

## COVID-19 Stimulus Legislation

### Summary/Outcome of Key ACP Priorities

Prepared by ACP's Division of Governmental Affairs and Public Policy

March 31, 2020

On March 27, 2020, comprehensive legislation was enacted to help address and mitigate the devastating economic impact of the COVID-19 pandemic, which was declared a national emergency by the president. That legislation, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (H.R. 748), was preceded by enactment of two other stimulus packages, the Families First Coronavirus Response Act, phase 2, (H.R. 6201), and the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, phase 1, (H.R. 6074). Below is an analysis, as prepared by ACP staff, of “key” College advocacy priorities in relation to COVID-19, and the resulting outcome of those priorities in enacted stimulus legislation to date.

While many of the provisions and programs described below address ACP's priorities and have the *potential* of directly benefiting physicians, their practices, and their patients, the actual benefit will be determined in large part by how effectively they are implemented by federal agencies, whether physicians and their practices are prioritized in receiving funding, how burdensome it is for them to apply and document eligibility, how quickly funds are disbursed, and how much funding is available after other entities apply for it. ACP is advocating with federal agencies and Congress to ensure that physicians and their practices get the support they need, as quickly as possible. ACP is also advocating with CMS and other payers for additional actions that can be taken to support practices, in addition to those expressly created by the CARES Act. ACP's full range of advocacy activities related to COVID-19, continuously updated, can be found at [here](#). ACP's practical practice management resources for physicians and their practices on COVID-19, continuously updated, can be found [here](#).

## KEY ACP PRIORITIES IN STIMULUS LEGISLATION

### Grants/Loans to Physician Practices

- **PRIORITY: Help sustain physician practices by establishing an emergency program to reimburse, through grants or other mechanisms, physician practices for health care-related expenses or lost revenues that are attributable to the Coronavirus. Provide payroll tax relief, loan assistance/forgiveness, especially to small and mid-size practices, that suffer financial losses due to the Coronavirus.** Due to the severity of the increased costs and reduced revenue being experienced by physicians on the frontlines of patient care as they shift from in-person visits to virtual consultations—which often aren't covered by payers, or are paid at substantially lower rates than in-person visits—many practices are under severe economic stress. Without immediate and direct support, these practices may not be able to meet payroll and will be at risk of closing, at a time when they are needed most. It is vital that Congress ensure rapid disbursement of funds to financially distressed practices, preferably prospectively or concurrently, in a way that makes it feasible for small practices to apply and receive funding.

## ***OUTCOME IN ENACTED LEGISLATION***

**Paycheck Protection Program.** The CARES Act establishes a \$349 billion loan program administered through the Small Business Administration (SBA) to help employers with their cash flow during the crisis. The loans will be made through participating SBA banks and lenders and the loan proceeds can be used for payroll costs, group health care benefits, payments of interest on mortgages, rent, utilities, and interest on other debt obligations. The amount of the loan is for two months of the employer's average monthly payroll costs from the last year plus an additional 25 percent capped at \$10 million total. These loans are fully guaranteed by the federal government and are available through June 30, 2020, at a four percent interest rate. Eligible employers include small businesses, businesses that employ no more than 500 employees, 501(c)(3) nonprofits, as well as sole proprietors, self-employed individuals, independent contractors, and other entities. (Section 1102) To apply for a loan under the Paycheck Protection Program, visit the Small Business Administration [website](#).

**Loan Forgiveness.** The CARES Act states that employers who maintain their level of full-time employees and level of payroll by not reducing salary by more than 25 percent for any employee will be able to receive the highest amount of loan forgiveness. The amount of forgiveness cannot exceed the original amount of the loan. Employers will not receive forgiveness if the loan was not used for payroll costs, mortgage interest, rent, and utility payments during the eight weeks after receiving the loan. Employers are required to apply for loan forgiveness and document staff and payroll levels, and payments on eligible mortgage, lease, and utility obligations. (Section 1106)

**Emergency Economic Injury Disaster Loans (EIDL) Grants.** The CARES Act provides \$10 billion for emergency grants for eligible entities who have applied for an EIDL because of COVID-19. The advance of \$10,000 by the SBA to small businesses and nonprofits will happen within three days of applying for the loan. The emergency grant does not have to be repaid, even if the EIDL is subsequently denied. However, the emergency grant would be subtracted from the amount forgiven via the Paycheck Protection Program. The grant can be used for payroll, sick leave, increased production costs, or other business costs, including debts, rent, and mortgage payments. (Section 1110) To apply for EIDL, visit the Small Business Administration [website](#).

