NATIONAL COALITION ON HEALTH CARE: COVID-19 POLICY UPDATE AND DISCUSSION

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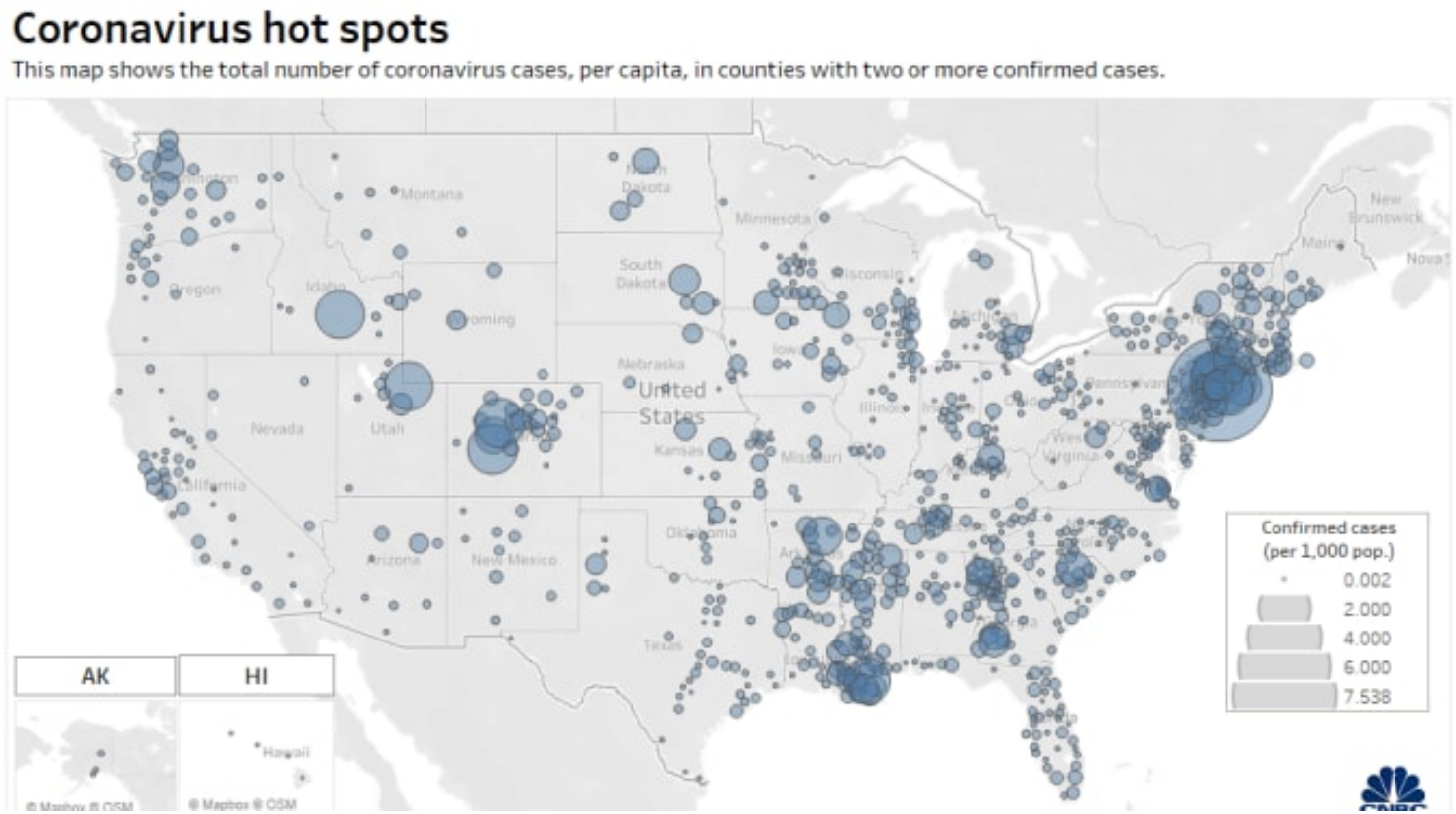
Outline

- Update on COVID-19 pandemic

- Federal Policy Action to Mitigate the Crisis
  - Overall context
  - Legislative Action
  - Regulatory Action
  - Issues of Special Interest and Outlook
    I. Drug Pricing
    II. Surprise Billing

