



## Overview of Coronavirus Response Legislation as of 9/10/20

While the nation's response to COVID-19 is a fluid situation, Congress has responded with a series of legislation. We have already seen two supplemental appropriations bills signed into law, and Congress is on the verge of passage of a third bill that would provide larger economic relief.

### **NHC Priorities**

The National Health Council (NHC) is working with patient advocates to urge Congress to include provisions that would help patients including:

- Ensuring patients have access to COVID-19 testing and treatment at no or low out-of-pocket costs.
- Expanding the number of workers eligible for paid and protected leave during the pandemic.
- Promoting health coverage through expedited Medicaid enrollment and initiate a special enrollment period for Affordable Care Act exchange coverage.
- Expanding the availability of telemedicine services to facilitate social distancing and prevent disruption of necessary, especially emergency, care.
- Modifying refill policies to allow patients to obtain needed supplies of medicines and medical products, while balancing the need to prevent shortages.

In addition, The NHC is working with other nonprofit advocates to drive solutions that will mitigate the economic impact of the crisis on nonprofit organizations, including;

- Making tax credits and deductions applicable not just to income taxes, but to the taxes nonprofits pay.
- Including nonprofits in grants offered to small businesses, particularly to account for lost revenue and expenses related to canceled meetings and other activities or reduced giving from economic downturn.
- Including patient organizations in any economic stimulus proposals aimed at helping adversely affected industries and geographic areas.
- Creating a temporary giving incentive that enables everyone, regardless of whether they itemize deductions, to receive a tax incentive for giving to the work of charitable nonprofits.

**The following is a summary of the COVID-19 response bills that have been passed/introduced as of 9/10/20:**

### **Enacted Legislation**

#### **H.R. 6074 – The Coronavirus Preparedness and Response Supplemental Appropriations Act of 2020**

Status: Signed by the President on March 6, 2020

Provisions: \$7.76 billion to federal, state, and local agencies to combat the coronavirus and authorizes an additional \$500 million in waivers for Medicare telehealth restrictions.

#### **HR 6201 The Families First Coronavirus Response Act**

Status: Signed by the President on March 18, 2020.

Provisions: H.R. 6201 contains important provisions that expand the ability of patients to get tested for COVID-19 and encourage “social distancing” that could reduce transmission. These provisions include:



- Supplemental funding for the Supplemental Nutrition Program for Women Infants and Children (SNAP), senior nutrition programs, and food banks to meet increased eligibility and demand.
- Suspension of work requirements for SNAP benefits.
- No-cost coronavirus testing for all patients, regardless of insurance type or status, including \$1 billion for testing of uninsured patients.
- Increased federal support for Medicaid spending to ease financial strain on state budgets during this crisis.
- Funding for paid time off to allow some symptomatic or exposed workers, or parents of children with school closures, to stay home through Family and Medical Leave Act (FMLA) leave. However, this provision only applies to employers with fewer than 500 employees and government employers and The Department of Labor can also issue exemptions for employers of fewer than 50 employees. Employers are reimbursed through a payroll tax credit for this expanded leave, which applies to for-profit and non-profit employers.
- Federal support to states to underwrite unemployment benefits in states where unemployment enrollment spikes.

### **S. 3548 - The Coronavirus Aid, Relief, and Economic Security (CARES) Act.**

Status: Signed by the President on March 27, 2020.

Provisions: The CARES Act is a \$2 trillion [bipartisan deal](#) on a third package of COVID-19 relief.

Provisions in the final version of the CARES Act include:

- Expansion of unemployment insurance;
- A \$500 Billion small business loan package;
- \$150 Billion in funds for health care providers and front-line workers;
- Required coverage for qualifying coronavirus preventive services;
- Direct payments to individuals and families that are scaled based on income;
- Extension until November 30 of several health-related programs that were set to expire on May 22; and
- A delay for tax filing until July 15, 2020.

Specifically, for the nonprofit sector, the bill:

- Includes nonprofits in targeted assistance to affected sectors, though does not carve out any portion of the funding, as the nonprofit community requested;
- Allows individuals to deduct up to \$300 of charitable donations if they do not itemize their taxes; and
- Allows nonprofits with fewer than 500 employees to participate in the small business loans, and a provision in the original bill that excluded nonprofits that received Medicaid reimbursements was removed. There are also low interest loans for larger organizations.

### **S.Amdt.1578 to H.R.748 The CARES Act**

Status: Signed by the President on April 24, 2020.

Provisions: This amendment enhances the CARES Act by adding the following funding amounts:

- \$321 billion for Paycheck Protection Program
- \$60 billion in disaster relief
- \$75 billion for hospitals
- \$25 billion for testing (\$11b of which will go to states)

### **HR 7010 – Paycheck Protection Program Flexibility Act**



Status: Signed by the President on June 5, 2020.

Provisions: This bipartisan bill is aimed at easing restrictions on how businesses use PPP loans. Specifically, the bill:

- Allows forgiveness for expenses beyond the 8-week covered period;
- Limits non-payroll expenses to 60% of loan proceeds;
- Eliminates restrictions that limit loan terms to 2 years;
- Ensures full access to payroll tax deferral for businesses that take PPP loans; and
- Extends the rehiring deadline to offset the effect of enhanced unemployment Insurance.

