Federal Issues
Legislative

Senate GOP Unveils Its COVID-19 Package
On Monday, U.S. Senate Majority Leader Mitch McConnell (R-KY) released an agreement with the White House referred to as the “Health, Education Assistance, Liability Protections, Schools (HEALS) Act,” marking Republican priorities for the next round of coronavirus legislation. The release will mark the beginning of negotiations on a final deal with Democrats, who are supporting the HEROES Act as passed by the U.S. House in May.

Why it matters: Millions of Americans remain out of work amid the recent surge in infections and the enhanced unemployment compensation program passed in the CARES Act expires at the end of July.

The HEALS Act is a series of individual bills aimed at the pandemic. They include:
- The American Workers, Families, and Employers Assistance Act, which would provide additional stimulus payments, enhanced unemployment, and incentives for employee hiring and retention.
- The Continuing Small Business Recovery and Paycheck Protection Program Act, which would authorize another round of Paycheck

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Protection Program loans, targeted to smaller businesses that have experienced significant financial loss.

- The Safely Back to School and Back to Work Act, which would enhance access to diagnostic tests and personal protective equipment and make it easier for businesses and schools to reopen.
- The Safeguarding America’s Frontline Employees To Offer Work Opportunities Required to Kickstart the Economy (SAFE TO WORK) Act, which contains liability protections for health facilities, businesses, schools and other entities as they reopen.
- The Restoring Critical Supply Chains and Intellectual Property Act, designed to limit reliance on foreign supply chains and protect intellectual property.

The HEALS Act would also appropriate funding for several initiatives, including $25 billion for the Provider Relief Fund, $20 billion for vaccine, therapeutic, and diagnostic development and $6 billion to develop and execute a new COVID-19 vaccination distribution campaign coordinated through CDC. The legislation also envisions adding $16 billion in new testing money to the $9 billion in unspent funds from the Paycheck Protection Program and Health Care Enhancement Act for testing, contact tracing, and surveillance in states.

- Related: A large group of stakeholders, including America’s Health Insurance Plans, the Blue Cross Blue Shield Association and the U.S. Chamber of Commerce, sent a letter to Congressional leadership requesting dedicated federal funding for the critical testing needed to reopen the country.
- The letter requests that Congress act swiftly to expand access to COVID-19 testing through additional dedicated and robust federal funding, especially for essential workers, frontline healthcare physicians and other clinicians and those at disproportionate risk for COVID-19.
Thirteen organizations representing health care providers, including the American Hospital Association, voiced support for the Value in Health Care Act, legislation to strengthen Medicare’s value-based payment models and accountable care organizations.

“The reforms in this legislation will further strengthen ACOs and [alternative payment models] and ensure their continued success,” the organizations said in a letter to the bill’s sponsors, Reps. Peter Welch, (D-VT), Darin LaHood, R-Ill., and Suzan DelBene, (D-WA).

“We are pleased that the bill provides appropriate shared savings rates, modifies risk adjustment methodologies, removes barriers to participation, ensures fair and accurate benchmarks, and provides educational and technical support for ACOs. The bill also makes important steps to reinforce the transition to value through extending and modifying Advanced APM bonuses and addressing aspects of APM overlap. These reforms will ensure that value-based care models continue to be viable for physician and hospital participants.”

**Why this matters:** The policies in the bill are more important than ever given the acute needs of the health care system as we navigate the COVID-19 pandemic, especially when ACO and APM tools such as care coordination have been key to managing the COVID-19 crisis.

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**Federal Issues**

**Regulatory**

**Federal COVID-19 Policy Guidance and Other Developments**
The Department of Health and Human Services (HHS) debuted their new Coronavirus Data Hub which displays hospital reporting information and case counts.

**FDA Authorizes First COVID-19 Diagnostic Test for Asymptomatic People:** The Food and Drug Administration reissued its emergency use authorization for the LabCorp COVID-19 RT-PCR Test to include authorized use for asymptomatic individuals and for pooled sample testing with up to five individual specimens. FDA previously authorized emergency use of the test for patients with suspected COVID-19 and individual specimens.

“FDA’s authorization of the first diagnostic test to be used for anyone, regardless of whether they are showing symptoms of COVID-19 or have other exposure risk factors, is a step toward the type of broad screening that may help enable the reopening of schools and workplaces,” said FDA Commissioner Stephen Hahn, M.D. “By authorizing another test for use with pooled samples, we also further help increase the possibility that patients may be able to receive results sooner, while also conserving vital testing supplies, which are under increased demand during the pandemic.”