- Questions, Discussion, and Next Steps

COVID-19 BACKGROUND AND SCENARIOS



March 11: ~1300 confirmed cases

April 2: ~190,089 confirmed cases

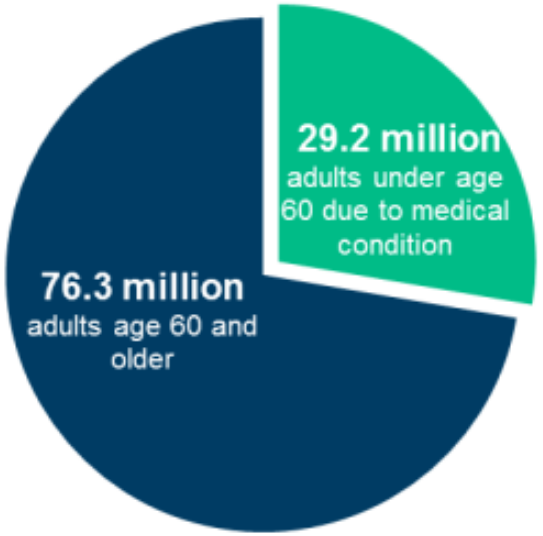
Source: https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6

COVID-19 BACKGROUND AND SCENARIOS

Figure 1

More Than 100 Million of 258 million U.S. Adults Are At Higher Risk For Serious Illness If Infected With Coronavirus

105.5 million adults at higher risk for serious illness if infected with coronavirus



NOTE: Data includes adults ages 18 and older; excludes adults living in nursing homes and other institutional settings. Data includes Guam and Puerto Rico.

SOURCE: KFF analysis of 2018 Behavioral Risk Factor Surveillance System.

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Source: https://www.kff.org/global-health-policy/issue-brief/how-many-adults-are-at-risk-of-serious-illness-if-infected-with-coronavirus/

OUTLOOK AND SUMMARY OF COVID SITUATION

- Research on influenza pandemics suggest impact (well) above seasonal flu, but short of Spanish flu:
  - CBO study from H1N1 era: between100,000 and 2 million deaths, 1-4% GDP reduction;
  - UK Imperial College estimates of COVID: between ~3,000 and 2 million deaths.
  - Estimates vary significantly based on assumptions regarding early containment, acute care capacity, public health measures, social distancing,
- Rapid spread but leveling off with possible re-emergence in late 2020 is likely;
- Increased utilization in the short run, with offsetting factors for both plans and providers – reduction in elective procedures that re-emerge later – issues for cash flow and specific equipment;
- Incremental costs and MLR impact for health plans exceed typical flu season.

Source: www.healthsperien.com/covid19

OUTLOOK AND SUMMARY OF COVID SITUATION

- Strained capacity will affect utilization and pressure safety net – public health and social distancing measures will significantly impact;
- Initial federal guidance and health plan action focuses on access to screening, treatments and related reductions in financial barriers, with additional priority to address infection in long-term care facilities;
- Expanded use of government authorities to address public health emergencies, but more expected as pandemic unfolds;
- Telehealth is promising COVID-19 tool, and most restrictions have been lifted (see Interim Final Rule, March 30)
- Long-run mental health impacts unknown.

Source: www.healthsperien.com/covid19

COVID-19 FEDERAL RESPONSE TIMELINE

1/29: COVID-19 Taskforce is established;

1/31: HHS Secretary declares PHE.

2/6: CMS issues memo for providers treating COVID-19

3/4: "Phase 1": Congress passes Coronavirus Preparedness & Response Supplemental Appropriations Act

3/4: Guidance issued to hospitals & nursing homes on infection control & prevention

3/13: President declares national emergency, frees potential $42B in federal aid for states and municipalities

3/14: "Phase 2": The House passes the Families First Coronavirus Response Act (H.R. 6201)

3/17: HHS clarifies telehealth flexibilities for providers and programs

3/26-7: "Phase 3": Congress passes the CARES Act.

March 30: HHS/CMS release Interim Final Rule, expands emergency flexibilities, e.g. telehealth, provider rules

Present/Future potential "Phase 4' package,

More information on guidance released:
https://www.usa.gov/coronavirus#item-214586
https://www.cms.gov/outreach-education/partner-resources/coronavirus-covid-19-partner-toolkit

PHASE 2: 'FAMILIES FIRST CORONAVIRUS RESPONSE ACT' – H.R. 6201

Key Provisions:

- 6.2% increase in FMAP for Medicaid coverage of testing;
- States could cover tests for uninsured people through their Medicaid programs and receive a 100% federal match to cover the cost;
- Insurers would cover tests and related services without cost-sharing or prior authorization requirements. This would apply to Medicare, TRICARE, veterans' health programs, the Indian Health Service, and coverage to federal civilian employees;
- Appropriate $1 billion to reimburse costs associated with testing uninsured individuals;
- Other components included paid sick leave, enhanced unemployment insurance, expanded nutrition assistance, and enhanced health care workforce safety standards.

