



# Implications of Health Care Provisions for States in the Second COVID-19 Stimulus Bill

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**STATE**  
Health & Value  
**STRATEGIES**  
**COVID-19**

*A grantee of the Robert Wood Johnson Foundation*

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**Questions?** Email Heather Howard at [heatherh@Princeton.edu](mailto:heatherh@Princeton.edu).

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All participant lines are muted. If at any time you would like to submit a question, please use the Q&A box at the bottom right of your screen.

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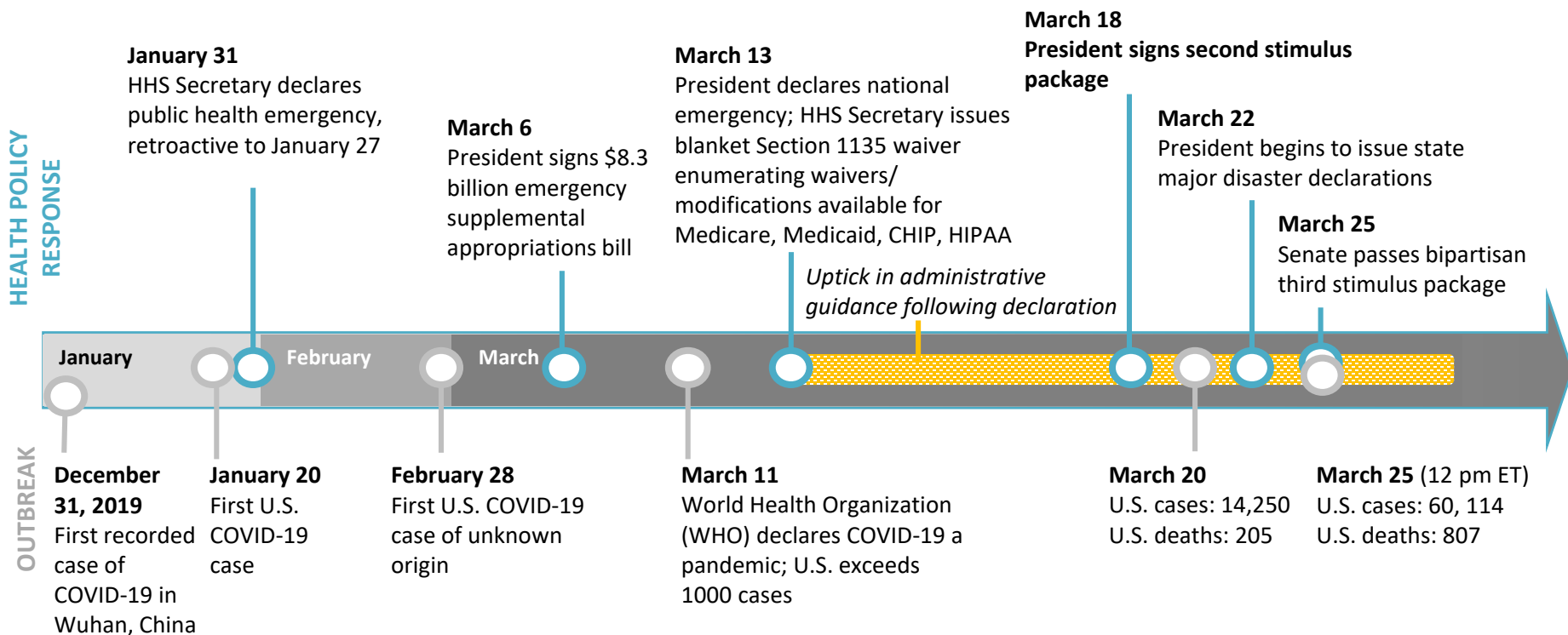
# Agenda

- Timeline of the Federal Response to the COVID-19 Public Health Emergency
- Overview of The Families First Coronavirus Response Act
  - Focus on Medicaid/CHIP Provisions
  - Focus on Commercial Provisions
- Questions



# **Timeline of the Federal Response to the COVID-19 Public Health Emergency**

# Federal Health Policy Actions in Response to COVID-19



**HHS, CMS, CDC, FDA and other agencies are issuing a flurry of guidance to healthcare stakeholders on the COVID-19 response. Notable guidance with implications for states includes:**