**Moderna’s COVID-19 Vaccine Candidate Enters Phase 3 Clinical Trial:** The National Institutes of Health announced that a COVID-19 vaccine candidate co-developed by Moderna, Inc. and the National Institute of Allergy and Infectious Diseases has begun a phase three clinical trial. The mRNA-1273 investigational vaccine will be tested at U.S. clinical research sites on approximately 30,000 adult volunteers who do not have COVID-19.
HHS and Defense Department Invest $7.6 Million to Ramp Up COVID-19 Testing Consumables Production: Hologic Inc. received $7.6 million from the Department of Health and Human Services and Department of Defense to increase production of supplies needed for COVID-19 testing, including custom sample collection and processing consumables. HHS said the contract will expand the company’s production from 4.8 million to 6.8 million tests per month, particularly for tubes, caps and multi-tube units for molecular diagnostic tests.

FDA Updates COVID-19 Test Resource for Labs: The Food and Drug Administration updated its resource for labs performing authorized COVID-19 tests. The resource includes validated supply alternatives that labs can use to continue performing testing when there are supply issues with some molecular test components.

FDA Updates Opioid Labeling to Raise Awareness About Naloxone: The Food and Drug Administration required updated labeling for opioid pain medicine and medicine to treat opioid use disorder to recommend that prescribers discuss naloxone with patients and caregivers.

"Today’s action can help further raise awareness about this potentially life-saving treatment for individuals that may be at greater risk of an overdose and those in the community most likely to observe an overdose,” said FDA Commissioner Stephen Hahn, M.D.

Free VA ECHO COVID-19 Education Opportunities Begin August 5: The Department of Veterans Affairs announced a series of free COVID-19 training sessions for both VA and non-VA clinicians. Participants will hear the latest guidance on caring for adults with COVID-19; review COVID-19 models and forecasts; and discuss ensuring provider safety. Continuing education credit is available.

To learn more and register for the August 5 webinar, click here. View additional upcoming educational opportunities from the VA.

HHS Partners With Hospitals to Encourage Convalescent Plasma Donations: The American Hospital Association and its members are partnering with the Department of Health and Human Services to encourage eligible patients who recover from COVID-19 to donate convalescent plasma, which contains antibodies that could help other patients fight the virus.

According to recent findings from the Food and Drug Administration’s Expanded Access Program for COVID-19, a study of the first 20,000 adults hospitalized with severe or life-threatening COVID-19 to receive convalescent plasma found the investigational therapy safe in diverse patients.

Federal Reserve Issues FAQs on Main Street Lending Program for Nonprofit Organizations: The Federal Reserve issued FAQs about the Main Street Lending Program facilities for nonprofit organizations, including the Nonprofit Organization New Loan Facility and the Nonprofit Organization Expanded Loan Facility. The Federal Reserve last week modified the Main Street Lending Program to provide a new borrowing option for nonprofit organizations including hospitals. The expanded program offers loans to small- and medium-sized nonprofits that were in sound financial condition before the COVID-19 pandemic and could benefit from additional liquidity to manage during the current pandemic.

The American Hospital Association has made a series of recommendations to the Federal Reserve focused on increasing the possibility that all hospitals can make use of the Main Street Program. Among other changes from the original proposal, the modified program requires nonprofit borrowers to have a profit
margin in 2019 of 2% or more (down from the proposed 5%), and reduces proposed liquidity and debt-to-cash requirements.

**CMS Announces COVID-19 Long-Term Care Funding and Testing Requirement:** The Department of Health and Human Services will devote $5 billion of the Coronavirus Aid, Relief, and Economic Security Act’s Provider Relief Fund to enhance COVID-19 response at Medicare-certified long-term care facilities and state veterans’ homes, the Centers for Medicare & Medicaid Services announced last week.

Among other needs, the funding could be used to hire additional staff, implement infection control “mentorship” programs, increase testing and provide additional services such as technology so residents can connect with their families if they are not able to visit, CMS said. To qualify for the funding, nursing homes must participate in COVID-19 training on infection control and best practices, which CMS and the Centers for Disease Control and Prevention are rolling out online.

