### Federal Issues

#### Legislative

**Coronavirus Activity in Washington**

Among the developments during a largely quiet week on Capitol Hill as coronavirus related social distancing continues:

- The Senate failed to pass additional COVID-19 relief when Republicans attempted to add another $250 billion in small business aid to the Paycheck Protection Program passed as part of the CARES Act. Democrats blocked the effort, accusing the GOP of a “political stunt” and attempted to add to the legislation another $100 billion for hospitals, $150 billion for state and local governments and an expansion of food assistance, which Republicans in turn blocked.

- AHIP and Blue Cross Blue Shield Association (BCBSA) sent a joint letter to Congressional leaders with legislative recommendations for the “Phase 4” Coronavirus (COVID-19) relief package. The letter emphasizes the importance of Congress taking immediate action to help employers and consumers maintain health insurance coverage by addressing three buckets: premium affordability, access to coverage, and market stability.

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- Governor Carney Expands His Community Call to Action
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- The Alliance to Fight for Health Care, of which AHIP and BCBSA are founding members, urged Congressional leaders to support health benefits for Americans who have lost their jobs or been placed on furlough as well as for financially struggling employers offering critical health coverage.

- AHIP commissioned the Wakely Consulting Group to conduct a new study on the potential cost implications of COVID-19 testing and treatment to U.S. health insurance providers for 2020 and 2021. Findings indicate costs to the health care system from COVID-19 could range from $56 billion to $556 billion over the next two years. The study will be refined as analysts get a clearer picture of the total number of infections and the effect of social distancing.

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### Federal Issues

#### Regulatory

**CMS Issues 2021 MA and Part D Rates and Payment Policies**
The Centers for Medicare & Medicaid Services (CMS) issued a memorandum announcing the CY 2021 Medicare Advantage Capitation Rates and Medicare Advantage and Part D Payment Policies, along with a related CMS fact sheet.

**Administration Expands Coverage for Diagnostic Services**
The Centers for Medicare & Medicaid Services (CMS), along with the Departments of Labor and the Treasury, issued guidance to ensure individuals with private health insurance have coverage of COVID-19 diagnostic testing and certain other related services, including antibody testing, at no cost.

**IRS/Treasury Provide Limited Filing and Other Relief**
The Department of the Treasury and the IRS issued Notice 2020-23, which delays any employee benefit filings or actions due after April 1, 2020 and before July 15, 2020 until July 15, 2020. The full list of employee benefit items starts on page 39 of the Revenue Procedure. For Form 5500 filings, the relief only helps non-calendar year plans with a due date between April 1 and July 15 because the due date for calendar year plans is July 31, and is subject to a 2.5 month extension.

**AHA, Others Urge Supreme Court to Review 3rd Circuit False Claims Act Decision**

The American Hospital Association (AHA), joined by the Association of American Medical Colleges, Federation of American Hospitals, Hospital and Healthsystem Association of Pennsylvania and New Jersey Hospital Association, urged the U.S. Supreme Court to review a 3rd Circuit Court of Appeals decision that gives private individuals “broad license” to bring meritless False Claims Act lawsuits against hospitals and other health care providers.

In the case, *U.S. ex rel. Bookwalter v. UPMC*, a 3rd Circuit panel reversed a lower court’s decision dismissing an FCA case against the University of Pittsburgh Medical Center that involved productivity-based physician compensation structures between UPMC’s subsidiary physician practices and neurosurgeons.

**CMS Delays Emergency Care Model Start Date**

The Centers for Medicare & Medicaid Services (CMS) has delayed the start of its Emergency Triage, Treat, and Transport (ET3) Model from May 1 until fall 2020 as model participants work to respond to the needs of the COVID-19 emergency.

As previously reported, CMS recently selected 205 ambulance service providers or suppliers to participate in the five-year payment model.

