



### **Hot off the Press:**

**Roll Call Vote on Bill to Protect Americans from Losing Health Coverage:** S.4653 – “A bill to protect the healthcare of hundreds of millions of people of the United States and prevent efforts of the Department of Justice to advocate courts to strike down the Patient Protection and Affordable Care Act.” In a rare move, the Senate Minority Leader, Chuck Schumer (D-NY) took to the floor earlier this week and began the process toward a cloture vote on a motion to proceed to S. 4653. The Majority Leader (currently Sen. Mitch McConnell) almost always controls the schedule. The Senate then (October 1) failed to invoke cloture (a process toward ending debate on an issue) by a Yea-Nay Vote of 51 – 43 (60 votes were needed to move forward). This was part of a political activity to call attention to the fact that the Supreme Court (potentially with a new conservative Justice) will be hearing a case on November 10 that could lead to ending the ACA/Obamacare, including the protection for individuals with preexisting conditions. The bill would block the Justice Department from supporting the Obamacare lawsuit brought by several Republican-led states. Several Republicans facing difficult reelections voted for the Sen. Schumer’s bill. The lawsuit claims that when the tax bill eliminated the penalty for not having health insurance, it rendered all of the ACA unconstitutional.

**Still No COVID-19 Pandemic Response Deal, But Still Some Hope:** After more than a week of new but unsuccessful negotiations between the White House (Treasury Secretary Mnuchin) and Speaker Pelosi, the House moved forward with passage (along party lines – 214-207) of a \$2.2 trillion coronavirus pandemic relief bill (HEROES 2.0) on October 1. The Democrats’ latest version of the bill was trimmed from the \$3.4 trillion in the first HEROES bill passed in May but largely ignored by the Senate Republicans. A number of Democrats have been pushing Speaker Pelosi to bring up another bill to show (prior to the election) that they are willing to compromise from their earlier more comprehensive legislation. Without a compromise and action, no additional aid would be available to reach Americans before the election. Republicans called the bill a “liberal wish list.”

Today (October 2), it has been reported that **Speaker Pelosi remains in contact with Secretary Mnuchin** and feeling positive that a deal can be reached on the package. It has been reported that the Administration offered in the neighborhood of \$1.6 trillion for the package. Besides the cost of the bill, there were significant differences in opinion on how the funds would be allocated (e.g. state and local funding and unemployment levels, child tax credit extension), whether there are tax increases for big business, and many more. The bill included a \$436 billion in emergency aid for state and local governments; \$225 billion for schools and child care; an additional round of \$1,200 stimulus checks for most Americans; money to restore \$600 expanded unemployment payments through January; billions of dollars for housing assistance; funding to shore up the Census, U.S. Postal Service

and elections; an additional \$50 billion to the provider relief fund; increased Federal Medical Assistance Percentage (FMAP) payments to state Medicaid programs by 14 percentage points starting October 1, 2020 through September 30, 2021; \$75 billion for coronavirus testing, contact tracing, and isolation measures as well as \$28 billion for procurement, distribution, and education campaigns for a safe and effective vaccine.

There are protections worth noting for recipients of Social Security and SSI who received (or receive) incorrect payments during the pandemic, between March 1, 2020 and January 31, 2021. According to Justice in Aging, "The bill would automatically waive repayment of any extra benefits received in those months, as most beneficiaries have little ability to pay them back, and the payments were received not due to any fault of the beneficiaries, but because of the dire circumstances caused by Covid-19."

The bill also includes a one-year renewal of the Elder Justice Act with \$175 million in funding, including \$123 million for Adult Protective Services (APS) programs and \$18 million for State Long-Term Care Ombudsman program grants and training; an additional \$25 million funded through the Social Services Block Grant for APS programs, \$650,000 for tribal APS programs; and \$20 million in additional Older Americans Act funding for State Long-Term Care Ombudsman programs and \$5 million in funding for senior legal hotlines.

**Fiscal Year 2021 Appropriations:** The House, Senate, and White House came to agreement this week on a Continuing Resolution (CR) to keep the federal government funded and open through December 11, 2020. This FY 2021 stopgap spending bill prevents a government shutdown and funds most programs at FY 2020 levels for the time being. The CR "includes a delay in cuts to Medicaid disproportionate share hospitals; an extension of the modified requirements for payments made under the Medicare Accelerated and Advance Payment Programs; and the protection of Medicare beneficiaries from an expected Part B premium hike for 2021."

### **Continuing Resolution**

**The Bill:** <https://docs.house.gov/billsthisweek/20200921/BILLS-116HR8319IH.pdf>

**Section by Section Summary:** <https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Continuing%20Appropriations%202021%20Extensions%202020%20Summary.pdf>

### **On the Regulatory Front**

#### **Coronavirus Commission Report Released by CMS and The MITRE Corp:**

The final report, including 27 recommendations and 100 action steps, has been released on the work of the Coronavirus Commission on Safety and Quality in Nursing Homes, which was created to advise the federal government on how to address the impact of the coronavirus in nursing homes. Thirteen of the commission members endorsed the final report and eleven members endorsed it with reservations, and one member did not endorse.

