

Wynne Health Group Weekly



FRAMING THE WEEK

Senate Republicans have no immediate plans to consider the **HEROES Act (H.R. 6800)** – the \$3 trillion coronavirus relief package passed by House Democrats last Friday (May 15) – or present a counter offer to begin negotiations. Instead, the Senate will consider a slew of judicial nominees before adjourning for the Memorial Day recess. In the meantime, Democrats will continue to push for expeditious action, especially as some states seriously consider cuts to Medicaid in order to help balance their budgets.

Senate Majority Leader Mitch McConnell (R-KY) and **Sen. John Cornyn (R-TX)** are working on legislation to provide businesses with new **liability protections** – a “red line” for Republicans. Yesterday, **House Speaker Nancy Pelosi (D-CA)** [stated](#), “we have no red lines” when asked what types of concessions Democrats would be willing to make to get what they want, appearing to indicate some room for compromise. President Trump’s demands for payroll tax and capital gains tax cuts, however, remain a nonstarter for Democrats and some Republicans.

In an effort to effectuate its **2019 hospital price transparency final rule** (which has been mired in legal trouble), the White House wants Congress to codify requirements on hospitals to disclose prices negotiated with insurers for medical services in the next coronavirus relief package. The policy also aligns with the Trump administration’s recent proposal in the FY 2021 inpatient prospective payment system (IPPS) and long-term care hospital (LTCH) prospective payment system (PPS) [proposed rule](#) requiring hospitals to report by MS-DRG the median of the payer-specific negotiated charges for a hospital’s Medicare Advantage (MA) organization payers and all of its third-party payers.

Negotiations on a **fifth coronavirus relief package** will likely not begin in earnest until June, with the depletion of the [Paycheck Protection Program](#) a likely catalyst for lawmakers to come to the negotiating table. So far, the Small Business Administration (SBA) has approved [nearly \\$189 billion](#) in its second round of loans (April 27 through May 8) – more than half of the \$310 billion appropriated under the **Paycheck Protection Program and Health Care Enhancement Act (Public Law No: 116-139)**.

The Trump administration has until this Sunday (May 24) to deliver to Congress its **COVID-19 strategic testing plan**, which public health experts stress is critical as most states have begun to reopen their economies and ease social distancing requirements. The Paycheck Protection Program and Health Care Enhancement Act requires the Department of Health and Human Services (HHS) to detail how it will assist states and localities, estimates of testing production, available federal resources, among other strategies. At the Senate Health, Education, Labor and Pensions (HELP) Committee hearing, HHS Testing Czar Admiral Brett Giroir dodged questions from Ranking Member Patty Murray (D-WA) on whether the mandated strategy would include “specific numeric targets for testing capacity, supply chain capacity, and project of shortage.”

On Wednesday (May 20), the **House Education and Labor Subcommittee on Workforce Protections** will examine the federal government’s actions to protect workers from COVID-19. Democrats will likely

advocate for the **COVID-19 Every Worker Protection Act of 2020**, which was included in the House-passed HEROES Act. The legislation would direct the Occupational Safety and Health Administration (OSHA) to issue an emergency temporary standard that would require employers to develop and implement a comprehensive infectious disease exposure control plan to protect works from exposure to COVID-19. The bill would also require the Centers for Disease Control and Prevention (CDC), in collaboration with the National Institute for Occupational Safety and Health (NIOSH) to collect, and as needed, investigate reports of work-related transmission of COVID-19 to health care and other workers, and make recommendations on needed actions or guidance. Following the lead of Senate Republicans, House Republicans may use the hearing as an opportunity to push for liability protections for employers.

On Thursday (May 21), the **Senate Special Committee on Aging** will hold a hearing on caring for seniors during the COVID-19 crisis. The disproportionate impact of coronavirus on seniors, especially those living in **nursing homes**, has been a major area of concern, with members in both parties demanding more transparency. In an [interim final rule with comment period](#) issued on May 8, the Centers for Medicare and Medicaid Services (CMS) codified explicit requirements for nursing homes to report confirmed or suspected COVID-19 cases to the CDC. CMS will soon take [enforcement actions](#) on facilities that fail to begin reporting by May 31, following the initial two-week grace period (which ends on May 24).

To support the COVID-19 response, the Wynne Health Group is making its coverage of related legislative and regulatory updates publicly available. We encourage you to share our COVID-19-related summaries available [here](#).