ET3 is a voluntary, five-year payment model that will provide greater flexibility to ambulance care teams to address emergency health care needs of Medicare Fee-for-Service (FFS) beneficiaries following a 911 call. Under the ET3 model, CMS will pay participating ambulance suppliers and providers to 1) transport an individual to a hospital emergency department (ED) or other destination covered under the regulations, 2) transport to an alternative destination partner (such as a primary care doctor’s office or an urgent care clinic), or 3) provide treatment in place with a qualified health care partner, either on the scene or connected using telehealth.

The model will allow beneficiaries to access the most appropriate emergency services at the right time and place. The model will also encourage local governments, their designees, or other entities that operate or have authority over one or more 911 dispatches to promote successful model implementation by establishing a medical triage line for low-acuity 911 calls.

**CMS Proposes Annual Payment Increases for Providers in FY 2021**

**Hospice:** The Centers for Medicare & Medicaid Services issued a proposed rule on April 10 to update hospice payment rates for fiscal year 2021.
• CMS proposes a 2.6% net increase to payments of $580 million, compared to FY 2020. This includes a 3.0% market-basket update, offset by a statutorily required reduction of 0.4% for productivity.
• The net increase would raise the aggregate hospice cap to $30,743.86.
• In addition, the rule proposes to sunset the budget-neutrality adjustment factor for service intensity, which has been in effect since FY 2016 and set at 0.1% in recent years.
• CMS will accept comments on the rule through June 9.

Inpatient Psychiatric Facilities: The Centers for Medicare & Medicaid Services issued a proposed rule on April 10 for the inpatient psychiatric facility prospective payment system for fiscal year 2021.

• CMS proposes to increase IPF payments by a net 2.4%, equivalent to $100 million, in FY 2021.
• The 2.4% payment update is a reflection of a 3.0% market-basket update minus a productivity adjustment of 0.4 percentage points, an additional 0.2 percentage point offset for the outlier fixed-dollar loss threshold amount.
• CMS will accept comments on this rule through June 9.

Skilled Nursing Facilities: CMS issued a proposed rule on April 10 updating fiscal year 2021 payments for the skilled nursing facilities prospective payment system.

• CMS proposed a net payment increase of 2.3%, or $784 million, compared to FY 2020.
• This includes a 2.7% market-basket update, offset by a statutorily required 0.4% productivity reduction. No forecast error adjustment was proposed.
• With regard to the redesigned SNF payment model implemented in FY 2020, known as “PDPM,” the agency proposes neither a change to weights nor a budget-neutrality adjustment. Instead, CMS plans to continue monitoring provider behavior under PDPM, including patient outcomes and aggregate SNF PPS payments. The agency also notes that it may consider future PDPM-related offsets.
• On quality, CMS proposes no changes to the SNF value-based purchasing measures, scoring or payment policies; rather, the agency only makes nominal updates to the program.
• CMS will accept comments on the rule through June 9.

Why this matters: These proposed rules are issued on an annual basis to reflect payment system updates and other policy changes for the following fiscal year. This year, CMS has acknowledged that the entire health care system is focused on responding to the COVID-19 public health emergency, and thus the majority of provisions in these proposed rules only include changes required by statute for Medicare payment to the various providers.

Federal COVID-19 Policy Guidance and Other Developments:

First Round of Federal CARES Act Funding Distributed to Hospitals: The Department of Health and Human Services (HHS) announced the distribution of the initial $30 billion of the $100 billion allocated to hospitals through the federal Coronavirus Aid, Relief, and Economic Security Act (CARES) Act. Pennsylvania hospitals have received $1.25 billion to help address exponentially increasing expenses and drastically reduced revenues. These are payments, not loans, to health care providers, and will not need to be repaid.
HHS is partnering with UnitedHealth Group (UHG) to deliver this initial $30 billion distribution to providers as quickly as possible. Providers will be paid via Automated Clearing House account information on file with UHG, UnitedHealthcare, or Optum Bank, or used for reimbursements from the Centers for Medicare & Medicaid Services (CMS). Providers who normally receive a paper check for reimbursement from CMS will receive a paper check in the mail for this payment as well within the next few weeks.

