnuchin has filled in as proxy to negotiate with Senate Minority Leader Chuck Schumer (D-NY). Additionally, Senate Majority Leader Mitch McConnell (R-KY) recently stated his growing concern with the multi-trillion dollar costs of the efforts to date and hinting that future Senate proposals will be more limited in scope.

As of now, it is unclear as to when Congress will return to pass another COVID-19 relief bill and what will be needed in such legislation. ACEP continues to advocate for emergency medicine priorities on Capitol Hill, including a Virtual Hill Day on April 28, 2020.

Regs and Eggs: You Received Financial Relief? Should You Keep it?

This week's [Regs & Eggs](#) blog focuses on the terms and conditions associated with the [CARES Act provider relief fund](#). We can't tell you one way or the other whether you should keep the money you have already received from the fund or may receive going forward. However, in the blog, we attempt to provide you with some information that will help you decide what to do.

HHS Announces More Details on \$100 Billion CARES Act Funding

On Wednesday, HHS [announced](#) how it plans to allocate more of the provider relief funding that was included in the CARES Act. These allocations are in addition to the [\\$30 billion that was already distributed](#). Below is a brief overview of the announcement. More details provided in the HHS' provider relief [fact sheet](#).

- \$20 billion General Allocation: HHS is allocating another \$20 billion to all health care providers. The total health care providers receive—both from the initial \$30 billion and the new \$20 billion—will be based on their 2018 total revenue. To confirm health care providers' total 2018 total revenue, they will need to submit their revenue information to HHS. If providers want this additional funding, they will have to adhere to the same [terms and conditions](#) that they did for the first \$30 billion.
- \$10 billion for Providers in Hot Spots: \$10 billion of the funding will be allocated for a targeted distribution to hospitals in areas that have been particularly impacted by the COVID-19.
- \$10 billion for Rural Health Providers: \$10 billion will be allocated for rural health clinics and hospitals.
- \$400 million for Indian Health Service (IHS) Facilities: \$400 million will be allocated for IHS facilities, distributed on the basis of operating expenses.
- Reimbursement for Providers Treating Uninsured COVID-19 Patients: Every health care provider who has provided treatment for uninsured suspected or confirmed COVID-19 patients on or after February 4, 2020, can request claims reimbursement at Medicare rates, subject to available funding. Providers can register for the program on April 27, 2020 and begin submitting claims in early May. More detail can be found [here](#).

HHS also announced that some providers will receive further, separate funding, including skilled nursing facilities, dentists, and providers that solely take Medicaid.

It is important to note the COVID 3.5 legislative package includes an additional \$75 billion for the provider relief fund on top of the \$100 billion included in the CARES Act.

Updated Recommendations on Providing Non-Emergent Non-COVID Care

On Monday, CMS [issued guidance on providing essential non-COVID-19 care](#) to patients without symptoms of COVID-19 in regions with low and stable incidence of COVID-19. This is part of Phase 1 in the Trump Administration's Guidelines for Opening Up America Again. The new recommendations are specifically targeted to communities that are in Phase 1 of the Guidelines for Opening Up America Again with low incidence or relatively low and stable incidence of COVID-19 cases.

CMS Allows Independent Free-standing Emergency Departments to Temporarily Participate in Medicare and Medicaid

Currently, independent free-standing emergency departments (IFEDs) are not eligible to enroll in Medicare and Medicaid. On Tuesday, CMS issued guidance allowing licensed IFEDs in Colorado,

Delaware, Rhode Island, and Texas to temporarily provide care to Medicare and Medicaid patients. This is part of CMS' COVID-19 [Emergency Declaration Blanket Waivers](#) for Health Care Providers, where CMS waived certain Conditions of Participation (CoPs) for hospitals to expand their ability to provide care for patients during this public health emergency (PHE).

Under the [guidance](#), IFEDs may participate in Medicare and Medicaid in one of three ways:

- Becoming affiliated with a Medicare/Medicaid-certified hospital under the temporary expansion 1135 emergency waiver;
- Participating in Medicaid under the clinic benefit if permitted by the state; or
- Enrolling temporarily as a Medicare/Medicaid-certified hospital to provide hospital services.