An overview of health policy events of interest in the coming week is posted to [Policy Hub](#) and included below for your convenience.

THIS WEEK IN HEALTH POLICY

Mon. (5/18)

- **9:00am-12:30pm – HRSA Meeting: Vaccines** – HRSA convenes a meeting of the Advisory Commission on Childhood Vaccines to discuss the Draft National Vaccine Injury Compensation Program notice of proposed rulemaking. [Details.](#)
- **9:00am-3:00pm – DoD Meeting: Military Medicine** – DoD convenes a meeting of the Defense Health Board to discuss measles, mumps, and rubella booster immunization practices; mental health screenings; among other topics. [Details.](#)
- **2:00pm-3:30pm – Brookings Webcast: COVID-19** – The Brookings Institute, USC-Brookings Schaeffer Initiative for Health Policy, and the American Enterprise Institute host a webcast host a webinar discussing pathways to auto-enrollment that can help expand health insurance coverage. [Details.](#)

Tue. (5/19)

- **10:00am – Hearing: COVID-19** – The Senate Banking, Housing, and Urban Affairs Committee convenes a hearing titled, “The Quarterly CARES Act Report to Congress,” featuring Treasury Secretary Steven Mnuchin and Jerome Powell, Chair of the Board of Governors of the Federal Reserve System. [Details.](#)
- **10:00am-11:00am – BPC Webinar: COVID-19** – The Bipartisan Policy Center (BPC) hosts a webinar titled, “Navigating COVID-19 Response and Recovery Funding,” featuring former FEMA and HUD officials. [Details.](#)
- **10:00am-1:00pm – NIH Meeting: Nursing Research** – NIH convenes a meeting of the National Advisory Council for Nursing Research. [Details.](#)

- **1:30pm-2:30pm – Maternal Mental Health Leadership Alliance: COVID-19** – The Maternal Mental Health Leadership Alliance and March of Dimes, in conjunction with the Black Maternal Health Caucus, the Congressional Mental Health Caucus and the Congressional Caucus on Maternity Care, host a briefing titled, “Maternal Mental Health During the COVID-19 Pandemic.” [Details.](#)
- **12:00pm – Hearing: COVID-19** – The House Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies convenes a hearing on the VA’s response to COVID-19, featuring VA Secretary Robert Wilkie and other senior VA officials. [Details.](#)
- **3:00pm – NQF Town Hall Meeting: COVID-19** – The National Quality Forum hosts a virtual town hall titled, “Hospice and Long-Term Care at the Front Lines of the Pandemic.” [Details.](#)

Wed. (5/20)

- **10:15am – Hearing: COVID-19** – The House Education and Labor Subcommittee on Workforce Protections convenes a hearing titled, “Examining the Federal Government’s Actions to Protect Workers from COVID-19.” [Details.](#)
- **11:00am-12:30pm – BPC Webinar: COVID-19** – BPC hosts a webinar titled, “Is There A Bipartisan Solution for Business Liability Concerns?” [Details.](#)
- **12:15pm-1:15pm – FDA Town Hall: COVID-19** – FDA hosts a virtual town hall titled, “Immediately in Effect Guidance on Coronavirus (COVID-19) Diagnostic Tests” for clinical laboratories and commercial manufacturers. [Details.](#)
- **3:00pm – ONC Webinar: Cures Act** – The Office of the National Coordinator of Health Information Technology (ONC) hosts a Q&A webinar on the Cures Act final rule focused on the compliance timeline. [Details.](#)

Thurs. (5/21)

- **9:30am – Hearing: COVID-19** – The Senate Special Committee on Aging convenes a hearing titled, “Caring for Seniors Amid the COVID-19 Crisis.” [Details.](#)

Fri. (5/22)

- No events scheduled.

Additional Multi-Day Events

- **May 20-May 21 – ACL Meeting: Caregivers** – The Administration for Community Living (ACL) convenes a meeting of the RAISE Family Caregiving Advisory Council. [Details.](#)

FEATURED WHG ANALYSIS

- **WHG COVID-19 Government Response Catalogue** – Updated 5/13/20 – In the Policy Hub Insight Bank [here.](#)
- **WHG Chart: Key Federal COVID-19 Funding Opportunities for Providers & Hospitals** – Updated 5/12/20 – In the Policy Hub Insight Bank [here.](#)
- **WHG Chart: Key Federal COVID-19 Funding Opportunities for Employers** – Last Updated 4/24/20 – In the Policy Hub Insight Bank [here.](#)
- **WHG Chart: Key Federal COVID-19 Funding Opportunities for State and Local Government** – Last Updated 4/24/20 – In the Policy Hub Insight Bank [here.](#)

CONGRESSIONAL LOOKBACK

Fri. (5/15)

- **The House** passed the HEROES Act (H.R. 6800) and approved H.Res. 965 – Authorizing remote voting by proxy in the House of Representatives and providing for official remote committee proceedings during a public health emergency due to a novel coronavirus, and for other purposes.