Within 30 days of receiving the payment, providers must sign an attestation confirming receipt of the funds and agreeing to the terms and conditions of payment. As a condition, providers are obligated to abstain from "balance billing" any patient for COVID-19-related treatment, and patients seeking out-of-network care should be held harmless. Money provided to reimburse providers for unreimbursed COVID-19 care may also be allocated for compensated care provided to uninsured patients.

The portal for signing the attestation will be open the week of April 13, 2020 and will be linked from hhs.gov/providerrelief. This initial round of funding will begin to give providers on the front lines of the fight against the virus much-needed support and resources.

FDA Greenlights N95 Respirator Decontamination Products for Emergency Use: The Food and Drug Administration has issued emergency use authorizations for two respirator decontamination products: Advanced Sterilization Products’ STERRAD Sterilization Cycles, which use vaporized hydrogen peroxide gas plasma sterilization; and STERIS Corporation’s STERIS V-PRO 1 Plus, maX and maX2 Low Temperature Sterilization Systems using the STERIS N95 Decontamination Cycle (non-lumen cycle), which also use vaporized hydrogen peroxide. Collectively, the two systems, according to FDA, can decontaminate nearly 5 million N95 or N95-equivalent respirators per day.

Administration Updates Request for Daily Hospital Data on COVID-19: The Department of Health and Human Services Friday announced updates to the process it launched last month for obtaining data on hospital bed capacity and utilization and COVID-19 testing results from in-house laboratories. They aim to clarify the existing reporting process and outline new options for states, vendors and other third parties to report data on hospitals' behalf.

DEA Lifts Three Requirements for Hospitals/clinics During Pandemic: To facilitate continuous patient care during quickly changing scenarios during the pandemic, the Drug Enforcement Administration has issued three exceptions to regulations for DEA-registered hospitals and clinics effective from April 10 until the public health emergency ends.

- One exception allows DEA-registered hospitals and clinics, under their existing DEA registration, to handle controlled substances at their satellite hospital/clinic locations as long as certain conditions are met. DEA is also providing flexibility to allow distributors to ship controlled substances directly to these satellite hospitals/clinics under certain conditions.
- A second exception allows narcotic treatment programs to accept deliveries of narcotics without providing an authorized signature at the time of delivery in an effort to prevent the spread of COVID-19.
- Finally, DEA issued another temporary exception to allow DEA-registered dispensers, such as hospitals, pharmacies, and physicians, to distribute controlled substances beyond 5% of the total number of dosage units of controlled substances distributed and dispensed during the same calendar year without being required to register as a distributor.
AMA Releases Two CPT Codes for COVID-19 Antibody Testing: The American Medical Association Friday released two Current Procedural Terminology codes (86328 and 86769) for reporting antibody testing for the novel coronavirus, and revised its CPT code for SARS-CoV-2 nucleic acid tests (86318). Providers can manually upload the code descriptors into their electronic health record systems. Click here for additional guidance on the CPT codes.

NIH Seeks to Quantify Undetected Cases of COVID-19: The National Institutes of Health launched a study to determine how many adults in the U.S. without a confirmed COVID-19 history have antibodies to the virus. By collecting blood samples from volunteers, researchers hope to model the degree to which the virus spread undetected in the U.S.

AHA Announces Partnership to Accelerate Availability of PPE; New Smart App Will Help Coordinate Efforts: The American Hospital Association (AHA) announced that it has partnered with Microsoft, Kaiser Permanente, consulting firm Kearney, Merit Solutions, Goodwill, and UPS to launch Protecting People Everywhere, powered by HealthEquip™. HealthEquip is a smart app that will match individuals and organizations donating personal protective equipment with local hospitals based on needs-criteria. The app also will track PPE donations and manage shipping through UPS to hospitals. The AHA is sharing this app with hospitals through its 100 Million Mask Challenge as a way for the AHA to help facilitate a more efficient means of distributing critically needed PPE to frontline health care workers. Hospitals and donors can register their PPE needs and supplies.