## Pending Legislation

### **HR 6800 - Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act**

Status: Passed by the House on May 15, 2020

Provisions: The bill totals \$3 trillion and includes \$1 trillion for States and Local Governments.

Provisions in the HEROES Act include:

- The prohibition of cost sharing for treatment, testing, and vaccines in any kind of coverage;
- Medicaid Federal contribution Increases;
- Suspending finalization of the Medicaid Supplemental Payment Reporting rule;
- Support for individuals continuing employer health insurance coverage if they lose their job or purchasing insurance in the federal marketplace;
- Creating a risk corridor program for health insurance in all markets;
- Drug refill policy clarification;
- Oversight and strengthening of vaccine development and personal protective equipment supply lines;
- Public health data system enhancements;
- A national system for COVID-19 testing, contact tracing, surveillance, containment, and mitigation;
- Expands Small Business Administration loan eligibility to all 501(c) organizations;
- Opening eligibility for the Federal Reserve's Main Street Lending Program (MSLP) to nonprofits;
- Sets aside 25% of the additional Paycheck Protection Program (PPP) funds for nonprofits; and
- Allows up to half of the nonprofit PPP funds to go to nonprofits with more than 500 employees.

### **S. 4318, S. 4317, S. 4321, S. 4320, S. 2733, S. 4324, S. 4322, S. 4284, and S. 4319 Health; Economic Assistance; Liability Protection; and Schools (HEALS) Act**

Status: Announced by Senate leadership on July 27, 2020

Provisions: Senate leadership released a series of bills that will serve as their proposal for negotiating the next round of COVID-19 relief assistance. The bills cover supplemental appropriations, small business concerns, Finance Committee, and Health, Education, Labor, and Pensions Committee issues.

Some of the provisions of interest to NHC members include:

- Liability protections for hospitals;
- Additional funding for hospitals and COVID-19 testing;
- Extension of telehealth flexibilities through the end of 2021; and



- Additional funding for the National Institutes of Health
- Up to \$1,200 in direct payments for individuals;
- Expansion of the Paycheck Protection Program (PPP) including:
  - An additional \$90 billion in funding for the PPP;
  - \$25 billion is set aside for organizations with 10 or fewer employees;
  - An available second round of funding for organizations who have already received PPP funding if they:
    - Have fewer than 300 employees; and
    - Can demonstrate at least a 50 percent reduction in gross receipts during the first or second quarter of 2020 compared to the same quarter in 2019;
  - \$10 billion is set aside for community lenders;
  - The Small Business Administration Administrator is directed to prioritize underserved communities;
  - Eligible organizations now include many 501(c)(6) organizations;
  - PPE investments are now included in expenses eligible for forgiveness;
  - Many documentation requirements are waived or simplified; and
  - The maximum PPP loan is now \$2 million.
- Continued supplemental Unemployment Insurance payments of \$200 per week (down from the current \$600 per week, which was continued in the HEROES Act) through September; and
- Increased federal coverage of costs incurred by nonprofits and other organizations that self-insure for the purposes of unemployment insurance (up to 75 percent versus the current 50 percent).

**S. 178 - Delivering Immediate Relief to America’s Families, Schools and Small Businesses Act.**

Status: Introduced on September 8, 2020

Provisions: The bill is the latest proposal for a next round of COVID-19 relief legislation and is significantly scaled back from previous proposals. The bill includes about \$500 Billion in spending and the following provisions of interest to NHC members:

- A \$600 above-the-line deduction (double for married filing jointly) starting with tax year 2020 (increased from \$300 in the CARES Act);
- Liability protections for business entities, including nonprofits;
- Changes to the PPP program, including:
  - 501(c)(6) orgs are newly eligible for PPP providing they have under 150 employees and don’t spend more than 10% of receipts on lobbying;
  - PPP funds can be used for expenses associated with meeting health and safety standards to prevent the spread of COVID-19; and
  - Forgiveness documentation for smaller loans is waived, although a new potential Federal audit of loans is authorized.
- A second round of loans under the PPP for small businesses. Businesses will be eligible if they have less than 300 employees and show at least a 35% gross revenue reduction compared with last year;
  - For nonprofits gross revenue is calculated using proceeds from fundraising events, federated campaigns, gifts, donor-advised funds, and funds from similar sources;
  - Federal grants, revenues from a supporting organization, grants from private foundations that are disbursed over the course of more than 1 calendar year, and



contribution of property other than money, stocks, bonds, and other securities will not be included in calculating gross revenue.

- The release of a relatively small federal-backed loan to the USPS that was authorized in the CARES Act; and
- A \$300 Unemployment Insurance payment increase.

### **Next Steps**

There are still issues that the NHC and our membership will continue to advocate for in COVID-19 relief legislation that were not included in this package. Specifically, we are asking for stimulus money earmarked to offset nonprofit losses and expenses due to COVID-19, allowing a greater number of nonprofits to participate in small business loan programs, the ability for taxpayers to deduct more charitable donations, and public health provisions to help prevent and treat COVID-19 and facilitate access and continuity of care for people with chronic conditions. We fully expect that there will be additional rounds of relief legislation in the coming weeks and months and will continue to advocate for the priorities of patients and our membership.