Wynne Health Group

**Memorandum** *March 17, 2020*

# HOUSE PASSES SECOND CORONAVIRUS STIMULUS PACKAGE

On March 16, the House approved by unanimous consent H.Res. 904 to make technical corrections to the **Families First Coronavirus Response Act (H.R. 6201),** passed by the House last Saturday (March 14)**.** The package of bills intends to bolster the federal government's response to the coronavirus outbreak and address the safety and financial impacts of coronavirus.

The Senate is expected to consider H.R. 6201 this week. In addition, the Trump administration is working with Senate Republicans on a third coronavirus stimulus package to provide financial assistance to airlines, hotels, and other businesses significantly affected by coronavirus. Separately, Senate Democrats are crafting their own proposal – "an immediate an initial infusion of at least $750 billion" that would include federal funding to address hospital and treatment capacity issues; expand unemployment insurance and increase Medicaid funding; and ensure affordability of all COVID-19 treatment; among other measures, according to Senate Minority Leader Chuck Schumer (D-NY). Both proposals for the third coronavirus stimulus package may be unveiled as soon as today.

Highlights of the second coronavirus package, H.R. 6201 (including technical corrections), follow:

- **Health Care Costs & Public Health –**
  - Requires private health plans, Medicare Part B, Medicare Advantage, Medicaid, the Children's Health Insurance Program (CHIP), TRICARE, the Department of Veterans Affairs (VA), and the Indian Health Services (IHS) to provide coverage for COVID-10 diagnostic testing with no cost-sharing;
  - Provides states with the option to extend Medicaid eligibility to uninsured individuals for the purposes of COVID-19 diagnostic testing. The Federal medical assistance percentage (FMAP) for these state expenditures would be 100 percent;
  - Increases the **Medicaid FMAP by 6.2 percent for all states** for the duration of the public health emergency, conditioned on certain state requirements (e.g., states must treat individuals eligible for Medicaid benefits through the end of the month in which the emergency period ends; states must provide coverage of COVID-19 testing and treatment without imposing cost-sharing; etc.);
  - Makes technical changes to the telehealth provisions included in the Coronavirus Preparedness and Response Supplemental Appropriations Act (H.R. 6074) to ensure Medicare beneficiaries are able to access telehealth services granted under the emergency authority (Note: Moments ago, CMS issued related guidance on implementation of such flexibilities. WHG summary will follow shortly); and
  - Adds certain personal respiratory protective devices approved by the National Institute for Occupational Safety and Health to the list of covered

countermeasures under the PREP Act (details), meaning use of such products is immune from liability for any loss caused or related to the use of such countermeasures in response to the COVID-19 outbreak;
    - Provides $1 billion for the National Disaster Medical System to reimburse the costs of COVID-19 diagnostic testing and services for uninsured individuals;
    - Provides the following for health services relating to COVID-19: $82 million for the Defense Health Program; $64 million for the Indian Health Service; $60 million for the Veterans Health Administration; and
    - Ensures State Emergency Operations Centers receive regular and real-time reporting on aggregate testing and case data from health departments and share that data with the Centers for Disease Control and Prevention (CDC).

- **Nutrition Assistance –**
    - Provides additional funding for domestic nutrition assistance programs through September 30, 2021, including:
        - $500 million to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC);
        - $400 million to The Emergency Food Assistance Program (TEFAP); and
        - $250 million for the Senior Nutrition program in the Administration for Community Living (ACL) (Note: Does not apply state matching requirements mandated by the Older American Acts)
    - Authorizes several flexibilities to increase access to food assistance, including:
        - Allows the U.S. Department of Agriculture (USDA) to approve state plans to provide emergency Supplemental Nutrition Assistance Program (SNAP) assistance to households with children who are unable to receive free or reduced-priced meals because of school closures due to COVID-19 (Note: Requires the child's school to be closed for at least 5 consecutive days to be eligible);
        - Allows USDA to issue waivers for state plans that increase costs to the federal government for the purposes of providing meals during a school closure due to COVID-19;
        - Allows all child and adult care centers to operate as non-congregate (i.e., allows them to take food to go);
        - Allows USDA to waive certain requirements for the duration of the COVID-19 emergency, including meal pattern requirements and administrative requirements Removes work and work training requirements for SNAP eligibility for the duration of the public health emergency; and
        - Allows states to request special waivers from USDA to provide temporary, emergency SNAP benefits to existing SNAP households up to the maximum monthly allotment, and authorizes USDA to provide more flexibility for States in managing SNAP caseloads.

- **Emergency Family and Medical Leave –**
    - Provides up to 12 weeks of job-protected leave to individuals who are unable to work onsite or remotely due to the need to care for a child under 18 years of age if

the child's school has been closed or the child care provider is unavailable (Note: Limited to individuals who work for employers with fewer than 500 employees); and
    - Allows initial 10 days of leave to be unpaid, but requires the employer to provide paid leave (equal to no less than two-third of the employee's usual pay) for each day after the employee takes the initial 10 days (Note: Caps paid leave at $200 per day and $10,000 total)

- **Emergency Paid Sick Leave –**
    - Requires an employer with fewer than 500 employees to provide an employee with paid sick time if the employee is unable to work onsite or remotely due to any of the following: (1) employee is subject to quarantine or isolation; (2) health care provider advises the employee to self-quarantine; (3) employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis; (4) employee is caring for an individual who is quarantined or isolated; (5) employee is caring for a child because the child's school has been closed or the child care provider is unavailable; or (6) employee is experiencing other substantially similar conditions (Note: Full-time employees are entitled to 80 hours of paid sick time; and part-time employees are entitled to the number of hours that an employee workers, on average, over a 2-week period);
    - Prohibits an employer from requiring an employee to use other paid leave before the employee can use paid sick time; and
    - The above emergency paid sick leave requirements expire on December 31, 2020

Other provisions include unemployment compensation and tax credits for paid sick and paid family and medical leave.

Of note, **health care worker protection measures**, included in the initial version of H.R. 6201, **were not included in the final version of H.R. 6201**.These provisions would have required the Occupational Safety and Health Administration (OSHA) to promulgate an Emergency Temporary Standard (ETS) (within one month after enactment) to require employers to develop and implement a comprehensive infectious disease exposure control plan to protect health care workers from COVID-19. Hospitals and skilled nursing facilities operated by state or local government agencies, and are not subject to OSHA regulations, would have been required to comply with the ETS as a condition of receiving Medicare funds.