**Public Health and Social Services Emergency Fund (PHSSEF).** The CARES Act states that the Assistant Secretary for Preparedness and Response (ASPR) within the Department of Health and Human Services (HHS) will administer \$100 billion from the PHSSEF for reimbursing hospitals and health care providers due to COVID-19 related expenses and loss of revenue. The PHSSEF funding will be distributed in grants to hospitals, public entities, nonprofits, and Medicare and Medicaid enrolled providers to cover health care related expenses or lost revenues due to the coronavirus public health emergency. (Division B- Title VIII – Departments of Labor, Health and Human Services, Education and Related Agencies)

## **Personal Protective Equipment (PPE)**

- **PRIORITY: Ensure that there is sufficient PPE immediately available to every physician, nurse, and health worker on the front lines of caring for patients who may have COVID-19 without delay.** Adequate funding should also be provided for the Strategic National Stockpile (SNS) to procure PPE, ventilators, and other medical supplies for federal and state response efforts.

***OUTCOME IN ENACTED LEGISLATION***

**Strategic National Stockpile.** The CARES Act states that the Strategic National Stockpile (SNS) must stockpile certain medical supplies including personal protective equipment, ancillary medical supplies, and other applicable supplies required for the administration of drugs, vaccines and other biological products, medical devices, and diagnostic tests in the stockpile. (Section 3102). The bill also includes \$16 billion for personal protective equipment, ventilators, and other medical supplies for federal and state response efforts. When combined with other funding provided through previously-enacted stimulus legislation, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, H.R. 6074 (phase 1), approximately \$17 billion has been provided for the SNS. (Division B- Title VIII – Departments of Labor, Health and Human Services, Education and Related Agencies)

**Payment for Audio-only Telephone Consultations**

- **PRIORITY: Require that all payers cover and pay for audio-only telephone consultations between physicians and their patients, and/or urge CMS to require such payments.** While virtual telehealth visits may be covered in some cases by insurers, they typically are paid far less than in-person visits, and do not include traditional audio-only phone calls with patients, only video-enabled telehealth applications. Many patients, especially seniors, have access to phones but not video-enabled telehealth apps. As physicians convert in-person visits to virtual ones, practices are experiencing huge reductions in revenue while still having to pay rent, meet payroll, and meet other expenses without patients coming into their practices. Requiring all payers to cover and reimburse physicians for audio-only will ensure that patients without advanced video-sharing capabilities are able to get care virtually, while helping to sustain physician practices.

***OUTCOME IN ENACTED LEGISLATION***

Congress did not mandate in stimulus legislation that audio-only telephone consultations between physicians and their patients be covered under Medicare. However, on March 30, the U.S. Department of Health and Human Services announced that CMS would cover audio-only telephone consultations, among other positive expansions. The CARES Act did include the following expansions for tele-health services:

**Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs).** The CARES Act allows FQHCs and RHCs to furnish telehealth services to beneficiaries in their home. During the COVID-19 emergency period, FQHCs and RHCs to serve as a distant site for telehealth consultations. A distant site is where the practitioner is located during the time of the telehealth service. (Sec. 3704)

**Grant Programs.** The CARES Act states that the Health Resources and Services Administration (HRSA) grant programs that boost the use of telehealth health care delivery, education, and health information services are reauthorized. (Section 3212)

### **Payment for Medicaid Primary Care Services**

- **PRIORITY: Ensure Medicaid pay parity throughout the duration of the COVID-19 national emergency.** ACP strongly supports the renewal of applying the Medicare payment rate floor to primary care services furnished under Medicaid and are very disappointed that this did not make it into the final bill. This will ensure that primary care physicians and internal medicine and pediatric subspecialists are paid no less than they would be paid under Medicare for the duration of the COVID-19 public health emergency.

