

# McDermottPlus Check-Up

*McDermott+Consulting is pleased to introduce the McDermottPlus Check-Up, your regular update on health care policy from Washington, DC.*



**THIS WEEK'S DIAGNOSIS:** Lawmakers are considering additional emergency funding to address the growing coronavirus (COVID-19) pandemic as US cases top 1,000. The Administration released long-awaited information blocking and interoperability rules.

## COVID-19 RESPONSE

- + **CONGRESS PLANS TO VOTE ON EMERGENCY FUNDING AS THE COVID-19 PANDEMIC WORSENS.** House Democrats introduced the Families First Coronavirus Response Act ([HR 6201](#)) following negotiations with Treasury Secretary Steven Mnuchin. The bill, which is expected to pass the House later this evening (March 13, 2020), establishes a program to provide sick and quarantined workers with two weeks of emergency paid leave, requires employers to provide additional sick days to their employees, and provides \$1 billion in grant funding to help states manage and expand their unemployment insurance programs. It also appropriates \$1.2 billion to the departments of Agriculture and Health and Human Services to provide additional nutrition assistance to affected areas and populations and requires private health plans to cover diagnostic testing for COVID-19 at no cost to consumers. There has yet to be a clear signal from Senate Republicans or the White House that they will support the bill, but lawmakers have expressed their commitment to reaching a compromise. The deal that comes together is likely not the last emergency funding bill that Congress will pass to address the pandemic. President Trump has made clear that he supports an economic stimulus package aimed at shoring up hotel and airline companies impacted by consumers' travel concerns, as well as payroll tax cuts and supports for small businesses. Shoring up the healthcare system is likely to emerge as an even higher priority. Expect a much larger stimulus package to come together in the coming weeks. Healthcare stakeholders in need of federal regulatory relief, supply chain intervention or financial support should be thinking about and communicating needs to federal and state authorities. The President also announced his intention to declare a national emergency, which will allow the Secretary of Health and Human Services (HHS) to waive certain rules and regulations around telehealth, licensure, and admission requirements for certain healthcare facilities like nursing homes and critical access hospitals. Agencies, primarily HHS, will still need to issue guidance to implement the waiver.
- + **RESPONSE AT A GLANCE.**
  - o The Centers for Medicare and Medicaid Services (CMS) issued [guidance](#) urging long-term care and hospice facilities to limit visitors.
  - o CMS issued a [memo](#) to Medicare Advantage plans and Part D sponsors on their obligations and flexibilities related to COVID-19, and published a [frequently](#)

- [asked questions](#) document to aid state Medicaid and Children's Health Insurance Program agencies in their response.
- CMS issued a [fact sheet](#) with information for Medicare providers relating to the pricing of both the Centers for Disease Control and Prevention (CDC) and non-CDC COVID-19 tests.

## ADMINISTRATION

- + **ADMINISTRATION RELEASED INFORMATION BLOCKING AND INTEROPERABILITY RULES.** The Office of the National Coordinator for Health Information Technology (ONC) released its long-awaited [final rule](#) adopting exceptions to the 21<sup>st</sup> Century Cures Act's information blocking prohibition and updates to the ONC's health IT certification program. Under the rule, certified health IT developers will have to meet new criteria that enable flow of information and additional privacy and security measures. The rule also outlines eight practices that do not constitute information blocking under the 21<sup>st</sup> Century Cures Act such as preventing harm and protecting privacy. At the same time, CMS released a [final rule](#) on the related topic of interoperability. The rule requires CMS-regulated payers to implement patient access application program interfaces and provider directories, as well as increase data sharing with other payers. Together, these rules attempt to make it easier for patients to have access to and control over their health data. These final rules represent significant changes for how health care providers, health IT developers, and health plans use health IT.
- + **CMS ANNOUNCED NEW INSULIN PAYMENT MODEL.** The voluntary [Part D Senior Savings Model](#) would lower Medicare beneficiaries' out-of-pocket costs for insulin to a maximum \$35 copay per 30-day supply throughout the benefit year. CMS estimates \$250 million in savings to the program over five years and an average 66% decrease in out-of-pocket costs for beneficiaries who join Part D plans participating in the model. The model begins on January 1, 2021. Drug manufacturers can apply through March 18, 2020, and Part D sponsors may submit a letter of intent by April 10, 2020, and must apply by May 1, 2020. During the coverage gap phase of the Part D benefit, manufacturers apply a 70% discount on the negotiated price of a drug. Under current policy, plans have a disincentive to offer supplemental benefits because, if enrollees' copays are reduced through supplemental benefits, the 70% discount no longer applies to the negotiated price of the drug but just to what the plan has designated as the reduced copay for the enrollee. This results in an increased liability for the plan during coverage gap phase. Under the model, this restriction would be waived and the manufacturer would agree that any plan's supplemental benefits apply after the 70% manufacturer discount is applied to the full negotiated price. The rollout of a payment model focused on reducing the cost of insulin for Medicare beneficiaries is not unexpected. It is part of a larger ongoing effort by the Administration to address the rising costs of pharmaceuticals. As with any voluntary model, the impact will depend on uptake of the model.