CMS Releases Additional Waivers for COVID-19: The Centers for Medicare & Medicaid Services last week released additional new waivers related to COVID-19. The waivers, which apply nationwide and are retroactive to March 1, 2020, reduce supervision and other requirements to allow practitioners to work to the fullest extent of their licenses.

Among other areas, CMS is waiving:
- The requirement that critical access hospitals have a physician physically present to provide medical direction, consultation and supervision;
- The requirement that a nurse practitioner, physician assistant, or certified nurse-midwife be available to furnish patient care services at least 50% of the time a rural health clinic or federally qualified health center operates; and
- Regulations that prevent a physician at a long-term care facility from delegating a task when the regulations specify that the physician must perform it personally.

CMS Issues New Wave of Infection Control Guidance Based on CDC Guidelines: CMS has issued a series of updated guidance documents focused on infection control to prevent the spread of COVID-19 in a variety of inpatient and outpatient care settings. The guidance, based on Centers for Disease Control and Prevention (CDC) guidelines, will help ensure infection control in the context of patient triage, screening and treatment, the use of alternate testing and treatment sites and telehealth, drive-through screenings, limiting visitations, cleaning and disinfection guidelines, staffing, and more. To view the latest updates to these CMS guidance documents on infection control, click here.

IRS Extends 501(c)(3) Tax Filing, Payment Deadlines to July 15: The Internal Revenue Service extended the deadline for tax-exempt organizations and fiscal year businesses to file tax returns and payments due between April and June until July 15.
Hospitals asked the IRS to give any Section 501(c)(3) organization required to file Form 990 Schedule H a six-month automatic extension to file Forms 990, 990-T and 4720, and will continue to urge further relief.

OCR Will Not Enforce HIPAA Rules at Certain COVID-19 Testing Sites: The Department of Health and Human Services' Office for Civil Rights said it generally will not impose penalties for HIPAA rule violations on health care provider covered entities and their business associates operating COVID-19 community-based testing sites in good faith for the duration of the current national public health emergency. Community-based sites include mobile, drive-through or walk-up sites that provide only COVID-19 specimen collection or testing services to the public. OCR still encourages participating providers to implement reasonable safeguards to protect the privacy and security of individuals’ protected health information at the testing sites. The decision is retroactive to March 13.

FDA Authorizes Blood Purification Device to Treat COVID-19: The Food and Drug Administration issued an emergency use authorization for a pair of blood purification systems to treat adult COVID-19 patients admitted to the intensive care unit with severe respiratory illness. The authorized devices filter patients’ blood to remove excess proteins that can cause respiratory or organ failure. The EUA applies to Terumo BCT Inc.’s Spectra Optia Apheresis System and Marker Therapeutics AG’s Depuro D2000 Adsorption Cartridge.

FCC to Begin Accepting COVID-19 Telehealth Grant Applications April 13: The Federal Communications Commission’s Wireline Competition Bureau will begin accepting applications for the COVID-19 Telehealth Program at www.fcc.gov/covid19telehealth. The program will distribute $200 million in funding appropriated by Congress to help providers furnish telehealth services to patients in response to the COVID-19 pandemic. FCC plans to post an educational video for applicants to the website. Applicants also may email specific questions to EmergencyTelehealthSupport@fcc.gov.

FDA Provides Flexibility for Pharmacies’ PPE Use Amid COVID-19 Shortages: The Food and Drug Administration issued temporary guidance for pharmacies’ preservation of limited supplies of personal protective equipment. As part of this policy, FDA is providing limited regulatory flexibility for compounders that cannot obtain sufficient supplies of PPE for sterile compounding, provided they adopt risk mitigation strategies.

IRS Releases FAQs on Deferral of Deposit and Payment of Employment Taxes: The Internal Revenue Service released FAQs related to the deferral of deposit and payment related to certain employment taxes as authorized by the Coronavirus, Aid, Relief and Economic Security Act. The legislation allows employers to defer the deposit and payment of the employer's share of social security taxes and self-employed individuals to defer payment of certain self-employment taxes. IRS said the FAQs will be updated to address additional questions as they arise.

