



After delays, Trump signs new coronavirus relief bill — What's new for health care?

By Sarah Swank

On December 27, 2020, President Trump, after threatening to veto the Consolidated Appropriations Act, 2021, signed the stimulus bill into law. The new law includes a \$900 billion dollar [coronavirus relief package](#), which Congress passed on December 21, 2020. The new law includes a variety of health-care-related provisions directly related to COVID-19 and new surprise billing provisions effective on January 1, 2022. At the same time, the Center for Disease Control and Prevention (CDC) is tracking a [new UK variant](#) of the virus that causes COVID-19 (SARS-CoV-2), which appears to be faster spreading, and vaccine distribution began. Many predict the holidays will bring a spike in cases and overloaded hospital ICUs. As we head into 2021, here is what is new for health care in the stimulus law.

Vaccine development and distribution

This month, the Food and Drug Administration (FDA) granted emergency use authorization for the COVID-19 vaccine manufactured by [Pfizer-BioNTech](#) and [Moderna](#). Distribution began for health care workers and vulnerable Americans under the CDC's recommended [COVID-19 vaccine prioritization plan](#) due to limited supply. The new law provides funding to help state, tribal, and local governments cover the costs of administering the vaccines to the public. The funding is intended to accelerate distribution of the COVID-19 vaccine. Funding includes the cost of buying the vaccine and distribution costs to allow the vaccine to be provided to the public for free.

COVID-19 testing

A viral test uses samples to find a current infection of COVID-19. The time it takes to process these tests can vary. Last month and this month, a series of [at-home COVID-19 testing](#) methods were approved. An at-home test allows a person to collect their own specimen and then perform the test on the specimen in their home or a private location to determine if they have COVID-19. In addition, the relief package includes funding for testing, including testing by state and local governments.

Broadband access

Additional funding was included to increase broadband access to help Americans connect remotely during the pandemic, including for telehealth visits. Included in this funding are monies for [Native American Broad Band and Rural FCC programs](#) and connecting minority communities, such as traditionally minority colleges and universities and minority business enterprises. Access to broadband could promote telehealth access. Broadband is considered by some a social determinant of health, impacting the health of certain populations given the dependence on telehealth to access health care during the pandemic and likely beyond.

No surprise billing from out-of-network providers and air ambulances

The new law included the **No Surprise Act** to protect patients from surprise bills from health care providers and air ambulances who are out-of-network from billing for higher amounts. The No Surprise Act covers two scenarios:

- *Emergency services* delivered by out-of-network providers, including emergency air transport, or by out-of-network facilities, and
- *Nonemergency services* provided by out-of-network providers in network facilities and for which patients do not consent.

Provider can bill the cost-sharing amounts that apply to in-network services. Providers are banned from billing for any higher amounts. The new no surprise billing provisions start on January 1, 2022. ERISA self-funded plans are regulated by the Department of Labor (DOL) and not the states. Expect regulations from the DOL, the Department of Health and Human Services, and the Treasury implementing these provisions, including dispute resolutions and air ambulance reporting requirements.

Other provisions

In addition, to health care specific provisions, the new law includes funding for areas that may impact health care providers and health systems:

- Food insecurity
- Unemployment
- Rental assistance
- Paycheck Protection Program loans

What's next—A new administration

Next month marks the change in administration and potentially a renewed focus on health care, under the Affordable Care Act, and public health, and even seen by some as a “reversing” of certain policies under the Trump administration. Next month also marks the effective date of certain legacy laws from the Trump administration, such as [Stark Law](#) and [Anti-kickback Statute](#) changes, including value-based care and [proposed changes to the HIPAA privacy rule](#), with the stated intent of opening up care coordination efforts, as well as telehealth changes under the physician payment rule. For now, 2020 is coming to an end, but the impact is likely long-lasting and yet, hopefully, will spur further innovations in our health care system.

For more information on the content of this alert, please contact your Nixon Peabody attorney or:

— Sarah Swank, 202-585-8500, sswank@nixonpeabody.com