#### ***OUTCOME IN ENACTED LEGISLATION***

While this priority was included in other stimulus legislation developed by Speaker Nancy Pelosi and the majority leadership of the House of Representatives, that bill was never voted on in either chamber, as the final CARES Act was based on the Senate bill, with some changes requested by the House majority. Regrettably, Medicaid pay parity was not included in the final CARES Act.

### **Key Federal Physician Workforce Programs**

**PRIORITY: Reauthorize funding for critical health programs, including Community Health Centers (CHCs), the National Health Service Corps (NHSC), the Teaching Health Center Graduate Medical Education (THCGME) program, Title VII health professions (including Primary Care Training and Enhancement).** These programs play a critical role in the training of primary care physicians and in maintaining an adequate physician workforce.

#### ***OUTCOME IN ENACTED LEGISLATION***

**Community Health Centers/the National Health Service Corps/Teaching Health Center Graduate Medical Education Program.** The CARES Act extends mandatory (e.g. not subject to the annual congressional appropriations process) funding for community health centers, the National Health Service Corps, and the Teaching Health Center Graduate Medical Education Program at current levels through November 30, 2020. The CARES Act also provides \$1.32 billion in supplemental funding to community health centers on the front lines of testing and treating patients for COVID-19. Funding for these programs was set to expire on May 22, 2020.

**Title VII Health Professions Programs.** The CARES Act reauthorizes the health professions training programs Title VII of the Public Health Service Act (PHSA), including the training of practitioners in family medicine, general internal medicine, geriatrics, and pediatrics through the Section 747 Primary Care Training and Enhancement (PCTE) program. The bill does lower

the PCTE authorization from \$125 million previously to \$48.924 million, its current FY2020 enacted funding level. (Section 3401)

### **Coverage of COVID-19 Diagnostic Testing**

- **PRIORITY: Protect patients from out-of-pocket expenses associated with COVID-19 testing and treatment.**

#### ***OUTCOME IN ENACTED LEGISLATION***

**Coverage for Diagnostic Testing.** The CARES Act states that all testing for COVID-19 is to be covered by private insurance plans without cost sharing. It requires an insurer to pay either the rate specified in a contract between the provider and the insurer, or, if there is no contract, a cash price posted by the provider. It also provides free coverage without cost-sharing of a vaccine within 15 days for COVID-19 that has in effect a rating of “A” or “B” in the current recommendations of the United States Preventive Services Task Force or a recommendation from the Advisory Committee on Immunization Practices (ACIP).

### **Suspend Sequestration Payment Cuts**

- **PRIORITY: Suspend Medicare sequestration cuts to physicians and hospitals.**

#### ***OUTCOME IN ENACTED LEGISLATION***

**Sequestration.** The CARES Act temporarily lifts the Medicare sequester, which would have reduced payments to physicians, hospitals and other “providers” by 2 percent, from May 1 through December 31, 2020, boosting payments for hospital, physician, nursing home, home health, and other care. The Medicare sequester would be extended by one-year beyond current law to provide immediate relief without worsening Medicare’s long-term financial outlook.

### **Payment for Physician Services under Medicare**

- **PRIORITY: Require that the administration pay physicians and hospitals 110 percent of the Medicare rates for providing COVID-19-related treatment for uninsured persons, and increase Medicare physician fee schedule payments to physicians for the duration of the public health emergency (or retroactively to the date of the national emergency declaration).**

#### ***OUTCOME IN ENACTED LEGISLATION***

This priority was not included in the CARES Act.