- Covered essential health benefits—including telehealth flexibilities—for providers, health plans and states
- COVID-19 Medicaid State Tools and Checklists for 1135 waivers, 1135 waivers, 1915(c) Appendix K, and Disaster SPAs
- Medicaid and CHIP COVID-19 Frequently Asked Questions, including increased FMAP FAQs
- Payment and grace period flexibilities for Qualified Health Plans





# **The Families First Coronavirus Response Act (FFCRA)**

# Enactment of the Second COVID-19 Stimulus Package

Last Wednesday, March 18, the Families First Coronavirus Response Act, **H.R. 6201 / P.L. 116-127**, was signed into law

In addition to the healthcare provisions—which focus largely on ensuring access to free testing across all payers as well as Medicaid fiscal relief—the law includes emergency supplemental appropriations to agencies on the front lines of the response to the pandemic, \$1 billion in food aid, the establishment of an emergency paid leave benefits program, and the extension of sick leave benefits



Senate passed 3<sup>rd</sup> stimulus package (CARES Act / H.R. 748) last night and House is expected to vote today or tomorrow. Detailed summary and analysis forthcoming.



# **Key Medicaid and CHIP Provisions in the Families First Coronavirus Response Act**

# Key Medicaid/CHIP Provisions



Temporarily increase Medicaid Federal Medical Assistance Percentage (FMAP) (*Section 6008*)



Increase Medicaid allotments for U.S. territories (*Section 6009*)



Cover COVID-19 testing Under Medicaid and CHIP without cost sharing (*Section 6004*)



Extend Medicaid coverage to the uninsured for COVID-19 testing and testing-related services (*Section 6004*)



Pay COVID-19 testing claims for uninsured individuals through a Department of Health and Human Services (HHS) program (*Division A, Title V*)

# Key Provision: Temporarily Increase Medicaid FMAP

## Overview

- Temporary 6.2% point increase in the FMAP (match rate) for states and territories



CMS released FAQs on Tuesday, March 24<sup>th</sup>

## Scope of Applicability

- Applies to the regular Medicaid match rate so long as states meet five conditions

## Effective Date

- Increased FMAP is available from January 1, 2020 through the last day of the calendar quarter of the end of the public health emergency declared by the HHS Secretary (*funds available for draw-down as of March 25*)

# Key Provision: Temporarily Increase Medicaid FMAP

## Applicability

### 6.2% Point FMAP Increase

- Medicaid coverage and benefits expenditures
- Disproportionate Share Hospitals (DSH) payments
- “Base” on which the “enhanced” FMAPs are calculated:
  - ✓ Children’s Health Insurance Program (CHIP)
  - ✓ Breast and cervical cancer

### Customary FMAP Continues to Apply

- Administrative expenses (50%)
- Expansion adult (90%)
- Family planning services (90%)
- Services “received through” Indian Health Service facilities (100%)
- Qualifying Individuals programs (100%)
- Community First Choice (6% point increase)
- Health home services in first 8 quarters (90%)

# Key Provision: Temporarily Increase Medicaid FMAP

## Conditions for States to Access

- **No more restrictive eligibility standards, methodologies, or procedures** than those in effect on **January 1**
- **No higher premiums** than those in effect on **January 1** (*technical fix in 3<sup>rd</sup> stimulus*)
- **No disenrollment of Medicaid beneficiaries enrolled on or after March 18** through the end of the emergency period, unless an individual voluntarily terminates their eligibility or ceases to be a resident of the state
- **Coverage of testing and treatment of COVID-19** – including vaccines, equipment and therapies for Medicaid beneficiaries – **without cost-sharing starting January 1 through end of emergency period**
- **Non-federal share contributions by localities decline** in recognition of the increased federal contribution

*Two additional requirements were **not included** in the final legislation:*

- A prohibition on automated income checks or eligibility redeterminations more frequently than once every 12 months
- A restriction from terminating or denying enrollment for reasons other than a failure to satisfy financial, categorical, and residency requirements