PHASE 3 LEGISLATIVE PACKAGE: CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

Phase 3 Stimulus Package Passed by Congress:

- Third legislative package intended to address the economic and health impacts of the COVID-19 outbreak;
- Unanimously passed by the Senate in late evening of March 25/early morning of March 26;
- The House passed March 27 and signed that day by President;
- House Speaker Nancy Pelosi pushing for a fourth round of coronavirus/economic crisis legislation, would like to address immediately after Easter recess (April 20)

PHASE 3 LEGISLATIVE PACKAGE: CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

Key Medicare Provisions:

- Delays the 2% Medicare sequestration (i.e. provider rates will overall increase by 2%) beginning May 1, 2020, for the duration of the COVID-19 emergency period;
- Provides a 20% payment increase for any inpatient hospital diagnosis-related group (DRG) associated with an individual diagnosed with COVID-19 during the COVID-19 emergency period;
- Requires the Medicare program to cover any potential COVID-19 vaccine without any form of cost-sharing, including copayment, coinsurance, and deductible;
- Allows the Secretary to waive all telehealth requirements under an 1135 emergency preparedness waiver and removes the requirement for providers to have an existing relationship with a patient for telehealth services under an 1135 waiver;
- Generally expands the use of telehealth and telecommunication for a variety of providers such as home dialysis, home health, and hospice.

PHASE 3 LEGISLATIVE PACKAGE: CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

Key Medicaid Provisions:

- Provides states 30 days to decrease relevant Medicaid premiums to come into compliance with the relevant requirements to maintain constant Medicaid premiums and eligibility standards found in the Families First Coronavirus package in order to receive a 6.2% FMAP increase;
- Allows Medicaid to make payments for home- and community-based services (HCBS) in an acute care hospital;
- Extends the Money Follows the Person demonstration and protections against spousal impoverishment for HCBS through November 30, 2020;
- Delays cuts to payments to Disproportionate Share Hospitals (DSH) into 2021 and 2022.

PHASE 3 LEGISLATIVE PACKAGE: CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

Key Commercial Coverage Provisions:

- Requires insurers to pay for COVID-19 testing either at a rate specified in a contract between the provider and the insurer, or, if there is no contract, a cash price publicly posted by the provider;
- Requires insurers to provide coverage of any potential vaccine for COVID-19 without cost-sharing within 15 days of its approval by either the Advisory Committee on Immunization Practices of the CDC or receiving an "A" or "B" rating from the US Preventative Services Task Force;
- Allows high-deductible health plans (HDHPs) to provide coverage of telehealth services before the deductible for beneficiaries in 2020 and 2021without said coverage potentially applying against the plan's status as a "high-deductible" plan.

REGULATORY ACTION IN RESPONSE TO COVID19
HIGHLIGHTS

- **National emergency declaration allows for 1135** waiver which allows for broad authority for the Secretary to waive Medicare, Medicaid, CHIP requirements. Nearly 35 states have approved these waivers for their Medicaid programs.
- **IRS issued guidance** to allow for COVID19 testing and vaccine to be offered pre-deductible and no cost sharing for HSA-eligible HDHPs.
- **Flexibility given to MA and Part D plans** to reduce cost-sharing for services related to COVID-19 in benefit packages without penalty.
- **Special enrollment period** no longer under serious consideration by White House/CMS – but a number of states with their own exchanges have opened SEP. Note: loss of job-based coverage can qualify someone for SEP.
- **New Medicare Telehealth Flexibilities:** CMS announced an expansion of telehealth coverage under Medicare. Consistent with President Trump's March 13 emergency declaration, CMS is easing Medicare regulatory barriers. The expansion of access to benefits applies starting March 6, 2020. The following requirements are waived:
  - Originating site– Members will now be able to receive services within their homes and other places. Prior to the waiver, Medicare could only pay for telehealth when the person receiving the service was in a designated rural area and when they are in a clinic, hospital, or another medical facility;
  - Changes to cost-sharing – HHS OIG is providing flexibility for healthcare providers to reduce or waive cost-sharing for telehealth visits paid by federal healthcare programs; and
  - Established patient/provider relationship– Previously telehealth services required an established patient/provider relationship. This requirement has not been officially waived, but HHS will not conduct audits to ensure that such a prior relationship existed.