## **OTHER STIMULUS-ENACTED PROVISIONS SUPPORTED BY ACP**

### **Payment to Clinical Laboratories under Medicare**

Due to a 2014 law known as *the Protecting Access to Medicare Act (PAMA)*, clinical labs across the nation, which include lab services offered in physician offices, have faced a 10 percent decrease in Medicare payments each year since 2018, with the potential for an additional 15 percent cut each year from 2021 – 2023. Moreover, beginning January 2020, labs were required to start reporting all payments from 3<sup>rd</sup> party payers, which involves having all payments broken out to show how much was received by each insurance company for each test. For instance, if a lab is reimbursed by both Medicare and a supplemental insurance plan, the amount received from each must be reported separately. These scheduled cuts and reporting requirements have resulted in lab services being curtailed, sometimes eliminated, in physician practices, which in turn has caused access issues for patients needing lab services.

### ***OUTCOME IN ENACTED LEGISLATION***

**Clinical Labs.** The CARES Act prevents scheduled reductions in Medicare payments for clinical diagnostic laboratory tests furnished to beneficiaries in 2021. It would also delay by one year the upcoming reporting period during which laboratories are required to report private payer data.

### **Quality Measure Endorsement**

The National Quality Forum (NQF) is an entity that helps ensure that quality measures used in care delivery and payment reform continue to be reliable, effective and drive measurable improvements for our nation’s Medicare beneficiaries. ACP supports reauthorization and funding for NQF.

### ***OUTCOME IN ENACTED LEGISLATION***

**NQF Funding.** The CARES Act provides \$20 million in funding for the U.S. Department of Health and Human Services to contract with a consensus-based entity, e.g., the National Quality Forum (NQF), to carry out duties related to quality measurement and performance improvement through November 30, 2020.

## **ACP RESOURCES: OUTREACH TO CONGRESS ON COVID-19**

- [ACP Letter to House and Senate Leadership on Health Related Provisions in the CARES Act, H.R. 748, and the Urgent Need to Include Physician Priorities in Future COVID-19 Legislation](#) 3/26/2020
- [ACP Recommendations for a Final COVID-19 Bill to Improve the Health and Economic Security of Our Nation](#) 3/24/2020
- [Sign-On Letter Opposing the Non-Profit Medicaid Exemption and Caps](#) 3/24/2020
- [ACP Letter to Congress with Recommendations on COVID-19 Economic Stimulus Legislation](#) 3/24/2020
- [ACP Letter Supporting Bennet/Barrasso COVID-19 Grant/Loan Programs for Physician Practices](#) 3/23/2020
- [ACP Letter to Congress about the Coronavirus Aid, Relief, and Economic Security Act \(CARES Act\)](#) 3/22/2020

- [Joint Letter to Congress regarding "Stimulus" Legislation during the COVID-19 Emergency 3/20/2020](#)
- [Sign-On Letter to House on COVID-19 Impact on Value-Based Models and Programs 3/19/2020](#)
- [Sign-On Letter to Senate on COVID-19 Impact on Value-Based Models and Programs 3/19/2020](#)
- [Internists Support Call to Suspend Elective Medical Procedures, Ease Licensing Restrictions; Continue to Call on Government to Do More 3/18/2020](#)
- [America's Frontline Physicians Recommend Further Actions to Address COVID-19 3/18/2020](#)
- [ACP Letter to House and Senate Leadership on the Urgent Need to Include Physician Priorities in Economic Stimulus Response to the COVID-19 3/17/2020](#)
- [Joint Letter in Support of H.R. 6201, the Families First Coronavirus Response 3/13/2020](#)
- [ACP Support Letter for the Families First Coronavirus Response Act, H.R. 6201 3/12/2020](#)
- [ACP Recommends Swift Action to Address COVID-19, Recommendations to Trump Administration and Congress 3/11/2020](#)
- [Internists Ask Government to Take Additional Steps to Stem the Spread of the Novel Coronavirus 3/4/2020](#)
- [ACP Letter to House and Senate Leaders Urging Funding for Response to COVID-19 Virus 3/3/2020](#)

## **OTHER ACP RESOURCES ON COVID-19**

- [COVID-19 Physician's Guide;](#)
- [COVID-19 Telehealth Coding and Billing Practice Management Tips;](#)
- [COVID-19 Practice Management Resources;](#) and
- [Practical Guide for Implementing Telehealth into your Practice.](#)