Building on its plan to distribute 15,000 rapid point-of-care diagnostic testing devices to nursing homes over the next several months, CMS said it will begin requiring nursing homes in states with a 5% positivity rate or greater to test all staff each week to help identify asymptomatic carriers. The agency said it also plans to release and send to states a weekly list of nursing homes with an increase in cases so they can target their support to the highest risk nursing homes.

**National Academies Convened July 24 on COVID-19 Vaccine’s Equitable Allocation:** The National Academies of Sciences, Engineering, and Medicine and the National Academy of Medicine met on July 24 at its inaugural committee meeting on the equitable allocation of a COVID-19 vaccine.

**Pfizer COVID-19 Vaccine Candidate Tapped by HHS for Large-scale Production:** The Department of Health and Humans Services said it has an agreement with Pfizer to produce and deliver 100 million doses of the drug maker’s COVID-19 vaccine candidate.

**CDC Updates COVID-19 Isolation Duration Guidance:** The Centers for Disease Control and Prevention recently posted updated considerations for ending isolation for adults with COVID-19, based on new evidence. CDC said the guidance does not apply to severely immunocompromised individuals; rather, it is intended to limit unnecessary extended isolation and preserve laboratory testing resources.

Under the guidance, isolation for most people with COVID-19 can be discontinued 10 days after symptom onset, provided there are improvements of symptoms and no fever for 24 hours without the use of fever-reducing medications.

**CDC Updates Guidance on COVID-19 Laboratory Data Reporting:** When ordering COVID-19 laboratory tests or collecting specimens, health care providers should collect certain patient demographic information and responses to certain questions needed for COVID-19 data reporting, according to updated guidance from the Centers for Disease Control and Prevention.

“These data elements are critical for the COVID-19 public health response, and including them with test orders enable the laboratories that perform the test to report the information to state and jurisdictional health departments, as required,” the guidance states.

For more information, see the Department of Health and Human Services recent guidance and FAQs on hospital data reporting.
National Public Health Emergency Extended to October 23, 2020
On July 23, the Department of Health and Human Services formally renewed the COVID-19 public health emergency declaration for another 90 days, the maximum amount of time that can be authorized.

The original declaration that a national PHE has existed since January 27, 2020, was made on January 31, 2020, and previously renewed on April 21, 2020.

Industry perspective: In a statement applauding the renewal, the American Hospital Association said “The declaration of a public health emergency has given hospitals and health systems and our caregivers the ability to respond in an innovative, timely and decisive manner to the virus. It has been an invaluable tool in the battle against COVID-19 by providing the necessary resources to care for patients and communities, such as expanded use of telemedicine and the ability to provide care in alternative care sites.”

Why this matters:
- This declaration was necessary to ensure that the flexibilities and funding that hospitals are relying on to help them through this unprecedented public health crisis can remain in effect.
- The extension also continues several policies tied to the emergency, including telehealth waivers, a 20% Medicare add-on payment for inpatient COVID-19 treatment, and insurance coverage for necessary COVID-19 tests at zero cost-sharing.

Post-payment Reporting Requirements for Recipients of CARES Act Provider Relief Funds

Specifically, HHS said recipients that received one or more payments exceeding $10,000 in the aggregate from the Coronavirus Relief Fund will be required to submit reports to HHS about how the funds have been expended using a portal that HHS will open by October 1, 2020, and detailed instructions regarding these reports will be released by August 17, 2020. The Health Resources and Services Administration (HRSA), which is in charge of administering the distribution of the payments, will be hosting educational sessions for providers. Last month, HHS clarified that it would not require quarterly reports.

Reporting details: Per HHS, the reporting system will become available to recipients by October 1, 2020, and:
- All recipients must report within 45 days of the end of calendar year 2020 (or no later than February 15, 2021) about their expenditures through the period ending December 31, 2020;
- Recipients who have expended funds in full prior to December 31, 2020, may submit a single final report at any time during the window that begins October 1, 2020, but no later than February 15, 2021;
- Recipients with funds unexpended after December 31, 2020, must submit a second and final report no later than July 31, 2021; and
- Detailed reporting instructions and a data collection template with the necessary data elements will be available through the HRSA website by August 17, 2020.
**Why this matters:** All providers receiving Provider Relief Fund payments will be required to comply with the reporting requirements described in the Terms and Conditions and specified in future directions issued by the Secretary.