REGULATORY ACTION IN RESPONSE TO COVID19
HIGHLIGHTS

- **Interim Final Rule, flexibilities for providers**
  - Effective March 1, 2020
  - Home health: medically indicated quarantine is considered homebound (needs documentation)
  - Remote patient monitoring expansion
  - New sites of hospital services
  - Suspended risk adjustment data validation audits
  - Changes to MA star ratings

REGULATORY ACTION IN RESPONSE TO COVID19
HIGHLIGHTS

- **Interim Final Rule, more temporary flexibilities for telehealth**
  - Builds on the CARES Act telehealth provisions and clarifies previous CMS telehealth guidance
  - Expands (greatly) list of covered telehealth services
  - Modifies billing requirements to ensure that telehealth services are reimbursed at the same rate as if they were furnished in person.
  - Expands telehealth services to be used as part of the Hospice Benefit requirements
  - Reinforces clinicians will not be subject administrative sanctions for reducing or waiving beneficiary cost-sharing obligations
  - Permits consent for Communication Technology-Based Services to be obtained at the same time the service is furnished
  - Details enforcement discretion for the "established patient" requirement, where applicable
  - Allows reimbursement for *telephone services* (audio-only)

OTHER PRIORITIES AND COVID-19 RESPONSE

I. Drug Pricing

II. Surprise Billing

NCHC PRIORITIES AND COVID-19 RESPONSE: DRUG PRICING

- Senate Finance Committee Chairman Grassley continues to advocate for the *Prescription Drug Price Reduction Act* (PDPRA) behind the scenes, particularly with Republican colleagues.
- "A lot of work has been done with Grassley-Wyden bipartisan bill. It just needs final push. This issue should be a part of how we handle the public health crisis facing Americans," the Iowa Republican tweeted last Tuesday.
- Was not included in order to secure unanimous consent and have overwhelmingly positive vote.
- Tees up Nov. 30 (aka post-election) drug pricing push.

NCHC PRIORITIES AND COVID-19 RESPONSE: DRUG PRICING

Most Americans **favor** several actions to lower **drug costs**

Percent who favor each of the following actions that would keep prescription drug costs down:

SOURCE: KFF Health Tracking Poll (conducted February 14-24, 2019)

NCHC PRIORITIES AND COVID-19 RESPONSE: SURPRISE BILLING

- Entering 2020, there are 2 major proposals in play to address surprise medical billing:
  - **E&C - HELP / E&L**: Both bills would prohibit SMB/balance billing practices, establish a median in-network benchmark rate for OON services, and permit an arbitration process for services exceeding $750;
  - **W&M**: Would prohibit SMB/balance billing and establish an arbitration process for OON reimbursement disputes.

- Devils are in the details: continuous debate over benchmark setting, as well as arbitration requirements/standards and processes.

- Outlook: Surprise billing not included in CARES, but was on the table. Tees up Nov. 30 package. Continued bipartisan pressure from E&C/HELP.

	E&C / HELP / E&L	W&M
PROHIBITS SURPRISE MEDICAL BILLS & BALANCE BILLING FOR OON SERVICES	YES	YES
ESTABLISHES A BENCHMARK FOR REIMBURESMENT OF OON SERVICES	**YES – MEDIAN IN-NETWORK RATE**	**NO**
ALLOWS AN ARBITRATION PROCESS TO SETTLE OON SERVICE REIMBURSEMENT	YES – IF SERVICES MEET A $750 THRESHOLD	YES – NO THRESHOLD

*For predominantly EMS, as well as certain non-EMS post-stabilization.

FUTURE OUTLOOK

- Phase 4 legislative package likely to come as soon as Congress returns
- Stakeholders looking to market stabilization efforts, including reinsurance options
- Politics will be more complicated and may slow agreement – Senate Republicans keen to wait on economy and how provider community responds to current stimulus.
- Discussions and advocacy efforts will continue re: non-COVID19 priorities such as drug pricing and surprise billing.
- Election now coming into play – Nov. 30th deadline (as of Phase 3 package) will create very busy lame-duck session.
- Multi-stakeholder coalitions will continue to play important role in the debate.

NCHC MATERIALS AND ADVOCACY ON COVID-19

- NCHC wrote a letter to Congress detailing priorities for Phase 3
- NCHC wrote a memo for members on Phase 3 and continued gaps
- Communication with Hill and administration on response policy priorities
- Planned: op-ed on the future of health care post-COVID
- What's next?

NATIONAL COALITION ON HEALTH CARE

QUESTIONS & DISCUSSION

WHAT EFFORTS ARE YOUR ORGANIZATIONS UNDERTAKING TO ADDRESS COVID-19, AND HOW CAN WE HELP?

Thank you!
For any questions or comments, reach out to mbudros@nchc.org
COVID-19 Resources Available at: www.Healthsperien.com/covid19