Thurs. (5/14)

- **The Senate Committee on Commerce, Science, & Transportation** convened a hearing to discuss the state of broadband during the COVID-19 public health emergency. [Details.](#)
- **The House Rules Committee** approved a manager’s amendment, to the HEROES Act (H.R. 6800). [Details.](#)
- The House E&C Subcommittee on Health convened a hearing to discuss the protection of scientific integrity during the nation’s COVID-19 response. [Details.](#)

Wed. (5/13)

- **Michael Burgess (R-TX)** [sent](#) a letter to E&C Health Subcommittee Chairwoman Anna Eshoo (D-CA), requesting a hearing on how funds are being distributed to providers from the Public Health and Social Services Emergency Fund (PHSSEF) (i.e., “Provider Relief Fund”). [Details.](#)

Tue. (5/12)

- **House Democrats** introduced The Health and Economic Recovery Omnibus Emergency Solutions Act (Heroes Act) (H.R. 6800) – a \$3 trillion package to provide additional coronavirus relief. [Details.](#)
- **The Senate Judiciary Committee** convened a [hearing](#) to discuss liability protections for employers during the COVID-19 pandemic. [Details.](#)
- **The Senate HELP Committee** convened a [hearing](#) to examine the federal government’s response to the COVID-19 pandemic and discuss challenges and strategies to safely reopen the country. [Details.](#)

REGULATORY LOOKBACK

Fri. (5/15)

- **AHRQ** announced a funding opportunity focused on the telehealth expansion and the role of primary care during the COVID-19 pandemic. [Details.](#)
- **USDA** extended the comment period on the proposed rule titled, “Employment and Training Opportunities in the Supplemental Nutrition Assistance Program (SNAP)” to June 17, 2020. [Details.](#)
- **USDA** announced the extension of the following nationwide child nutrition waivers through August 31, 2020. [Details.](#)

Thurs. (5/14)

- **FDA** [issued](#) revised guidance regarding the policies for COVID-19 testing during the public health emergency (PHE), including two policies for accelerating the development of certain laboratory tests; a policy for commercial manufacturers to more rapidly distribute tests to laboratories for specimen testing; and a policy regarding the use of serological testing. [Details.](#)
- **CDC** [issued](#) a request for information regarding personnel and the retention of next generation sequencing (NGS) data in clinical and public health laboratories. Responses are due July 14. [Details.](#)
- **CMS** released a new toolkit intended to provide states with strategies and “innovative solutions” for mitigating the spread of COVID-19 in nursing home facilities. [Details.](#)

- **CMS** issued an [Informational Bulletin](#) to provide states guidance on how to temporarily modify provider payment methodologies and capitation rates under Medicaid managed care contracts to address the impacts of the public health emergency. [Details.](#)

Wed. (5/13)

- **ASPR** [announced](#) the establishment of the National Advisory Committee on Children and Disasters (NACCD) and a request for nominations for members, due by June 27. [Details.](#)
- **SAMHSA** announced a funding opportunity for COVID-19 emergency response suicide prevention. Applications are due May 22. [Details.](#)
- **IRS** [issued](#) guidance to allow flexibility with respect to mid-year elections under employer-sponsored health plans during the 2020 calendar year, In response to the COVID-19 pandemic. [Details.](#)

Tue. (5/12)

- **FDA** [issued](#) two guidance documents to accelerate the development of novel prevention and treatment options for COVID-19. [Details.](#)
- **USPSTF** issued a [draft recommendation statement](#) on referring adults with cardiovascular disease (CVD) risk factors to behavioral counseling interventions to promote a healthy diet and physical activity. [Details.](#)

Mon. (5/11)