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**President Trump Signs Drug Pricing Executive Orders**

President Donald Trump issued four Executive Orders on prescription drug prices. The Executive Orders include reviving the “rebate rule,” as well as policies tying Medicare payments to international prices for some drugs (frequently referred to as the “most favored nation” proposal), allowing states to import certain prescription drugs from Canada, and directing certain federal community health centers to pass savings on insulin and EpiPens through the 340B Prescription Drug Program directly to patients.

**Why this matters**

The Executive Order on the "rebate rule" revives a former proposal the Department of Health and Human Services (HHS) withdrew in July 2019, which would significantly change the anti-kickback safe harbor rules applying to discounts Medicare Part D plans and their contracted PBMs negotiate with drug manufacturers, including eliminating retrospective rebates and requiring all negotiated discounts be applied to prices at the point of sale.

- The new Executive Order would require the Secretary of HHS to complete the rulemaking process started through the original proposed rebate rule. Under the Order, prior to taking action, the Secretary “shall confirm — and make public such confirmation — that the action is not projected to increase Federal spending, Medicare beneficiary premiums, or patients’ total out-of-pocket costs.”
- The Executive Order on importation specifically directs HHS to complete the rulemaking process regarding the proposed rule posted late last year to allow importation of certain prescription drugs from Canada.
- The 340B Executive Order directs the Secretary of HHS (to the extent permitted by law) to take action to ensure future grants available to community health centers under section 330(e) of the Public Health Service Act are conditioned upon them having established practices to make insulin and injectable epinephrine available at the discounted price paid by the Federally Qualified Health Center (FQHC) grantee or sub-grantee under the 340B Prescription Drug Program.
- Text of the most favored nation Executive Order was not publicly available. However, the White House posted a fact sheet to accompany the four Executive Orders indicating this Order will ensure the United States pays the lowest price available in economically comparable countries for Medicare Part B drugs. This Order is scheduled to be implemented on August 24, pending action by Congress.

**The Campaign for Sustainable Rx Pricing (CSRxP),** an advocacy group supported by members such as the AHA, AHIP and BCBSA, issued a statement after the President signed the executive memorandum:

- “After years of talking about holding Big Pharma accountable, the administration demonstrated a shocking deference to the will of the pharmaceutical industry today,” said CSRxP executive director Lauren Aronson.
• “The White House suggests it will only advance a most favored nation rule after allowing Big Pharma executives to propose an alternative, while moving forward with the Pharma-backed Rebate Rule and changes that would weaken the 340B program.”

• “The reboot of the Rebate Rule would hand Big Pharma a massive bailout paid for on the backs of Americans seniors and taxpayers,” Aronson continued. “The administration made the right call last year to halt this policy that would increase premiums on Medicare Part D beneficiaries, cost taxpayers more than $200 billion, hand Big Pharma a more than hundred-billion-dollar bailout and do nothing to lower prescription drug prices.”

NLRB Modifies Its Standard for Offensive Speech
The National Labor Relations Board modified its standard for determining whether employees engaging in activity protected under the National Labor Relations Act have been lawfully disciplined or discharged after making abusive or offensive statements, including profane, racist, and sexually unacceptable remarks.

The new standard will use a burden-shifting approach to determine whether discipline of an employee was an unlawful response to protected conduct or lawfully based on reasons unrelated to protected conduct. It replaces a variety of setting-specific standards that permitted some leeway for impulsive behavior under particular circumstances (e.g., during encounters with management, exchanges between employees, postings on social media, and offensive picket line behavior) and often resulted in reinstatement of employees discharged for deeply offensive conduct. The board determined that the previous standards were out of step with most modern workplace behavioral norms and difficult to reconcile with existing antidiscrimination obligations of employers.

Industry perspective: The American Hospital Association, joined by the Federation of American Hospitals, last year filed a friend-of-the-court brief in response to the board’s invitation for public input in the case, arguing that employee conduct that occurs in a health care setting and violates a lawful employer rule should be presumptively unprotected by the NLRA. They noted that modifying the standard in this way would be consistent with longstanding congressional and Supreme Court recognition of the unique circumstances that arise in health care settings, and “the importance of safeguarding the tranquility of the health care environment.” They also agreed that the board should harmonize the Act’s protections with relevant anti-discrimination and anti-harassment legal obligations for employers, and that there should not be a separate standard for employee conduct on picket lines.