## CONGRESS

- + **LAWMAKERS INTRODUCED LEGISLATIVE PACKAGE AIMED AT MATERNAL HEALTH.** Representatives Lauren Underwood (D-IL) and Alma Adams (D-NC) and Senator Kamala Harris (D-CA) released a legislative package to address the maternal health

crises. The Black Maternal Health Omnibus Act of 2020 ([H.R. 6142/S. 3424](#)) includes nine bills that would fund maternal health organizations, improve data collection and digital health tools, and establish grant programs aimed at increasing and diversifying the maternal health workforce and reducing racial discrimination in maternal care. The Omnibus Act does not currently have any Republican cosponsors, and it remains to be seen if such a sweeping package can gain traction. This legislation represents the latest in on-going efforts to address this issue. Just last week, the Senate Finance Committee issued a [request for information](#) on ways to improve maternal health. Comments are due March 20, 2020. However, while improving maternal health has been an issue with widespread support in Congress, little progress has been made to get policy changes over the finish line. For its part, the Administration continues to work on the issue of maternal health, publishing three briefs on [state projects to improve postpartum care](#), the [Maternal and Infant Health Initiative grant program](#), and [payment strategies to increase postpartum care visit rates](#) as part of its Maternal and Infant Health Initiative at CMS.

## QUICK HITS

- + The House Energy and Commerce Health Subcommittee held a [markup](#) of [13 bills](#) aimed at consumer safety, improving patient outcomes and strengthening Medicare and Medicaid coverage.
- + The Congressional Budget office released a [score](#) of the Prescription Drug Pricing Reduction Act ([S. 2543](#)). The bill would save approximately \$95 billion over 10 years.
- + House Energy and Commerce Committee leadership sent a [letter](#) to the US Food and Drug Administration requesting a briefing on how COVID-19 is impacting the supply of drugs and medical devices.
- + CMS published a [calendar](#) highlighting key dates for stakeholders interested in the [Direct Contracting Model](#).
- + The [Medicaid and CHIP Payment and Access Commission](#) and the [Medicare Payment Advisory Commission](#) issued their March 2020 reports to Congress.
- + The Physician-Focused Payment Model Technical Advisory Committee canceled its March public meeting over COVID-19 concerns. The Committee's next meeting will take place in June.

## M+ RESOURCES

- + Dr. Paul Gerrard, the newest member of the McDermottPlus team, introduced himself on the latest episode of the [Health Policy Breakroom](#).

## NEXT WEEK'S DOSE

The Senate cancelled next week's recess in order to continue work on an economic relief package in response to COVID-19. The House is currently scheduled to adjourn for one week, but the situation may change rapidly.

For more information, contact [Mara McDermott](#), [Rachel Stauffer](#), [Katie Waldo](#) and [Emma Zimmerman](#).

To subscribe to the McDermottPlus Check-Up, please contact [Jennifer Randles](#).



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