- **CMS** released the FY 2021 inpatient prospective payment system (IPPS) and long-term care hospital prospective payment system (LTCH PPS) proposed rule. [Details.](#)
- **FDA** [announced](#) the availability of all guidance documents related to the COVID-19 public health emergency (PHE). [Details.](#)
- **ASPR** released information about how 607,000 donated doses of the drug remdesivir will be allocated to treat hospitalized COVID-19 patients in areas hit hardest by the pandemic. [Details.](#)
- **HHS** [announced](#) the distribution of 50 portable kidney dialysis machines and supplies to New York City and Long Island Intensive Care Units (ICUs). [Details.](#)

COMMENT & APPLICATION DEADLINES

- **Rolling:** NIH [announced](#) the launch of Rapid Acceleration of Diagnostics (RADx), a national initiative aimed at speeding innovation, development, and commercialization of COVID-19 diagnostic technologies. This \$1.5 billion stimulus investment complements the NIH's ongoing Accelerating COVID-19 Therapeutic Interventions and Vaccines public-private partnership. [Details.](#)
- **May 20:** SBA issued an [interim final rule](#) to supplement the first interim final rule on the Paycheck Protection Program (PPP), with additional guidance regarding eligibility for individuals with self-employment income and certain businesses. [Details.](#)
- **May 20:** CMS extended the comment period on a [notice of proposed rulemaking](#) (NPRM) that would revise and modernize requirements for Preadmission Screening and Resident Review (PASRR) in Medicaid-certified nursing facilities (NFs). [Details.](#)
- **May 28:** SBA issued an [interim final rule](#) to supplement previously posted interim final rules on the Paycheck Protection Program (PPP) with additional guidance regarding promissory notes, authorizations, affiliation, and eligibility. [Details.](#)
- **May 31:** CMS released a request for information (RFI) seeking input on ways to improve access, quality, and outcomes for rural maternal and infant health. [Details.](#)
- **May 31:** FDA is accepting comments on two proposed amendments regarding the classification of certain hepatitis C virus (HCV) tests. [Details.](#)

- **June 1:** CMS is accepting comments on an interim final rule implementing a sweeping array of new provider flexibilities for supporting the health care system’s response to the COVID-19 pandemic. [Details](#).
- **June 1:** CDC and NIOSH issued a [request for information](#) soliciting public comments to inform the scope of the World Trade Center (WTC) Health Program’s research funding cycle for fiscal year (FY) 2021. [Details](#).
- **June 9:** CMS is accepting comments on proposed rules for fiscal year (FY) 2021 Medicare payment across three different payment streams: Skilled nursing facilities (SNF); the Hospice wage index and payment rate update; and Inpatient psychiatric facilities (IPF). [Details](#).
- **June 15:** CMS requests comment on the fiscal year (FY) 2021 inpatient rehabilitation facility (IRF) prospective payment system (PPS) proposed rule ([fact sheet](#)). [Details](#).
- **June 16:** CDC issued a [request for comment](#) soliciting input on and experiences with pain and pain management to inform the agency’s assessment of the need for updating or expanding the 2016 CDC Guideline for Prescribing Opioids for Chronic Pain. [Details](#).
- **June 21:** OASH within HHS seeks public comment regarding Section 209 of the Pandemic and All-Hazards Preparedness and Advancing Innovation Act, addressing recommendations for maintaining an adequate national blood supply. [Details](#).
- **June 21:** FDA seeks comments on draft guidance on technical considerations for demonstrating reliability of emergency-use injectors. [Details](#).
- **June 30:** NIH issued two requests for letters of interest (LOIs): 1) LOIs for National Cancer Institute (NCI) Molecular Analysis for Therapy Choice (MATCH); and 2) LOIs for pediatric-focused NCI-MATCH. LOIs are due June 30. [Details](#).
- **June 30:** CDC re-opened the public comment period for the proposed update of the 2006 “Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health-Care Settings.” [Details](#).
- **July 3:** AHRQ [announced](#) a request for nominations for members. AHRQ advises the Secretary of HHS and produces evidence to make health care safer, higher quality, more accessible, equitable, and affordable. [Details](#).
- **July 7:** CMS is accepting comments on an interim final rule with comment period (IFC) containing a second set of wide-reaching regulatory changes and flexibilities for providers in response to the COVID-19 pandemic. [Details](#).
- **Aug. 3:** CDC [announced](#) it is seeking nominations for individuals to serve as members of the Healthcare Infection Control Practices Advisory Committee (HICPAC). [Details](#).