CMS Summary Report on ACA Risk Adjustment Program for 2019
On July 17, 2020, the Centers for Medicare and Medicaid Services (CMS) released an annual summary report on the ACA risk adjustment program, including both state- and insurer-specific data on risk adjustment payment transfers in the individual and small-group markets for the 2019 benefit year. Total payment transfers for the 2019 benefit year—the absolute value of risk adjustment charges and payments at the insurer level—were approximately $10.8 billion, with $5.4 billion in payments and $5.4 billion in charges.

Some of the report’s key findings include:
• The risk adjustment program operated smoothly for the 2019 benefit year, with a total of 561 issuers participating in the risk adjustment program for the 2019 benefit year and the absolute value of risk adjustment payment transfers remaining stable, representing about 7 percent of total premiums.
• The risk adjustment program is working as intended by more evenly spreading the financial risk carried by insurers that enrolled higher-risk individuals in a particular state market risk pool, thereby protecting insurers against adverse selection and supporting them in offering products that serve all types of consumers.
• The high-cost risk pool helped ensure that risk adjustment models better reflect the average actuarial risk, while also providing protection to issuers with exceptionally high-cost enrollees.

The 2019 risk adjustment payment amounts for plans will be paid out or further assessed beginning in September 2020.

State Issues

Delaware
Regulatory

24th State of Emergency Modification Issued
Governor John Carney signed the 24th modification to his State of Emergency declaration, allowing driver education services to resume immediately, with safety measures in place to prevent transmission of COVID-19. Governor Carney’s modification also allows senior centers to open with safety precautions at 30% capacity.

Food and drink establishments are now also required to give customers the option to leave information on file to help with contact tracing in the event of a positive case being linked to the establishment. Restaurants are not required to deny service to customers who choose not to provide contact information.

State Issues

Pennsylvania
Legislative

Governor Wolf Signs Bills Addressing PBM “Gag Clauses” and COVID-19 Testing
Governor Tom signed several bills July 23, including the following measures:
  • House Bill 943 (Act 67 of 2020) – This Act prohibits Pharmacy Benefit Managers (PBM) from including “gag clauses” in pharmacy network contracts, which prohibit pharmacies from sharing cost data regarding prescription drugs to an insured customer. The Act also removes the authorization that pharmacies can share information regarding contract information without being penalized by a PBM or Pharmacy Services Administration Organization.
Highmark does not use “gag clauses” in its pharmacy network contracts.

- **House Bill 2455** (Act 70 of 2020) – This Act amends the Administrative Code to require the Governor to provide the General Assembly with a COVID-19 testing plan, including any amendments, which was submitted to the U.S. Department of Health and Human Services. The measure also requires the Governor to provide the General Assembly with bi-weekly reports on the number of positive and negative tests received during the prior two-week period.

Act 70 places in statute the cooperation agreement reached between the Pittsburgh Water and Sewer Authority and the City of Pittsburgh regarding system operations. The Act takes effect immediately, July 23, 2020.

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**State Issues**

**Pennsylvania**

Regulatory

**Pennsylvania’s Section 1332 Waiver Receives Federal Approval**
Governor Tom Wolf announced that the U.S. Department of Health & Human Services and the U.S. Department of the Treasury have approved Pennsylvania’s Section 1332 Waiver application for a reinsurance program. Pennsylvania’s Reinsurance Program (hereinafter “PA Re”) is authorized to operate under section 1332 of the Affordable Care Act (ACA) from 2021 through 2025.

**Why this matters:**
- The reinsurance program will partially reimburse individual market insurers for high-cost claims, with the goal of lowering premiums and to increase access to affordable, individual-market coverage.
- The reinsurance program is also expected to encourage insurers to maintain and possibly expand geographic coverage areas.

PA Re will be a claims-based, attachment point reinsurance program that will partially reimburse health insurers for claims costs of qualifying ACA-compliant individual enrollees, where a percentage of the claims costs exceeding a specified threshold (attachment point) and up to a specified ceiling (reinsurance cap) will be reimbursed. For the first year of the program, beginning January 1, 2021, the adopted parameters are an attachment point of $60,000, a cap of $100,000, and a coinsurance rate of 60%. PA Re projects that under the 1332 waiver, premiums will be about 5% lower in 2021 than they would have been without the waiver, thus making coverage more affordable in the individual market.