# Key Provision: Temporarily Increase Medicaid FMAP

## No Disenrollment / “Continuous Eligibility”

- Does not apply to individuals presumptively eligible for Medicaid, Title XXI CHIP (however pre-existing MOE applies)
- Does apply to Medicaid beneficiaries who:
  - ✓ are receiving services with an appeal pending (i.e., aid paid pending),
  - ✓ children who age out of Medicaid eligibility
  - ✓ lose other benefits (e.g., SSI, foster care assistance payments) that was their basis for Medicaid eligibility
  - ✓ whose whereabouts become unknown
  - ✓ were enrolled based on pregnancy and reached 60-day postpartum period
- States must make “good faith” efforts to reinstate Medicaid coverage individuals terminated after March 18
- States may move individuals who are eligible for a different eligibility category with additional benefits but may not move to an eligibility category with fewer or less robust benefits



### Implications

States will need to make operational and systems changes quickly to comply with this condition.

Given state operational capacity and systems configurations, states should consider taking actions such as suspending redeterminations and periodic data checks and extending renewal dates.



# Key Provision: Increase Medicaid Allotments for U.S. Territories

## Overview

- In addition to the 6.2% increase in the FMAP, funding for U.S. territories is also increased

## Scope of Applicability

- Additional allotments for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa

## Effective Date

- Increased allotments for the remainder of Federal Fiscal Years (FY) 2020 and 2021



The law provides \$204 million in additional allotments between FY 2020 and FY 2021

For Puerto Rico this amounts to a 4% increase in FY 2020 and 3% in FY 2021; additional funding for other territories ranges between 2-5%

# Key Provision: Cover COVID-19 Testing Under Medicaid and CHIP without Cost Sharing

## Overview

- Medicaid and CHIP must **cover tests to detect or diagnose COVID-19 without cost-sharing** (*technical fix in 3<sup>rd</sup> stimulus bill*)

## Scope of Applicability

- All Medicaid populations and CHIP changes apply to children as well as targeted low-income pregnant women in states that opt to cover them

## Effective Date

- March 18 through the last day of the calendar quarter of the end of the public health emergency declared by the HHS Secretary



## Implications

Without this change, states were faced with eliminating cost sharing for other services in order to provide COVID-19 testing without a copay.

States may still seek to eliminate other cost sharing in an expedited manner under a Disaster Relief SPA.

# Key Provision: Extend Medicaid Coverage to the Uninsured for COVID-19 Testing and Testing-related Services

## Overview

- States have option to **extend Medicaid eligibility to uninsured individuals for COVID-19 diagnostic testing and testing-related services** with 100% federal funding for medical and administrative costs
- Payment to out-stationed eligibility workers and the **use of a streamlined application** for eligible uninsured individuals

## Scope of Applicability

- **Uninsured individuals** are defined as those not eligible for Medicaid under a mandatory group and not enrolled in other public or commercial coverage (*technical fixes in 3<sup>rd</sup> stimulus bill*)
- CMS shared on a recent all-state call that there is **no income eligibility limit**, but state residency and satisfactory immigration status are required

## Effective Date

- March 18 through the last day of the calendar quarter of the end of the public health emergency declared by the HHS Secretary



## Implications

While states may adopt this new optional group in an expedited manner through the Disaster Relief SPA, states are being confronted with significant operationalization questions and challenges with how to best stand up this new eligibility group.

# Key Provision: Pay COVID-19 Testing Claims for Uninsured Individuals Through HHS Program

## Overview

- **\$1 billion** in HHS appropriations to **pay claims for providers for reimbursement of COVID-19 testing and testing-related visits for uninsured individuals**

## Scope of Applicability

- Statute directs funding to HHS's National Disaster Medical System (NDMS), but CMS recently indicated the program will run through the Health Resources and Services Administration (HRSA)

## Effective Date

- Funding is available until September 30, 2020



Additional guidance will be needed to understand how the program will be implemented and coordinated with other coverage/funding opportunities.



