



## **EDPMA News Alert: U.S. Senate Passes Phase III COVID-19 Response Bill**

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Please note that EDPMA has created a [COVID-19 resources page](#) that can be accessed through a link under "Latest News and Updates" on EDPMA's home page. Now you can visit one place to find some of the most important EDPMA, CMS, and CDC alerts, links to Congressional legislation and summaries, state waivers, and in-depth analyses on key issues.

Early this morning (3/26/20), the U.S. Senate voted to pass Congress' third legislative response package to COVID-19, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, by a vote of 96-0. The bill is available [here](#), a summary [here](#), and a summary of physician provisions [here](#).

The bipartisan emergency legislation, which totals approximately \$2 trillion in spending, represents the largest fiscal stimulus package in American history. It follows last week's introduction of similar legislation drafted by Senate Republicans. On two previous occasions earlier in the week, procedural votes failed to advance the Republican-led bill, leading to Treasury Secretary Steven Mnuchin stepping in to join the negotiations between the White House, Senate Minority Leader Chuck Schumer (D-NY) and Senate Majority Leader Mitch McConnell (R-KY). The main objections from Democrats focused on financial support for large corporations and the oversight of that aid by an inspector general and 5-member congressional panel.

Following days of marathon negotiations, Senate leaders announced an agreement on the final bill language early Wednesday morning, which aims to provide financial relief for a diverse group of sectors across the American economy that are battling the pandemic, including but not limited to hospitals, health care providers, local and state governments, small businesses, law enforcement, firefighters, first responders, and scientists and researchers working on vaccines and treatments for COVID-19. The bill also provides direct payments of up to \$1,200 for individuals making under \$75,000 or married couples filing jointly making less than \$150,000. Those who qualify for direct payments will also receive an additional \$500 per child.

The bill includes the below provisions that may be of particular interest to emergency departments and the greater medical community:

- Temporarily lifts the Medicare sequester (the sequester reduces payments to providers by 2 percent), from May 1 through December 31, 2020.
- Extends the work geographic index floor under the Medicare program until December 1, 2020 (EDPMA asked for permanent GPCI extension in its 9/19/19 letter).
- Clarifies Small Business Administration 7(a) loan program to allow eligibility for businesses with under 500 employees (unless the covered industry's SBA size standard allows more than 500 employees), increasing maximum loan amount to \$10 million, expanding use of loans to include payroll support, and providing a loan forgiveness process for certain payroll costs and mortgage, rent and utility obligations (EDPMA's resources page includes a link to an article explaining how this program will work).
- \$100 billion fund for health care services related to the COVID-19. Specifically, the funds are "to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus" (EDPMA asked for funds for emergency physician groups, including independent practices, in its 3/24/20 letter and EDPMA will work with the Administration to direct some of these funds to emergency groups),
- 20% add-on payment for hospital in-patient services for Covid-19 patients,
- \$16 billion to replenish the Strategic National Stockpile (SNS) supplies of pharmaceuticals, personal protective equipment, and other medical supplies (EDPMA requested funding for PPE in its 3/24/20 letter).
- \$3.5 billion for the Biomedical Advanced Research and Development Authority (BARDA) to expand the production of vaccines, therapeutics, and diagnostics to help combat the pandemic.
- \$1 billion for the Defense Production Act (DPA) to bolster domestic supply chains and enable industry to quickly ramp up production of personal protective equipment, ventilators, and other urgently needed medical supplies.
- Limitation on liability for volunteer health care professionals during COVID-19 emergency response.
- Requires the SNS to include certain types of medical supplies.
- Treatment of respiratory protective devices as covered countermeasures. Provides permanent liability protection for manufacturers of personal respiratory protective equipment in the event of a public health emergency to incentivize production and distribution.
- Rapid coverage of preventive services and vaccines for coronavirus.
- For COVID-19 testing covered with no cost to patients, requires an insurer to pay either the rate specified in a contract between the provider and the insurer, or, if there is no contract, a cash price posted by the provider (EDPMA urged coverage of both testing and treatment in its 3/20/20 letter).
- flexibility for acute care hospitals during the COVID-19 emergency period, to transfer patients out of their facilities and into alternative care settings in order to prioritize resources needed to treat COVID-19 cases. (EDPMA requested this flexibility in its 3/20/20 letter).
- Reauthorizes Health Resources and Services Administration (HRSA) grant programs that promote the use of telehealth technologies for health care delivery, education, and health information services.
- Increases Medicare telehealth flexibilities during emergency period and allows the Secretary to waive the requirements under section 1834(m) (EDPMA requested telehealth flexibilities to allow emergency physicians to

participate in its 3/20/20 letter).

Lawmakers opted against the inclusion of any provisions aimed at resolving out-of-network billing disputes in the CARES Act, following the urging of EDPMA against such provisions in its 3/24/20 letter.

The legislation now moves to the U.S. House of Representatives, where it must secure passage before heading to the President's desk for his signature. On Wednesday evening, the President stated he would, upon passage, sign the bill into law as soon as it was delivered to the White House. Leadership in the House are reportedly hoping for swift passage of the bill by a voice vote on Friday. This would allow lawmakers to forgo a trip back to Washington to cast an in-person vote. If even a single member of the House objects to a voice vote it will force the majority of members to return to the Capitol to cast their individual votes. Adding to the uncertainty around House consideration, more than a dozen lawmakers from the chamber have currently tested positive for COVID-19 or are under a 14-day self-imposed quarantine due to possible exposure to the virus.

Members of Congress have already expressed interest in working on a fourth legislative response package to the COVID-19 pandemic. The timing of the next legislative package is unclear, as the Senate is set to adjourn until Monday, April 20.

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