- **Here is the report:** <https://theconsumervoice.org/uploads/files/issues/FINAL-REPORT-of-NH-Commission-Public-Release-Case-20-2378.pdf>
- **Consumer Voice Executive Director Lori Smetanka endorsed the report with reservations:** <https://theconsumervoice.org/uploads/files/issues/Statement re Commission Report.pdf>
- **Five Commission members sent a statement to CMS on the need for accountability:** <https://theconsumervoice.org/uploads/files/issues/Statement to CMS re Need for Accountability 9.4.20 FINAL.pdf>
- **Comparison: Trump Administration Actions and Commission Recommendations:** [https://theconsumervoice.org/uploads/files/issues/CMS\\_Response\\_-\\_Comparison-Trump\\_Administration\\_Actions\\_and\\_Commission\\_Recommendationsv2...pdf](https://theconsumervoice.org/uploads/files/issues/CMS_Response_-_Comparison-Trump_Administration_Actions_and_Commission_Recommendationsv2...pdf)

#### **CMS Announces Supplemental Funding for the Money Follows the Person Program:**

The Centers for Medicare & Medicaid Services announced the availability of up to \$165 million in additional funding for states operating MFP demonstration programs. See the press release: <https://www.cms.gov/newsroom/press-releases/cms-announces-new-federal-funding-33-states-support-transitioning-individuals-nursing-homes>

#### **CMS Releases Coverage and Payment Information For COVID-19 Testing in Nursing Facilities:**

On Friday, September 18, CMS [released](#) additional clarifying information on coverage and payment for COVID-19 testing in nursing and skilled nursing facilities. The guidance also includes information on funding for testing via the CARES Act and Provider Relief Fund.

#### ***A Deeper Look (Articles of Interest)***

**Opinion Piece and United Spinal Association Lawsuit (*United Spinal Association Inc. v. Andrew M. Saul*):** <https://thehill.com/opinion/white-house/518588-signature-requirements-needlessly-delay-social-security-disability>

**From The Arc: USCCR Recommends Phase-Out of Subminimum Wage:** “On September 17, the U.S. Commission on Civil Rights (USCCR) released a report in which they recommended a phase-out of subminimum wages under Section 14 (c) of the Fair Labor Standards Act...The Arc supports building infrastructure and supports needed to phase out the issuance of subminimum wage certificates, increasing opportunities for competitive integrated employment, and putting in place safeguards to protect the interests of any people affected by this shift.”

**Reimagining Nursing Homes in the Wake of COVID-19,** By Terry T. Fulmer, Christopher F. Koller, and John W. Rowe:

[https://nam.edu/reimagining-nursing-homes-in-the-wake-of-covid-19/?utm\\_source=HMD+Email+List&utm\\_campaign=da39fcb5d9-EMAIL\\_CAMPAIGN\\_2020\\_04\\_22\\_04\\_18\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_211686812e-da39fcb5d9-180163317&mc\\_cid=da39fcb5d9&mc\\_eid=d7186e4873](https://nam.edu/reimagining-nursing-homes-in-the-wake-of-covid-19/?utm_source=HMD+Email+List&utm_campaign=da39fcb5d9-EMAIL_CAMPAIGN_2020_04_22_04_18_COPY_01&utm_medium=email&utm_term=0_211686812e-da39fcb5d9-180163317&mc_cid=da39fcb5d9&mc_eid=d7186e4873)

**After Justice Ginsburg's Loss, What A New Court Could Mean For The ACA**, by Katie Keith, September 20, 2020: [https://www.healthaffairs.org/doi/10.1377/hblog20200920.954961/full/?utm\\_medium=email&utm\\_source=hat&utm\\_campaign=blog&utm\\_content=keith&utm\\_source=Newsletter&utm\\_medium=email&utm\\_content=What+A+New+Supreme+Court+Could+Mean+For+The+ACA%3B+Medicaid%3A+Work+Requirements%2C+Perinatal+Insurance+Continuity&utm\\_campaign=HAT&vgo\\_ee=sZTII0N9g1ZVI9Q%2F%2FXBDEsPHscJHbbOnxyOvPlnI2kE%3D](https://www.healthaffairs.org/doi/10.1377/hblog20200920.954961/full/?utm_medium=email&utm_source=hat&utm_campaign=blog&utm_content=keith&utm_source=Newsletter&utm_medium=email&utm_content=What+A+New+Supreme+Court+Could+Mean+For+The+ACA%3B+Medicaid%3A+Work+Requirements%2C+Perinatal+Insurance+Continuity&utm_campaign=HAT&vgo_ee=sZTII0N9g1ZVI9Q%2F%2FXBDEsPHscJHbbOnxyOvPlnI2kE%3D)

**Primer on ABLE Accounts from the National Center on Law and Elder Rights:** Tuesday, October 13 at 2 p.m. Eastern. Speakers include Miranda Kennedy, Director, ABLE National Resource Center; Marlene Ulisky, Disability Benefits Expert, ABLE National Resource Center; Pshon Barrett, Esquire, ADA Group, LLC, Attorneys for Disabled Americans and ABLE account owner and 2020 ABLE NRC Ambassador. <https://register.gotowebinar.com/register/4170420525903901966?source=salsa&eType=EmailBlastContent&eId=133c5c5a-d484-4cc0-ad8c-8a3de24005eb>

**For those Senate Procedure Wonks: "As goes the filibuster, so goes cooperation in Congress"**, by John R. Kasich, opinion contributor, The Hill. <https://bit.ly/3hURnCL>

**Special Washington Update: Mail-In Ballots in 2020: Questions and Answers:** U.S. Office of Public Policy, 18 September 2020  
<https://www.ubs.com/us/en/wealth-management/washington-weekly/2020/washington-weekly-18-sept-2020.html?cc>

Stay well, Brian

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