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Coronavirus: Health Care Provisions in The CARES Act

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On Thursday, March 19, Majority Leader Mitch McConnell introduced the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act), which contains provisions to provide emergency assistance for individuals, families and businesses. Senator McConnell has begun discussions with Democrat Leader Schumer and is hopeful an agreement can be reached on a final package to be considered by the U.S. Senate within the coming days. While the legislation covers a variety of issues, what follows is a summary of some of the key health care provisions along with links to the more detailed lists prepared by the committees of jurisdiction. Should you require further information, please do not hesitate to let us know. We fully expect this will not be the final action related to the current crisis.

The CARES Act includes provisions addressing health care coverage to reduce out-of-pocket costs for individuals receiving testing for COVID-19 and providing flexibility and financial resources to health care providers during the public health emergency. The health care provisions were drafted by leaders of the Senate Finance and Health, Education, Labor, and Pensions Committees. A summary of Finance Committee provisions can be found [here](#) and summaries of HELP Committee provisions can be found [here](#) and [here](#). Key provisions of the health care section include:

- Coverage of COVID-19 Testing and Vaccines:** The bill clarifies a provision in the emergency funding bill recently passed by Congress to indicate that private health insurers must cover all diagnostic testing for COVID-19 at no cost-sharing, including tests that have not received an emergency use authorization from the FDA. The bill also requires that, when COVID-19 testing is covered by an insurer at no cost-sharing, the insurer must pay a contracted rate or the provider's cash price, if there is no contracted rate. The bill requires insurers to cover COVID-19 vaccines at no cost-sharing.
- Additional Funding to Providers and Suppliers:** The bill makes changes to Medicare reimbursement and provides funding reauthorizations and grants to several provider and supplier types to ensure they have the resources to address COVID-19 during the public health emergency. Funding provisions include:
 - Temporarily suspending "sequestration" under Medicare, which reduces provider reimbursement by two percent, from May 1, 2020, through December 31, 2020. It is estimated that sequestration reduced Medicare reimbursement to providers by \$15 billion in Fiscal Year 2020. The bill would extend Medicare sequestration for an additional year;
 - Increasing Medicare reimbursement to hospitals through a 15 percent add-on payment for COVID-19 inpatient treatment during the public health emergency;
 - Providing \$1.32 billion to community health centers in supplemental funding. Health centers previously received \$100 million in the first emergency funding bill passed by Congress. Current funding for health centers is scheduled to expire May 22, 2020;
 - Reauthorizing Health Resources and Services Administration (HRSA) grant programs for rural community health; and

- Halting a scheduled reduction in payments for durable medical equipment through the duration of the public health emergency.
3. **Telehealth Coverage Under Medicare:** The bill includes a number of provisions to expand coverage of telehealth services under Medicare during the public health emergency and encourage the use of telehealth, including:
- Amending the telehealth waiver authority granted to Medicare in the first emergency funding bill passed by Congress to eliminate the requirement that the provider must have treated the patient in the past three years for Medicare to cover a telehealth service during the public health emergency (the Centers for Medicare and Medicaid Services (CMS) recently indicated it would not be enforcing the requirement that provider have an established relationship with a patient);
 - Allowing Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) to provide telehealth services and be reimbursed under Medicare during the public health emergency;
 - Eliminating requirements for nephrologists to conduct periodic evaluations of home dialysis patients in person during the public health emergency so patients can be treated at home via telehealth;
 - Reauthorization of HRSA grant programs that encourage telehealth; and
 - Allowing high-deductible health plans that include health savings accounts to cover telehealth services before patients reach their deductibles.
4. **Aligning Substance Use Disorder Confidentiality and Disclosure Rules with HIPAA Rules:** The bill response to a long-time request from stakeholders to allow the sharing of substance use disorder patient records with broad patient authorization, rather than explicit patient consent each time records are shared, and to align regulation of substance use patient records with Health Insurance Portability and Accountability Act (HIPAA) regulations.