

PANDEMIC RELIEF DOLLARS: TO WHOM MUCH IS GIVEN, MUCH IS EXPECTED

32nd Annual Health Law Conference

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Today's Agenda

- **Public Health Emergency Declarations**
 - Regulatory Flexibilities and Waivers
- **Congressional Action**
 - Federal Legislative Response
- **Principal Funding Mechanisms**
 - Medicare / Medicaid Payment Changes
 - Provider Relief Fund (PRF)
 - Provider Stimulus Beyond the PRF
 - Paycheck Protection Program
 - Economic Injury Disaster Loans
- **Enforcement Initiatives**
- **Scenarios and Questions**



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Public Health Emergency (PHE) Declarations

• Timeline

- **Jan. 27, 2021 – HHS Secretary Determines a PHE Exists**
 - HHS declares a PHE exists under § 319 of the Public Health Service Act which provides the legal authority for HHS to respond to public health emergencies
- **Mar. 11, 2020 – WHO Declares COVID-19 a Pandemic**
 - World Health Organization (WHO) Director-General Tedros Adhanom: “We have rung the alarm bell loud and clear”
- **Mar. 13, 2020 – President Trump Declares a National Emergency**
 - President Trump’s proclamation coupled with the HHS determination permits activation of Social Security Act § 1135 waiver authorities

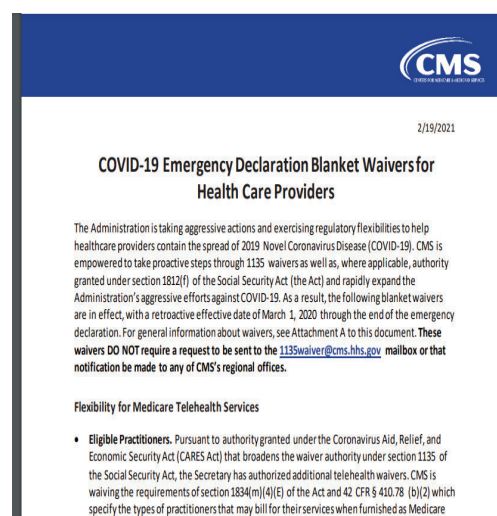
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PHE Regulatory Flexibilities and Waivers

• SSA § 1135 Waiver Authority


- Permits HHS to temporarily waive or modify the following Medicare, Medicaid, CHIP and HIPAA requirements for duration of the PHE:
 - Conditions of Participation (CoPs)
 - Certification and similar requirements
 - Licensure (including out-of-state licensure requirements)
 - Emergency Medical Treatment and Active Labor Act (EMTALA)
 - Physician self-referral (Stark Law) prohibitions
- Authorizes emergency blanket waivers for healthcare providers
 - Includes flexibility for telehealth services



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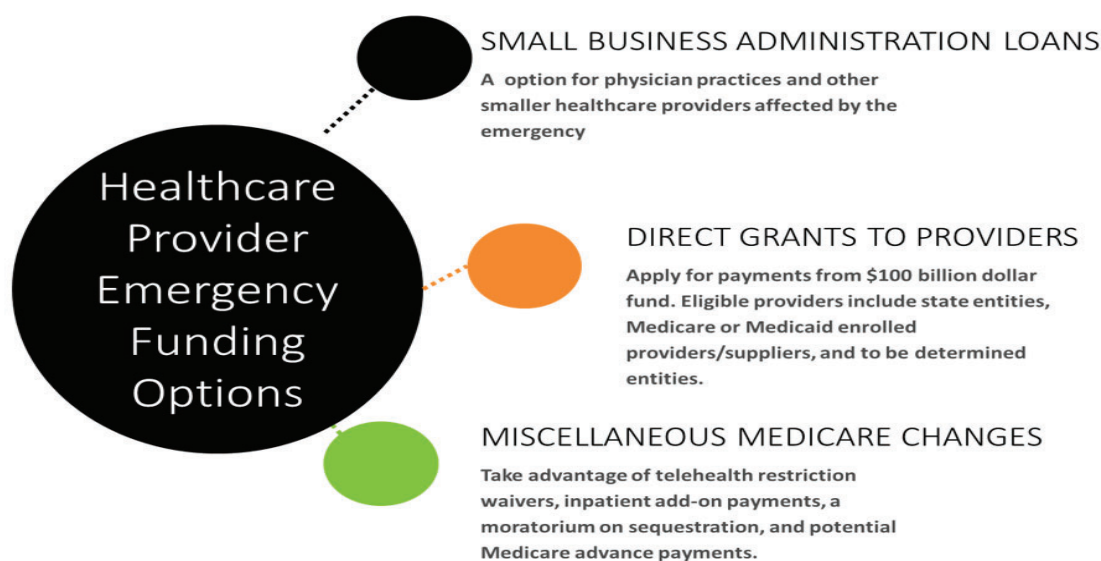
Congressional Actions – One Year In

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- A vertical timeline with a blue line and circular markers at each date, ending in a downward-pointing arrow.
- 3/6/20 • **PL 116-123 / HR 6074 — Coronavirus Preparedness and Response Supplemental Appropriations Act**
 - Initial support and vaccine development
 - 3/18/20 • **PL 116-127 / HR 6201 — Families First Coronavirus Response Act (FFCRA)**
 - Paid leave, PREP Act liability protections, COVID-19 testing/treatment coverage for Medicaid and uninsured
 - 3/27/20 • **PL 116-136 / HR 748 — Coronavirus Aid, Relief and Economic Security Act (CARES Act)**
 - Paycheck Protection Program (PPP), SBA loans, Provider Relief Fund (PRF), direct grants
 - 4/24/20 • **PL 116-139 / HR 266 — Paycheck Protection Program and Health Care Enhancement Act**
 - Additional funding for PPP, PRF, small businesses, COVID-19 research, vaccines and testing
 - 7/24/20 • **PL 116-147 / S 4116 — A bill to extend the authority for commitments for the PPP...**
 - Extends application period for the PPP
 - 12/27/20 • **PL 116-260 / HR 748 — COVID-19 Relief and Consolidated Appropriations Act**
 - Additional funding for vaccine effort, PRF and PPP; extends moratorium on Medicare sequester
 - 3/11/21 • **PL 117-7 / HR 1319 — American Rescue Plan Act (ARPA)**
 - Funds rural health, public health, mental health/SUD, Medicaid coverage, COVID-19 vaccines and testing

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How Providers Obtained Relief



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