Pennsylvania is also in the process of transitioning to a state-based health insurance marketplace beginning this fall. The user fee insurers pay to have their products offered through the state-based marketplace will provide the state’s share of funds for PA Re. The “pass-through” funds the Federal government saves as a result of PA Re reducing premiums and thereby decreasing federal spending on marketplace subsidies will fund the greater portion of the reinsurance costs.
State Issues FAQs About Coronavirus Relief Fund County Block Grants

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law by President Trump on March 27, 2020 and provides funding for a variety of programs intended to alleviate the impact of COVID-19, including the Coronavirus Relief Fund, to help states offset necessary expenditures incurred due to the COVID-19 public health emergency.

Governor Wolf signed Act 24 on May 29, 2020. That legislation provides $625 million in CARES Act Coronavirus Relief Funds (CRF) by means of block grants for counties in the commonwealth through the Department of Community and Economic Development. Distribution of these funds is scheduled to begin during the next few weeks.

In anticipation of questions about the use of Act 24 funds, the Pennsylvania Departments of Health (DOH) and Human Services (DHS) posted online a set of frequently asked questions (FAQs) to be updated as information changes or new questions arise.

Entities will be notified by DHS of the amounts they will receive as authorized in Act 24 of 2020. The purpose of this funding is to pay for necessary expenses, lost revenue from COVID-19 business interruption for non-public entities, and COVID-19-related hazard or incentive pay incurred between March 1, 2020, and November 30, 2020, to respond to the COVID-19 public health emergency (PHE). The covered necessary expenses include the costs of staff/personnel, training, housekeeping supplies, lease or purchase of medical supplies and equipment, personal protective equipment, and COVID-19 testing supplies. Other eligible uses include providing behavioral health and substance use disorder treatment services; funding nonprofit assistance programs; and deploying broadband to unserved or underserved areas.

Act 24 CRF must be used in accordance with the U.S. Department of Treasury guidance. Entities that receive Act 24 CRF are required to certify that the funding will be used in response to the COVID-19 PHE as detailed in DHS notification letter to the entity, the U.S. Treasury Coronavirus Relief Fund guidance as updated June 30, 2020, and the Coronavirus Relief Fund FAQs as updated July 8, 2020. Any funds that are not used by November 30, 2020, must be returned to the commonwealth.

Why this matters: The Governor’s Office of the Budget is working with the State Treasury to certify and start issuing funds. Once this occurs and entities submit any necessary paperwork, funds will be released. Entities should closely review any communication from DHS that pertains to these payments and consult their attorneys and accountants about the appropriate use and tracking of CRF.

Pennsylvania’s DOH Revamps COVID-19 Dashboard

Pennsylvania’s Department of Health revamped its Pennsylvania COVID-19 dashboard late last week. The previous iteration had allowed users to see data about cases by county, but as of July 17, users also may filter data by county at its “Hospital Preparedness” tab. At that tab, users can see at either the statewide or county level a variety of key data elements, including:

- Current COVID-19 hospitalized patients;
- Current COVID-19 patients on ventilators;
- Current COVID-19 patients on ECMO;
- Total available bed counts within the adult ICU, pediatric ICU, medical/surgical units, pediatric units, and airborne isolation units; and
- Trended historic data averaging, across the past 14 days, the numbers of:
  - Available adult ICU beds from the past 14 days
Hospitalized COVID-19 patients
- COVID-19 patients on ventilators

Unfortunately, however, the data visualizations for hospital preparedness do not include a map, making it difficult to identify regional differences.

Other tabs include updated functionality, as well. The new “Zip Code Case Data” tab allows users to click on a map or scroll through all Pennsylvania ZIP Codes to identify the number of confirmed and probable cases.

The revised “Cases Demographic” tab shows statewide-only distribution of confirmed and probable cases by gender, age, race, and ethnicity. The bar charts indicate, however, that the vast majority of COVID-19 cases lack race or ethnicity data. For example, the number of suspected and confirmed COVID-19 cases for which no ethnicity was recorded (71,900) was more than double the number of cases for which ethnicity data was captured (31,500) as of the July 22, 2020, dashboard update.

**Why this matters:** The Pennsylvania COVID-19 dashboard serves to provide data visualizations that can help hospitals identify emerging needs and hot spots.

