

# Healthcare Industry Stimulus: The Coronavirus Aid, Relief, and Economic Security Act

March 30, 2020

On March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) into law after the legislation passed the United States Senate in a 96-0 vote on March 25, 2020 and the House of Representatives by voice vote on March 26, 2020. The \$2 trillion bill includes provisions designed to help businesses in the healthcare industry, among others, mitigate the impact of the economic toll caused by the COVID-19 pandemic.<sup>1</sup> Of the \$2 trillion of spending by the federal government approved by the Senate, the CARES Act allocates \$140.4 billion to the Department of Health and Human Services (“HHS”), \$4.3 billion to the Centers for Disease Control (“CDC”), \$945.5 million to the National Institutes of Health, \$425 million to the Substance Abuse and Mental Health Services Administration and \$200 million to the Centers for Medicare and Medicaid Services. Through these allocations, the CARES Act (i) provides certain direct financial relief to hospitals and healthcare providers; (ii) commits funding for the expansion of telehealth services; (iii) temporarily modifies a variety of Medicare regulations to benefit healthcare providers; and (iv) provides indirect benefits to the healthcare industry by earmarking funds for a variety of healthcare-related

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<sup>1</sup> In addition to provisions specifically tailored for the healthcare industry, healthcare businesses will also be able to take advantage of provisions of the CARES Act that apply to U.S. businesses generally. Such provisions notably include the ability for employers to delay payment of 50% of their 2020 payroll taxes until Dec. 31, 2021 with the remaining 50% spread out through the end of 2022. Certain smaller healthcare businesses with fewer than 500 employees may also be able to access the nearly \$350 billion in small business loans available through the CARES Act.

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initiatives, including equipment purchases and vaccine development and testing. It is important for healthcare businesses and investors to understand the key business sectors that would benefit from the enactment of the CARES Act in order to identify where the legislation may help to cushion the economic blow caused by the COVID-19 pandemic.

## **1. Funding for Healthcare Providers**

### **a. Hospitals**

As part of the \$140.4 billion allocation to HHS, the CARES Act provides \$127 billion for the Public Health and Social Services Emergency Fund. Of the \$127 billion, \$100 billion is earmarked as grants for hospitals, public entities, not-for-profit entities and Medicare- and Medicaid-enrolled suppliers and institutional providers. The grant will help hospitals cover unreimbursed healthcare-related expenses and help hospitals offset certain lost revenues from postponed elective procedures due to the COVID-19 pandemic.

The CARES Act also includes an additional \$250 million for hospitals to improve their preparedness to handle an emergency surge in patients. With regard to rural hospitals and community health centers, the CARES Act commits \$185 million to expand services and capacity for rural hospitals and improve access to telehealth. The CARES Act also allocates \$90 million to the Ryan White HIV/AIDS program through the Health Resources and Services Administration. The legislation provides \$1.3 billion in emergency funding to community health centers and allows community health centers to use their fiscal year 2020 funding to maintain or increase staffing and capacity to address the COVID-19 emergency.

### **b. Behavioral Health Clinics, Nursing Homes, Home Care and Community Based Services**

The CARES Act provides funding for the healthcare industry outside the traditional

hospital context as well. CMS received \$200 million to support nursing homes and to support states' efforts to stop the spread of COVID-19 within nursing homes.

Additionally, \$955 million is allocated to the Administration for Community Living to support home and community based services, provide support for family caregivers and to expand oversight and protection for seniors and individuals with disabilities.

The CARES Act also provides \$425 million to the Substance Abuse and Mental Health Services Administration to spend on suicide prevention, mental health, substance use disorders and includes payments of \$250 million to certified community behavioral health clinics.

### **c. Telehealth Funding**

The CARES Act provides \$200 million in funding to the Federal Communications Commission ("FCC") to provide telecommunications services, information services, and devices necessary to enable the provision of telehealth services. Additionally, the CARES Act directs the Secretary of HHS to consider ways to encourage the use of telecommunications systems, including for remote patient monitoring and other communications or monitoring services by clarifying guidance and conducting outreach.

### **d. Veterans Administration ("VA") Facilities**

The CARES Act commits \$19.57 billion for the VA to provide additional funding for VA hospitals and generally for community urgent care clinics and emergency rooms that treat veterans. The CARES Act provides \$3.1 billion for the VA to purchase, staff and equip temporary care sites and mobile treatment centers including improving the existing capacity of the VA's IT networks to address the demand in services and broaden tele-health capabilities.

## 2. Direct Benefits to Healthcare Providers Through Medicare-Specific Provisions

To provide economic assistance directly to healthcare providers, the CARES Act increases a variety of Medicare payments including (i) temporarily lifting the Medicare sequester from May 1 through December 31, 2020, which was designed to reduce Medicare's payments to hospitals, physicians, nursing homes and home health care providers by 2%; (ii) increasing Medicare payments that would otherwise have been made to hospitals for treating patients admitted with COVID-19 by 20%; (iii) delaying scheduled reductions in Medicare payments for durable medical equipment; and (iv) expanding the existing Medicare accelerated payment program to allow hospitals to request up to a six month advanced lump sum or periodic payment (which payment would be based on a hospital's net reimbursement represented by unbilled discharges or unpaid bills) with a 12-month interest-free repayment period.

## 3. Indirect Benefits to Healthcare Providers

The CARES Act also provides indirect benefits to the healthcare industry by allocating funds to certain government agencies and programs for purchasing equipment and also through investing in vaccines and treatments. This funding includes: (i) \$16 billion for the Strategic National Stockpile to procure personal protective equipment, ventilators and other medical supplies; and (ii) \$11 billion for vaccine, diagnostics and other medical preparedness needs with \$3.5 billion to help advance development, manufacturing and purchasing of vaccines and therapeutic delivery.

Additionally, the CARES Act's \$4.3 billion allocation to the CDC provides additional direct spending and grant-making by the CDC to state and local governments for medical equipment and laboratory testing. Specifically, the CARES Act provides \$1.5 billion to the CDC to support state

and local governments in their efforts to purchase protective equipment and conduct laboratory testing and tracing. The CARES Act also provides an another \$1.5 billion in flexible funding the support the CDC's own efforts to purchase and distribute of diagnostic kits and support laboratory testing. In addition to that funding, the CARES Act provides the CDC with \$500 million for public health data surveillance and analytics infrastructure modernization.

## 4. Provisions for Insurance Providers

While the CARES Act does not focus on health insurance companies, it mandates that all private insurance plans cover COVID-19 treatments and vaccines. Additionally, the CARES Act requires that all COVID-19 tests performed by hospitals and laboratories are free for patients including for uninsured individuals.

## Conclusion

Healthcare businesses and investors alike should understand specific areas and subsectors where federal money is directed through the enactment of the CARES Act. Moreover, many lawmakers are already talking about the next COVID-19 relief bill as the crisis continues to deepen, which could include both direct economic relief to the industry as well as additional regulatory provisions. Notably, the Trump administration had initially pushed to include surprise billing and price transparency provisions in the CARES Act but such provisions were ultimately not included in the final legislation. There is potential for these provisions and others to make it into another COVID-19 relief bill (although any further legislation will at least take several weeks as the Senate does not expect to hold votes again until April 20, 2020) and industry participants should continue to monitor ongoing efforts by the federal government to pass further legislation aimed at the healthcare industry.

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