### Implications

This program would pay for COVID-related *testing*, but **the cost of treatment would remain the responsibility of the uninsured individual**



# **Implementing the Private Coverage Mandate in the Families First Coronavirus Response Act**

## Section 6001: Coverage of Testing for COVID-19

- Requires
  - Group health plans, including self-funded employer plans
  - Individual market issuers
  - Group market issuers
  - Grandfathered individual and group market health plans
- Plans must cover and waive cost-sharing for the following items & services:
  - FDA-approved diagnostic testing for COVID-19
  - Items and services delivered during provider office, urgent care, and ER visits “that result in an order for or administration of” a COVID-19 test
  - Such items and services must relate to determining the individual’s need for a test
  - Visit may be in-person or via telehealth
- Prohibits use of prior authorization or other medical management requirements
- Allows tri-agencies to implement through sub-regulatory guidance

# Implementation Issues for HHS, DOL, Treasury – and States

- Scope of “items and services”
  - Other diagnostic tests/services to rule out other conditions, i.e., influenza?
- Coverage of out-of-network services
  - OON labs, urgent care centers, drive through testing sites?
- Scope of waiver of cost-sharing
  - ED facility charges?
  - Facility fees?
- Application to other types of coverages
  - STLDI, AHPs, HCSPs, DPCAs, excepted benefit, student plans?
- States’ ability to go above & beyond
  - Federal law generally sets a minimum standard; states can adopt more protective policies for fully insured plans

# March 24, 2020 Guidance from HHS: Grace Periods, Telemedicine, Rx Coverage

- Grace Periods: CMS to exercise “enforcement discretion” to allow issuers to
  - Extend deadlines for initial binder payments
  - Extend the start of any grace period for non-payment of premiums
  - Requirement to pay claims in 1<sup>st</sup> month of grace period remains
  - At end of grace period, when coverage is terminated, the issuer must return 2<sup>nd</sup> and 3<sup>rd</sup> month APTCs
  - <https://www.cms.gov/files/document/faqs-payment-and-grace-period-covid-19.pdf>
- Telemedicine: Encourages issuers to maintain “robust” telehealth programs
  - HHS Office of Civil Rights is waiving certain HIPAA requirements
  - Permits issuers to make mid-year benefit changes to expand telehealth coverage
  - Encourages states to relax licensing requirements to enable cross-state delivery of telehealth services
  - <https://www.cms.gov/files/document/faqs-telehealth-covid-19.pdf>
- Prescription Drug Coverage:
  - Encourages issuers to lift refill limits
  - Encourages coverage of off-formulary drugs in event of drug shortage or access issue
  - Encourages coverage of OON pharmacies if in-network access cannot reasonably be expected
  - <https://www.cms.gov/files/document/faqs-rx-covid-19.pdf>



## Other Considerations for States

- Coverage of treatment
  - See e.g., New Mexico, Massachusetts
- Future vaccine coverage
  - See e.g., Nevada, Maine
- Grace periods for non-payment of premium
  - See e.g., New York, California, Ohio
- Coverage of telehealth
  - Parity in reimbursement
  - Parity in level of cost-sharing
- Prohibit provider balance billing
  - See e.g., District of Columbia
- Eligibility for employer group plans
  - See e.g., Ohio
- Access to prescription drugs
  - See e.g., Florida, Colorado
- Prior approval of coverage termination
  - See e.g., District of Columbia

For more information on specific state actions and examples related to private insurance and COVID-19 coverage, see this [Commonwealth Fund resource](#).

# What's Next for Private Insurance

- Testing is covered, but what about treatment?
- Grace periods are expanding, but who pays?
  - Payers and providers will need help
- Covering the uninsured/preserving coverage
  - Will Healthcare.gov follow 12 of 13 SBMs with a SEP?
  - Are Marketplaces prepared for new applications and redeterminations for unemployed?
- Will insurers get federal relief in next package?

# Questions?

The slides and a recording of the webinar will be available at [www.shvs.org](http://www.shvs.org) after the webinar

# Thank You

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# Appendix

# Reference Legislation and Guidance

## Enacted Legislation

- H.R. 6201: Families First Coronavirus Response Act

## CMS Guidance

- Families First Coronavirus Response Act – Increased FMAP FAQs, March 24, 2020
- State Medicaid Director Letter # 10-023: Regarding Political Subdivisions, November 9, 2010
- Payment and Grace Period Flexibilities Associated with the COVID-19 National Emergency, March 24, 2020