HHS Delays Data Sharing and Interoperability Rules

Earlier this year, HHS finalized [regulations](#) that imposed new requirements for health care professionals, hospitals, electronic health record (EHR) vendors, and other stakeholders aimed at reducing data blocking and improving interoperability of EHRs. On March 12, ACEP summarized [what you needed to know](#) in our weekly regs & eggs blog.

On Tuesday, HHS [announced](#) that due to the COVID-19 pandemic, the Department would be delaying the enforcement of these new requirements.

\$110 Million in Funds Released for Mental Health

On Monday, the Substance Abuse and Mental Health Services Administration (SAMHSA) distributed \$110 million to help Americans with substance use disorders and serious mental illness receive the treatment they need during the COVID-19 pandemic. The grants total \$110 million and will provide up to \$2 million for successful state applicants and up to \$500,000 for successful territory and tribal applicants for 16 months.

For information about the emergency grants, [click here](#).

New Telehealth Resources Created

On Wednesday, a new website, <https://telehealth.hhs.gov/> went live to provide information about the latest federal efforts to support and promote telehealth services. Further, on Thursday, CMS released a [toolkit](#) to help states identify and address barriers to telehealth coverage in Medicaid and the Children's Health Insurance Program (CHIP) during the COVID-19 public health emergency.

Updated Information on Respirators

On Thursday, the CDC released interim guidance, [Considerations for Optimizing the Supply of Powered Air-Purifying Respirators](#), which describes considerations for the use of these devices to provide respiratory protection to healthcare practitioners and includes conventional, contingency and crisis capacity strategies. Additionally, CDC updated their webpage on [decontamination and reuse of filtering facepiece respirators](#). The updates include clarification on individual facilities using their discretion when determining what decontamination methods to use.

Updated Guidance on Coverage and Cost-sharing Requirements for Health Plans

On Thursday, CMS issued revised guidance to issuers of individual, small group, Medicare Advantage, and Part D plans, addressing coverage and cost-sharing requirement during the COVID-19 public health emergency. [Revised guidance for individual and small group health plans](#) encourages issuers to "to work with out-of-network providers" to "agree upon a rate to ensure that enrollees are not balance billed," adding that multiple factors may be affecting patient access to in-network providers." [Updated guidance for Medicare Advantage and Part D](#) plans allows them to implement a number of additional flexibilities to support efforts that can help curb the spread of the virus and to help ensure MA and Part D enrollees do not experience disruptions in care or disruptions in pharmacy and prescription drug access.

2020 Medicare Trustees Report Released

On Wednesday, the Medicare Board of Trustees issued the annual [Medicare Trustees report](#). In the report, the Trustees warned that, based on current law, Medicare "faces a substantial financial shortfall that will need to be addressed with further legislation." They cautioned that the report does

not evaluate the potential effects of the COVID-19 pandemic on the Medicare program given uncertainty associated with these impacts. The report also states that "Physician payment update amounts... do not vary based on underlying economic conditions, nor are they expected to keep pace with the average rate of physician cost increases. These rate updates could be an issue in years when levels of inflation are high and would be problematic when the cumulative gap between the price updates and physician costs becomes large... If the health sector cannot transition to more efficient models of care delivery and if the provider reimbursement rates paid by commercial insurers continue to be based on the same negotiated process used to date, then the availability, particularly with respect to physician services, and quality of health care received by Medicare beneficiaries would, under current law, fall over time compared to that received by those with private health insurance."

HHS Workforce Toolkit & Opportunity for Preparedness Stakeholders

On Wednesday, CMS and Assistant Secretary of Preparedness and Response (ASPR) issued a [toolkit](#) to help state and local healthcare decision makers maximize workforce flexibilities when confronting COVID-19 in their communities. The toolkit provides information on funding flexibilities, liability protections, and workforce training, as well as best practices and peer-to-peer communications.

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