

March 12, 2020

House Introduces the Families First Coronavirus Response Act (H.R. 6201)

Bill includes new occupational safety standards for hospitals and requires public and private health care programs to cover COVID-19 testing at no cost to the patient

The House of Representatives yesterday released the [Families First Coronavirus Response Act \(H.R. 6201\)](#) in response to the novel coronavirus (COVID-19) outbreak. The House could vote on the package as soon as today.

The legislation would eliminate patient cost-sharing for COVID-19 testing and related services, establish an emergency paid leave program, and expand unemployment and nutrition assistance. Moreover, the bill would provide a temporary increase in the Medicaid Federal Medical Assistance Percentage (FMAP), and enable states to apply for temporary waivers to cover COVID-19 testing for the uninsured through the Medicaid program. Additionally, it would require the Occupational Safety and Health Administration (OSHA) to implement new temporary and permanent standards relying on airborne-focused precautions set forth by the Centers for Disease Control and Prevention during the 2007 SARS epidemic; however, COVID-19 is contact and droplet spread, not airborne spread.

AHA Take: While the AHA appreciates Congress' efforts to address many important areas related to the COVID-19 outbreak, we are concerned about the OSHA provision referenced above. This provision would be impossible to implement in hospitals due to the severe lack of availability of N95 respirators. In addition, if this provision were implemented patients would feel the direct impact, as hospital inpatient capacity would be dramatically reduced. **See more information in our [Action Alert](#) that urges House leaders to withdraw the provision from the bill.**

A summary of select provisions included in the legislation follows.

Key Takeaways

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

- A plan to require OSHA to establish health care workplace standards based on the SARS epidemic.
- Requirements for public and private health care programs to cover COVID-19 diagnostic testing and related services at no cost to patients.
- A new option for states to expand limited Medicaid eligibility to the uninsured for the purpose of COVID-19 testing and related services.
- An 8% increase to Medicaid FMAP during the COVID-19 emergency period.

HIGHLIGHTS OF PROVISIONS IMPORTANT TO HOSPITALS AND HEALTH SYSTEMS

COVID-19 Health Care Worker Protection Act of 2020. This provision would require, within 30 days of enactment, that OSHA establish a COVID-19 emergency temporary standard requiring all employers to develop and implement a comprehensive exposure control program. The infection control precautions in the program would need to be set at the level established by the CDC in response to the 2007 SARS epidemic. While spread predominantly by direct contact and infectious material, SARS also exhibited the potential for airborne spread, and these standards would require airborne protections. In contrast, COVID-19 by all current evidence is droplet and contact spread, and thus does not require airborne protections unless engaged in specific procedures requiring that level of protection. In addition, the standard must provide no less protection than precautions mandated by state OSHA plans. After publication of the temporary emergency standard, the Secretary of Labor would be required to proceed with the promulgation of a permanent version of the standard. Both the temporary and permanent standard would require compliance for those hospitals and skilled nursing facilities that are otherwise not subject to federal OSHA or state-specific OSHA plans.

No Cost-Sharing for COVID-19 Testing and Testing-related Services. The legislation would prohibit cost-sharing for COVID-19 testing and testing-related services for most forms of coverage. These include Medicare Part B, Medicaid, Children's Health Insurance Program, Indian Health Service, group health plan, individual and other group health coverage, Tricare, Veterans Affairs Health Care and Federal Employee Health Benefit Program enrollees. Cost-sharing is defined as deductibles, copayments and coinsurance. Testing and testing-related services include in vitro diagnostic products approved by the Food and Drug Administration, health care provider office visits, urgent care center visits and emergency department visits that result in an order for or administration of testing. A further list of services is specified for Medicare patients, including nursing facility services; home services; and domiciliary, rest home and custodial care services. The prohibition on cost-sharing in all instances would apply for the duration of the emergency period.

For the Medicare program specifically, the waiver of cost-sharing applies to services paid under the outpatient prospective payment system, the physician fee schedule, federally qualified health center payment system, critical access hospital outpatient payment system, and the rural health center payment system. The Department of Health and Human Services Secretary would be required to create a modifier for providers to use to identify testing-related services when billing Medicare.

Further, small and large group health plans, individual market plans, and Medicare Advantage plans would not be permitted to apply prior authorization requirements or any other utilization management requirements. The legislation is silent on how plans must reimburse providers with the exception of the Medicare program, which would be required to reimburse providers the full payment amount.

Temporary Increase in Federal Medical Assistance Percentages (FMAP) for Medicaid; Increased Allotments for Territories. The legislation would temporarily

increase federal Medicaid funds to states and territories by increasing the FMAP percentage for each state and territory by 8%. The period for the increase would begin in the calendar quarter of the emergency period and end in the quarter when the emergency period ends. States would be required to meet certain conditions to receive the FMAP increase including:

- Maintaining eligibility requirements no more restrictive than the eligibility standards and methodologies in place as of Jan. 1, 2020;
- Maintaining premium amounts that do not exceed those in place as of Jan. 1, 2020;
- Limiting enrollment denials during the emergency period;
- Providing coverage without cost-sharing for COVID-19 testing and testing-related services during the emergency period; and
- Limiting periodic income checks and eligibility redeterminations to once every 12 months.

The FMAP increase would not apply to some current categories receiving enhanced federal funds such as the adult expansion populations.

In addition, the legislation provides for an increase in the Medicaid allotments for Puerto Rico, the Virgin Islands, Guam and American Samoa

State Option to Provide Coverage for the Uninsured. The legislation would authorize the HHS Secretary to approve state waivers under Section 1135(g) of the Social Security Act to cover testing and testing-related services for the uninsured on a temporary basis during any portion of the emergency period. For purposes of this section, an “uninsured” individual is one who is not enrolled in a federal health care program, or group or individual market coverage. States would receive 100% federal match for these populations and services.

National Disaster Medical System (NDMS) Definitive Care Reimbursement Program. The legislation would provide \$1 billion for the NDMS to pay laboratories for COVID-19 testing provided to uninsured individuals, subject to the availability of funds under the NDMS. The payment amount would be equal to the amount paid under Medicare’s clinical laboratory fee schedule. The bill defines an uninsured individual as one who is NOT enrolled in a Federal health care program or a plan on the group or individual market.

Treatment of Personal Respiratory Protective Devices as Covered Countermeasures. This section requires certain personal respiratory protective devices to be treated as covered countermeasures under the PREP Act Declaration for the purposes of emergency use during the COVID-19 outbreak and ending Oct. 1, 2024.

FURTHER QUESTIONS

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