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**State Issues**

**West Virginia**

**Regulatory**

**West Virginia Insurance Commissioner Issues Notices Clarifying COVID-19 Testing**


Bulletin 20-14 states that an at-home COVID-19 testing kit must be covered by an insurer without imposing any cost-sharing requirements, prior authorization, or other medical management requirements on the individual covered under the plan or policy when:

- The individual requesting the test undergoes a valid screening or eligibility assessment;
- The screening or eligibility assessment is reviewed and evaluated by a licensed healthcare provider;
- The licensed healthcare provider is acting within the scope of his or her license; and,
- The licensed healthcare provider authorizes or orders the at-home COVID-19 test for the individual.

This guidance was issued to conform to the State’s commitment to combat the public health emergency posed by COVID-19 and the need to expand the availability of COVID-19 testing through safe and accurate testing options. Insurers are to give deference to a healthcare provider’s clinical judgment as to whether the testing is medically appropriate.

Bulletin 20-15 advises that Emergency Order 20-EO-07, issued on May 11, 2020, which mandates testing of all individuals who reside or work in nursing homes, was not a one-time testing coverage mandate is still in effect. The bulletin also stipulates that health insurers offering group health plans and/or individual health...
insurance coverage must cover testing without the imposition of any cost-sharing requirements including deductibles, copayments, coinsurance, prior authorization, or other medical management requirements.

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**Financial Losses Lead Wheeling Hospital to Institute a Voluntary Reduction Plan**

Wheeling Hospital has made the difficult decision to reduce its workforce via a Voluntary Reduction Plan (VRP). The hospital, which has racked up $18 million in losses this fiscal year due primarily to the COVID-19 pandemic, has received approximately $22 million in CARES funding. Douglass Harrison, CEO of Wheeling Hospital, said the hospital has taken several other steps to curtail losses, including voluntary reductions in pay from administrative staff and physicians; a short-term elimination of retirement matching funds; low-census staffing protocols; and reduction of capital spending. A severance plan is being offered to staff interested in participating in a VRP. An Involuntary Reduction Plan may be implemented if the voluntary plan fails to meet the necessary numbers.

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**Industry Trends**

**Policy / Market Trends**

**CMS Issues Early 2020 Effectuated ACA Enrollment Snapshot**

The Centers for Medicare & Medicaid Services (CMS) issued the Early 2020 Effectuated Enrollment Snapshot. This report provides effectuated enrollment, premium, and advance payments of the premium tax credit (APTC) data for the Federally-facilitated and State-based Exchanges (“the Exchanges”) for February 2020 and for the 2019 plan year.

As of March 15, 2020, 10.7 million consumers had effectuated coverage through the Exchanges for February 2020, approximately 94 percent of consumers who made plan selections during the 2020 Open Enrollment Period. Total effectuated enrollment for February 2020 increased by approximately one percent from total effectuated enrollment for February 2019.

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**Industry Trends**

**Provider / Delivery System Trends**

**New AHA Analysis Shows COVID-19’s Impact on Financial Health of Hospitals and Health Systems**

A new analysis prepared for the American Hospital Association highlights COVID-19’s dire impact on hospitals’ and health systems’ financial health. According to the July 21 report, without further government support, hospitals’ margins could sink to –7% in the second half of 2020, with half of all hospitals operating in the red.

The analysis also concluded:

- Without Coronavirus Aid, Relief, and Economic Security Act funding, hospital margins would have been –15% in the second quarter of 2020. However, even with these funds, hospital margins are still expected to drop to –3% in the second quarter of 2020.
• In the most optimistic scenario, which assumes a slow and steady decrease in COVID-19 cases, median margins could be –1% by the fourth quarter of 2020.
• Under another scenario that assumes periodic COVID-19 surges similar to the current case increases, margins could sink to –11%.

On a July 21 call with media, leaders from the AHA member hospitals cited utilization declines from early-in-the-pandemic restrictions that barred so-called elective surgeries and a significant amount of outpatient services, noting that while some of this volume has returned, hospitals’ essential and elective surgeries remain well below pre-pandemic levels.

David Perlstein, M.D., president and CEO of SBH Health System in the Bronx, told the media that patients’ post-COVID-19 fear of hospitals has resulted in the majority of care being delivered electronically, particularly in ambulatory areas.

Sheila Currans, CEO of Harrison Memorial Hospital in Cynthiana, KY, noted that during a good year her hospital operates at a 0.6% margin; currently, her facility is facing a 25% loss. Without federal intervention via the CARES Act, Currans said, “we would have been worrying about whether we could even keep the doors open.”
Interested in reviewing a copy of a bill(s)? Access the following web sites:

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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