Federal Reserve Announces New Lending Program to Enhance Support for Small- and Mid-sized Businesses: The Federal Reserve announced the terms of both expanded and new “Main Street” lending facilities that would provide loans to a variety of eligible borrowers, including borrowers that obtain loans through the Paycheck Protection Program administered by the Small Business Administration and larger borrowers with up to 10,000 employees or $2.5 billion in annual revenues.

The Federal Reserve term sheet specifies that these facilities will be available to “businesses” without specifically addressing, or excluding, non-profits. Lenders under the Main Street program will include U.S. insured depository institutions, U.S. bank holding companies, and U.S. savings and loan holding
companies, which will retain a 5% participation in the loans, with the other 95% funded by a Federal Reserve special purpose vehicle.

The combined expanded and new Main Street facilities have the capacity to make up to $600 billion in aggregate loans.

**AABB Launches Website and Sends Hospital Letter on COVID-19 Convalescent Plasma:**

AABB launched a new website to inform the public, blood collectors and clinicians about COVID-19 convalescent plasma.

The website provides information to connect people who have recovered from COVID-19 to AABB-accredited blood centers so that they can potentially donate convalescent plasma to help improve the status of critically ill patients with COVID-19. AABB yesterday also sent a letter to its member hospitals encouraging them to collaborate with their blood supplier by identifying and referring individuals who have recovered from COVID-19 for donation of COVID-19 convalescent plasma.

The Food and Drug Administration, which considers COVID-19 convalescent plasma an investigational treatment, recently announced new guidelines permitting its use for patients with moderate or severe COVID-19 infections.

**CDC Releases Guidance on Post-COVID-19 Exposure Return-to-Work, Clinical Specimen Swabs:**

The CDC has updated guidance for critical infrastructure workers’ return to work following exposure to COVID-19. The interim guidance, which applies to personnel in 16 different sectors, permits continued work following potential COVID-19 exposure “provided they remain asymptomatic and additional precautions are implemented to protect them and the community.”

It also details practices workers and employers should follow prior to and during work shifts, including prescreening, regular monitoring, the use of a face mask for 14 days following last exposure, social distancing, and disinfecting and cleaning work spaces and shared equipment.

CDC also clarified allowances for other swab types using new data and to align with Food and Drug Administration guidance by designating the following as acceptable alternatives to nasopharyngeal swabs:

- Oropharyngeal specimen collected by a health care professional;
- Nasal mid-turbinate swab collected by a health care professional or by onsite self-collection (using a flocked tapered swab); or
- Anterior nares (nasal swab) specimen collected by a health care professional or by onsite self-collection (using a flocked or spun polyester swab).

**FEMA’s Project Air Bridge Delivers Critical Medical Equipment to Hotspots:** The Federal Emergency Management Agency launched Project Air Bridge on March 29 to speed the delivery of much-needed medical equipment and supplies from overseas manufacturers. The program partners with U.S. medical supply distributors to airlift personal protective equipment from foreign factories.

Half of the shipments are sold to COVID-19 hotspots identified by the Centers for Disease Control and Prevention; the other half goes to the distributors’ customers. FEMA says that Project Air Bridge reduced shipment time from weeks to days and is expected to undertake about 65 flights over the next 30 days.
FEMA Outlines Exportation Ban on Respirators, Surgical Gloves: The Federal Emergency Management Agency issued a temporary rule to bar the exportation of some personal protective equipment, including some respirators and surgical masks and gloves. For the duration of the COVID-19 crisis, the following “shall be allocated for domestic use, and may not be exported from the United States” without explicit approval by FEMA:

- N95 and some other filtering facepiece respirators;
- Elastic, air-purifying respirators and appropriate particulate filters/cartridges;
- PPE surgical masks; and
- PPE gloves or surgical gloves.

The rule does not apply to powered air-purifying respirators or self-contained breathing apparatus.

