



How the CARES Act Impacts the Senior Housing Industry

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04.02.2020

On March 27, 2020, President Trump signed into law the \$2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act. The law, which provides aid for every sector of the U.S. economy, is significant to the long-term care industry both for what it does and for what it does not do.

Most significantly, the law includes \$200 million for the Centers for Medicare & Medicaid Services (CMS) to assist nursing homes with infection control and to support states' efforts to prevent the spread of the coronavirus. This spending is consistent with the action on March 23 by the CMS ? releasing an updated survey tool for nursing home inspectors with a stricter focus on infection-control policies. CMS plans to target areas believed to be at greatest risk for an outbreak. As part of the CMS Guidance released on March 20, 2020, for at least the next two weeks, surveyors will be focused exclusively on only the following three types of surveys: immediate-jeopardy level complaints and incidents, targeted control surveys, and self-assessments. Infection control is a top priority in skilled nursing facilities in this environment.

Importantly, the law also contains a temporary 2% increase in fee-for-service reimbursements. It also contains a provision that allows for \$100 billion to remain available to prevent, prepare for and respond to the coronavirus. This fund will be dedicated largely to the construction of temporary structures, the leasing of properties and the procurement of equipment and testing supplies. Another \$150 million is earmarked for the modification and alteration of health care facilities.

While there are no other specific victories for skilled nursing facilities, the law offers meaningful wins to other care providers. Inpatient rehabilitation facilities (IRFs) and long-term acute care hospitals (LTACHs) were granted payment rate waivers. For the home health industry, the law allows physician assistants and nurse practitioners to certify home care for patients. This was a victory for which the home care industry had lobbied Congress for years. Previously, only physicians could certify patients for home health eligibility. The law provided a victory for hospice providers who previously had to conduct face-to-face recertification visits. Under the law, those encounters can now take place utilizing telehealth.

Noticeably missing from the law was specific reimbursement assistance for skilled nursing facilities treating patients infected with the coronavirus. Senator Ben Sasse of Nebraska introduced an amendment that would have created a 15% fee-for-service rate increase for COVID-19 residents at skilled nursing facilities. That increase was not included in the final version of the bill signed on March 27, 2020.

While not specific to the long-term care industry, the law addresses health care in the following ways:

- Clarifies that the Strategic National Stockpile can stockpile medical supplies, such as testing swabs.
- Provides permanent liability protection for manufacturers of respirators.
- Requires FDA to prioritize and expedite the review of drug applications and inspections to prevent a drug shortage.
- Clarifies that all testing for COVID-19 is to be covered by private insurance plans (without cost-sharing).
- Provides free coverage of a COVID-19 vaccine (without cost-sharing) within 15 days.
- Provides \$1.32 billion in supplemental funding to community health centers for testing and treatment of COVID-19.
- Reauthorizes grant programs that promote the use of telehealth technologies, including the expansion of telehealth access, insurance coverage, rural telehealth access, Medicare reimbursement for services, and others.
- Reauthorizes rural health care services programs.
- Creates a 20% add-on payment for inpatient treatment.
- Extends funding for beneficiary outreach and counseling related to low-income programs through November 30, 2020.
- Creates the Paycheck Protection Program for small businesses. To learn more, please [click here](#) and [here](#).

If you have any questions concerning how the CARES Act applies to your senior housing facility, please contact Jim Bailey at (804) 420-6358 or jbailey@williamsmullen.com, or Matt Cobb at (804) 420-6390 or mcobb@williamsmullen.com.

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