

Below is this week's government and legislative affairs update. All previous legislative guidance and other affiliate resources are stored via the [VillageMD Affiliated Practices COVID-19 Resource Center](#).

#### General Updates:

- On July 27, 2020, Senate Republicans released their proposal for the next round of federal legislation to provide relief regarding the coronavirus pandemic. The entire \$1 trillion Republican proposal will be known as the Health, Economic Assistance, Liability, and Schools Act ("HEALS Act"), but it will also be broken down into eight smaller bills for negotiations. This nearly \$1 trillion package would provide:
  - Additional provider relief funds
  - Adjust the terms of the Accelerated and Advanced Payment Program
  - Boost COVID-19 testing and preventative efforts
  - Expand small business loans
  - Create COVID-19 liability protections for schools and business.
- The proposal is not supported by Democrats and is unlikely to gain any traction in the House of Representatives. Instead, the HEALS Act will serve in continued negotiations between Republicans and Democrats as they seek to finalize a relief package before the August recess, which is set to begin August 7.

#### Top Line Impact Policy for VillageMD from the HEALS Act:

- **Employee Retention Tax Credit, Enhanced employee hiring and retention payroll tax credit** (Finance - "[American Workers, Families and Employers Assistance Act](#)"):
  - The CARES Act provided an employee retention tax credit (ERTC) in the form of a refundable payroll tax credit equal to 50 percent of certain wages paid by employers to employees during the COVID-19 crisis. This section increases the applicable percentage of qualified wages reimbursed through the credit to 65 percent (*Sec. 211*).
- **Tax Credit for Cleaning and PPE supplies** (Finance - "American Workers, Families and Employers Assistance Act"):
  - This section establishes a refundable payroll tax credit equal to 50 percent of an employer's "qualified employee protection expenses," such as testing for COVID-19, protective personal equipment, cleaning supplies, "qualified workplace reconfiguration expenses," including modifications to workspaces for the purpose of protecting employees and customers from the spread of COVID-19, and "qualified workplace technology expenses," including contactless point-of-sale systems and other technology to track employee interactions with customers (*Sec. 213*).
- **Accelerated and Advance Payment Program** (Finance - "American Workers, Families, and Employers Assistance Act"):
  - The package includes extension for hospitals, providers, and suppliers who received payments through the Accelerated and Advance Payment Program. Under the HEALS Act, recoupment for hospitals and providers that received loans would not begin until 270 days after initial payment was received. Interest would not be

applied to outstanding loans received by hospitals for 18 months, while providers and suppliers would have only 14 months before interest is applied (*Sec. 302*).

- **Telehealth Provisions** (Finance - “American Workers, Families, and Employers Assistance Act”) –
  - The package proposes to extend telehealth flexibilities issued during the pandemic through December 31, 2021 or the end of the PHE, whichever is later. MedPAC would be required to publish a report on telehealth utilization and impact on access and quality of care, evaluating which, if any, flexibilities should be made permanent. This report would be due to Congress by June 15, 2021. HHS would also be required to publicly post information on telehealth requirements within 3 months of the passage of this Act, submit a report to Congress on the impact of telehealth and virtual services furnished under Medicare, and periodically post telehealth utilization data. (*Sec. 303*)
  - Additionally, the package proposes to permit federally qualified health centers (FQHCs) and rural health clinics (RHCs) to serve as distant sites for Medicare beneficiaries for five years beyond the end of the public health emergency. (*Sec. 304*)
- **Health and Dependent Care Flexible Spending Accounts** (Finance - “American Workers, Families, and Employers Assistance Act”) –
  - The HEALS Act would allow participants of health flexible spending accounts (FSA) to carry over \$2,750 on unused benefits from plan year 2020 into plan year 2021. The package also permits participants of dependent care FSA to carry over \$5,000 (\$2,500 in the case of a separate return by a married individual) from plan year 2020 into plan year 2021 (*Sec. 401*).
- **Paycheck Protection Program** (Small Business - “[Continuing Small Business Recovery and Paycheck Protection Program Act](#)”) –
  - The HEALS Act would make a number of notable changes to the Paycheck Protection Program (PPP), a loan program for small businesses impacted by COVID-19. For previous recipients of PPP loans, the HEALS Act would amend documentation and certification requirements, which were established by section 1106(e) of the CARES Act. The HEALS Act would also create a second round of PPP loans for businesses with fewer than 300 employees that have faced a decline in revenue of at least 50% (*Sec. 106*).
  - Borrowers may receive a loan of up to 2.5 times their average monthly payroll costs, capped at \$2 million. Loan forgiveness for second round borrowers would be equal to the sum of the borrowers’ COVID-19-associated costs incurred before January 1, 2021. Allowable expenses would also be expanded to include a broader range of preventative efforts, including purchasing of masks and other PPE, installation of Plexiglas and improved HVAC systems, and creation of outdoor seating areas (*Sec. 101*).
- **Additional Public Health and Social Services Emergency Funding** (Appropriations - “[Coronavirus Response Additional Supplemental Appropriations Act](#)”):

- Public Health and Social Services Emergency Fund given an additional \$25 billion
- **Liability Reform** (Judiciary - [“SAFE TO WORK Act”](#))
  - The HEALS Act prohibits coronavirus-related liability action against healthcare providers, except in cases where gross negligence or willful misconduct on the part of the provider can be demonstrated (*Sec. 142*).
- **No Surprise Billing Policy** (HELP - [“Safely Back to School and Back to Work Act”](#)):
  - No Surprise Billing Policy included in this package