FDA Updates Hospitals on Compounding Policies: The Food and Drug Administration is clarifying several compounding policies so hospitals and health systems understand what their 503A compounding pharmacies are permitted to do when making or distributing certain drugs. The clarifications include draft guidance for hospital and health systems, including on the not-yet-implemented “one mile radius” provision; and a draft Memorandum of Understanding for interstate distribution of compounded drug products for pharmacy compounders. FDA also said it does not consider drugs that are on its shortage list or that have been discontinued and are no longer marketed as “commercially available” under the “essentially a copy” provision for pharmacy compounders.

The clarifications of FDA policy, taken together, suggest that hospitals’ 503A compounding pharmacies should be able to compound many of the drugs that are otherwise in short supply during the COVID-19 public health emergency. Similarly, the agency says it does not consider a compounded drug produced by an outsourcing facility as “essentially a copy” if it is identical or nearly identical to an FDA-approved drug that is on FDA’s drug shortage list.

New 100 Million Mask Partnership Calls for Engineers, Innovators: A new American Hospital Association partnership with Point A hopes to foster further collaboration between individuals with engineering and innovation experience to consult with manufacturers looking to reconfigure their facilities to produce personal protective equipment. AHA launched a call to action to increase the production and distribution of PPE through the 100 Million Mask Challenge. Point A offers a collaborative environment where engineers, innovators and manufacturers come together to solve supply chain challenges around producing much-needed PPE.

Groups Launch ‘Protect the Heroes Campaign’: The Creative Coalition, Association for Healthcare Philanthropy, and the American Hospital Association launched the “Protect the Heroes” campaign, which allows the general public to make direct impact donations to America’s hospitals and health systems. Every dollar raised from Protect the Heroes goes directly to the donor’s choice of local hospital to purchase personal protective equipment and other support for their local health care workers to fight COVID-19.

Individuals can visit ProtectTheHeroes.org and be connected to the website of a local hospital of their choosing and contribute to hospital emergency relief funds. Each hospital will determine where funds should be applied.

FDA Acts to Expand Access to COVID-19 Therapy: The Food and Drug Administration recently issued an enforcement policy allowing certain modifications to expand the availability of devices used in extracorporeal membrane oxygenation therapy during the COVID-19 public health emergency. The policy
will allow for device modification without requiring certain premarket notifications and applications, where such modification does not create an undue risk.

**ECRI Updates Respirator Reuse and Extended Use Guidance:** To help health care professionals understand the potential risks and benefits of N95 respirator reuse or extended use during the COVID-19 emergency, ECRI updated its clinical evidence assessment on these practices. ECRI said the conclusions are not intended as a practice endorsement, but to provide practical guidance for clinical centers to consider during decision making.

**DEA Greenlights Increased Production, Importation of Controlled Substances Amid COVID-19 Shortages:** The Drug Enforcement Agency said it is increasing annual caps for controlled substances whose supplies are in high demand due the COVID-19 crisis. DEA said it will increase the 2020 Aggregate Production Quotas by 15% for certain substances needed for the treatment of COVID-19, including fentanyl, morphine, hydromorphone, codeine, ephedrine, pseudoephedrine, and certain controlled substance intermediates which are essential to their production.

The agency also is increasing the authorized amounts of certain schedule III and IV controlled substances needed to treat patients on ventilators that may be imported into the United States, including ketamine, diazepam, midazolam, lorazepam, and phenobarbital.

DEA said it will reevaluate demand and adjust APQ levels as needed after the health emergency recedes.

**The Department of Labor issued an Unemployment Insurance (UI) Program Letter** to provide states with a summary of the UI provisions in the CARES Act of 2020 and to provide states with guidance regarding the emergency state staffing flexibility provisions.

**The Department of Homeland Security’s (DHS) Cybersecurity and Infrastructure Security Agency (CISA) issued an alert entitled “COVID-19 Exploited by Malicious Cyber Actors.”** This joint alert seeks to address the growing use of COVID-19-related themes by malicious cyber actors.

### State Issues

**Delaware**

Legislative

**Governor Carney Expands His Community Call to Action**

On April 11, 2020, Governor John Carney expanded his community call-to-action, urging all Delaware citizens with health care and child care experience to offer their expertise in Delaware’s fight against COVID-19. Earlier, Governor Carney urged citizens, businesses and nonprofits with access to emergency materials and supplies to support Delaware’s response. The State of Delaware has launched an online application portal at de.gov/coronavirus to recruit Delawareans with health care and early education credentials to fill critical positions in our health care and emergency child care workforce.

**Governor Carney Extends State of Emergency**
On April 10, 2020 Governor John Carney formally extended the State of Emergency declaration in place to limit the spread of COVID-19. Pursuant to Delaware’s emergency management statutes, a State of Emergency proclaimed by the Governor may not continue for more than 30 days without being renewed. The Governor also announced a partnership with the social network Nextdoor to keep Delawareans informed on the neighborhood level.

State Issues

Pennsylvania
Legislative

House Endorses Measures Addressing Gubernatorial Authority of COVID-19
The House of Representatives voted along party lines April 8 to approve an amended Senate Bill 327. The legislation, which requires the Department of General Services to conduct an annual survey of state facility usage, now includes language to provide legislative oversight of the Governor’s authority in addressing the COVID-19 crisis, including:

- Specific notification of regulations which are in place; and
- Creates the COVID-19 Cost and Recovery Task Force to determine how to put the economy back on track when COVID-19 ends.

House Democratic leaders voiced opposition to the bill as amended, noting they had no input on crafting language they believe ties the hands of the governor with unnecessary rules.

The House passed Senate Bill 327 by a vote of 108 – 93. The bill has been sent back to the Senate for a concurrence vote. The chamber will convene on April 14 to continue consideration of legislation addressing COVID-19 business closures.

Senate Advances Amended PHC4 Reauthorization Bill
The has voted to advance Senate Bill 841, a proposal that reauthorizes the Pennsylvania Health Care Cost Containment Council (PHC4) as an independent government entity for 10 years and provides for annual reporting of financial expenditures. Prior to Senate approval, the bill was amended to include the following provisions:

- Requires PHC4 to report on the COVID-19 disaster emergency;
- Establish tax relief related to COVID-19;
- Provide educational tax credits related to COVID-19 to businesses;
- Authorizes the Department of State to permit remote notarization procedures;
- Permit local government meetings and other business via telecommunication until the termination of the COVID-19 emergency; and
- Provide for contract negotiations of school contract service providers during the period of schools' closure.

The bill has been sent back to the House for a concurrence vote.
Independent Fiscal Office Report Warns of COVID-19 Impact on State Finances

The Pennsylvania Independent Fiscal Office (IFO) issued a report this week, the Projected Revenue Impact of COVID-19, which provides an update on revenue projections for Fiscal Year 2019-2020 and a preliminary projection for Fiscal Year 2020-2021. According to the report, the projected loss in state revenue could be as much as $3.9 billion over the next two fiscal years, depending on how long businesses remain closed due to the COVID-19 pandemic. The preliminary estimates for 2020-2021 using two modeling scenarios are:

Preliminary General Fund Estimate for FY 2020-2021:
- Scenario 1 for FY 2019-2020 and FY 2020-2021 combined, revenues would decline by $2.7 billion.
  - Corporate Net Income Tax revenues would decline by $517 million.
  - Sales and Use Tax revenues would decline by $46 million.
  - Personal Income Tax revenues would decline by $801 million.
- Scenario 2 for FY 2019-2020 and FY 2020-2021 combined, revenues would decline by $3.9 billion.
  - Corporate Net Income Tax revenues would decline by $754 million.
  - Sales and Use Tax (SUT) revenues would decline by $366 million.
  - Personal Income Tax revenues would decline by $997 million.

Neither scenario takes into account the amount the state is expected to receive in federal stimulus funds, which includes $4.9 billion in direct support for state and local governments and billions in support for small businesses and unemployment compensation expansion. The IFO report cites that although the state could see between $49.8 and $52.8 billion in aid, depending on how long businesses are closed, it might not be enough to improve the state’s revenue picture.

This link [report](#) provides access to the Projected Revenue Impact of COVID-19 report.

State Issues

Pennsylvania

Regulatory

PID Issues Guidance for Providers with Reactivated Licenses

The Pennsylvania Insurance Department (PID) this week released additional COVID-19 guidance to address volunteer physicians, podiatrists, and certified nurse midwives and to the hospitals and long-term care facilities where they may be practicing. The PID guidance clarifies the following:

- Physicians, podiatrists, and certified nurse midwives that are providing health care services in hospital and long-term care facilities under reactivated licenses voluntarily and without compensation are not required to have individual limits or to individually participate in the Medical Care Availability and Reduction of Error (MCARE) Fund through the payment of an assessment.
- Physicians, podiatrists, and certified nurse midwives that provide health care services under reactivated licenses either outside a hospital or long-term care facility or for compensation are required to have separate liability insurance limits as prescribed by MCARE Act and pay into the MCARE Fund.
Wolf Administration Announces Temporary Loan Program
Governor Wolf on Friday announced a $450 million loan program for Pennsylvania hospitals. Through the Pennsylvania Infrastructure Investment Authority (PENNVEST), hospitals may apply for loans up to $10 million per-hospital at an interest rate of 0.5%, pledging federal dollars later received to pay back the loans.

Why this matters: Pennsylvania hospitals’ and health systems’ losses due to this unprecedented crisis will total more than $1.5 billion monthly. Some hospitals may find access to short-term low-interest loan programs helpful in managing immediate cash flow needs.

Governor Wolf Signs Order to Provide Targeted Distribution of COVID-19 PPE and Supplies to Hospitals
Among a myriad of actions to support Pennsylvania’s health care system during the COVID-19 pandemic, Governor Tom Wolf signed an order to provide critical aid to hospitals with targeted PPE and supplies distribution, specifically the order will allow the transfer of supplies and information between medical facilities to both high-population, high-impact areas and lower population areas that might not have as many existing medical resources.

The order mandates that private, public and quasi-public health care providers and facilities, as well as manufacturers, distributors and suppliers of PPE, pharmaceuticals and other medical resources located within the commonwealth, submit current inventory quantities of PPE, pharmaceuticals and other medical resources to PEMA within five days of today’s order. Health care providers and facilities are further ordered to provide written reports detailing facility health care needs and other pertinent information in the form, manner and frequency directed by PEMA.

PEMA will make arrangements with other commonwealth agencies to reimburse facilities for PPE and other supplies and equipment, then arrange for supplies to be allocated to where they are needed most.

Also, the Department of Health launched a new hospital preparedness dashboard that provides county-level information, including the number of available beds and ventilators in use at facilities across the state. The dashboard also provides an overview of the capacity of the state’s entire health care system.

The dashboard can be found in the COVID-19 section of health.pa.gov.

Read Governor Wolf’s order as a PDF here or on Scribd.

Why this matters: The order will ensure the efficient allocation and effective use of critical medical resources, such as N95 face masks, ventilators, respirators, face shields, safety goggles, disinfectants and other sanitizing solutions by hospitals in the state.

Industry Trends
Policy / Market Trends
MMA Blog Post Highlights Medicaid & Managed Care Program Actions During COVID-19

The Modern Medicaid Alliance (MMA) published a new blog post highlighting the actions Medicaid and Medicaid managed care programs are taking to protect Americans during the COVID-19 pandemic.

The blog outlines 3 ways Medicaid and managed care programs are working to ensure access to care:

- Waiving prescription refill limits on medications to make sure Americans have access to the medication they need to address health conditions;
- Covering the cost of virtual and telehealth services in order to limit the risk of exposure for both health care workers and patients; and
- Proactively eliminating cost sharing for COVID-19 testing, and in many cases, treatment.
Interested in reviewing a copy of a bill(s)? Access the following web sites:

Delaware State Legislation: http://legis.delaware.gov/
Pennsylvania Legislation: www.legis.state.pa.us
West Virginia Legislation: http://www.legis.state.wv.us/
For copies of congressional bills, access the Thomas website – http://thomas.loc.gov/.

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