

**\$2 Trillion COVID-19 related package, H.R. 748**  
**The *Coronavirus Aid, Relief, and Economic Security Act* or**  
**the “CARES Act”**

To: NHPCO Provider Members  
From: NHPCO Policy Team  
Date: March 26, 2020

**Summary at a Glance**

In response to the unfolding public health crisis related to the COVID-19 pandemic, Congress and the Administration reached a deal on a \$2 trillion economic stimulus bill, [H.R. 748](#), The *Coronavirus Aid, Relief, and Economic Security Act* or the “CARES” Act. This is the largest aid package in American history and is the third COVID-19 related piece of legislation that will be passed this month.

The CARES Act has provisions aimed at health care providers. Among the provisions most important to hospice and palliative care providers are the following:

1. Provisions for telehealth for face-to-face
2. Sequestration relief
3. Funding for COVID-19 related expenses

In addition, the CARES Act has a number of provisions aimed at supporting the economy:

1. A plan to send \$1,200 checks to many Americans
2. Unemployment insurance for those who lose their jobs in the crisis
3. A \$500 billion Treasury fund to shore up industries damaged by coronavirus and
4. More than \$300 billion in small business loans.

## Provisions of the Bill

During this unfolding crisis, NHPCO has solicited members for both regulatory and statutory changes that NHPCO/HAN could advocate for on behalf of providers and the patients and families they serve. Among the top legislative priorities was flexibility for providers including the use of telehealth and virtual visits to meet the Medicare CoPs requirements, while also limiting virus exposure to the workforce and maximizing the use of limited resources. Details about bill provisions that impact hospice and palliative care providers follow.

**Section 1: Bill Title:** [Coronavirus Aid, Relief, and Economic Security Act](#) or the “CARES Act.”

### Telehealth

#### **Section 3706: Use of telehealth to conduct face-to-face encounter prior to recertification of eligibility for hospice care during emergency period.**

The legislation will allow face-to-face encounters for recertification for hospice care to be completed by hospice physicians and nurse practitioners using telehealth technologies during the emergency period. NHPCO advocated for this provision as the highest priority for the hospice community. This provision will benefit providers because they will have the ability to conduct face-to-face encounters for hospice which were not allowed through telehealth previously. Hospice physicians and nurse practitioners could not conduct face-to-face encounters using telehealth, due to the restrictions in statutes at Section 1814(a)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395f(a)(7)(D)(i)). Additional telehealth flexibility issued by President Trump earlier this month only applies to Part B providers, such as physicians and other healthcare practitioners. Hospice is a Part A provider and was therefore **NOT** covered and this statutory change was necessary to give providers needed flexibility.

NHPCO will work with CMS to implement the law either through rulemaking or offering guidance to providers. We will send updates as soon as they are available.

### **Funding Provisions:**

**Sec. 3709. Adjustment of sequestration.** This legislation includes a provision that applies to hospice and all other Medicare providers. This provision was included to provide prompt economic assistance to health care providers on the front lines fighting the COVID-19 virus. Under the auspices of the Budget Control Act, the U.S. Centers for Medicare & Medicaid Services (CMS) in 2014 began reducing payments to hospice providers by 2 percent across the board, a practice called sequestration. Under current law, a hospice provider must return payments to CMS if the total paid exceeds the Medicare payment cap allowance. Presently, CMS includes the sequestered 2 percent as part of the total, even though hospice providers never receive those funds. This legislation would amend current law and reimburse providers for the total amount billed. **The temporary suspension of the 2 percent sequestration cut to hospice begins on May 1, 2020 and ends on December 31, 2020.** The Medicare sequester will

be extended by one-year beyond current law to provide immediate relief without worsening Medicare’s long-term financial outlook.

***DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS***

The Appropriations portion of the legislation contains \$330 billion in new funding to address the needs of the American people, the following provisions below were included in this portion of the legislation and could potentially benefit hospice and palliative care providers:

**1. \$100 billion Public Health and Social Services Emergency Fund.**

This is a new program that will provide direct aid to health care institutions. Generally, funding will be used to prevent, prepare for, and respond to coronavirus, domestically or internationally, and for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to the coronavirus.

***Eligibility:***

The “eligible health care providers” mean public entities, Medicare or Medicaid enrolled suppliers and providers, and such for-profit entities and not-for-profit entities not otherwise described in this proviso as the Secretary may specify, within the United States (including territories), that provide diagnoses, testing, or care for individuals with possible or actual cases of COVID–19. The Secretary of Health and Human Services shall, on a rolling basis, review applications and make payments.

***Use of Funds:***

That funds appropriated under this program shall be available for building or construction of temporary structures, leasing of properties, medical supplies and equipment including personal protective equipment and testing supplies, increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity.

***Payment:***

For this program the term “payment” means a pre-payment, prospective payment, or retrospective payment, as determined appropriate by the Secretary. Payments under this program shall be made in consideration of the most efficient payment systems practicable to provide emergency payment. To be eligible for a payment under this program, an eligible health care provider shall submit to the Secretary of Health and Human Services an application that includes a statement justifying the need of the provider for the payment and the eligible health care provider shall have a valid tax identification number.

***Reporting Requirement:***

The recipients of payments under this program shall submit reports and maintain documentation as the Secretary determines are needed to ensure compliance with

conditions that are imposed by this paragraph for such payments, and such reports and documentation shall be in such form, with such content, and in such time as the Secretary may prescribe.

## **2. \$3.5 billion in additional funding for the Child Care Development Block Grant**

This funding uses existing channels to provide child-care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to the coronavirus.

### ***Eligibility:***

That funds provided under this heading in this Act may be used to provide continued payments and assistance to childcare providers in the case of decreased enrollment or closures related to coronavirus, and to assure they are able to remain open or reopen as appropriate and applicable. That funds appropriated under this heading in this Act may be made available to restore amounts, either directly or through reimbursement, for obligations incurred to prevent, prepare for, and respond to coronavirus.

### ***Healthcare Workers:***

States, Territories, and Tribes are authorized to use funds appropriated under this program to provide child care assistance to health care sector employees, emergency responders, sanitation workers, and other workers deemed essential during the response to coronavirus by public officials, without regard to the income eligibility requirements of section 658P(4) of this Act.

### ***Types of Child Care:***

The funds appropriated under this heading in this Act shall be available to eligible child care providers under section 658P(6) of the CCDBG Act, even if such providers were not receiving CCDBG assistance prior to the public health emergency as a result of the coronavirus, for the purposes of cleaning and sanitation, and other activities necessary to maintain or resume the operation of programs.

## **3. Future COVID-19 Related Legislation**

NHPCO will continue to review details of this legislation and may update this policy alert as more details are made available and more analysis is completed. NHPCO anticipates that other COVID-19 related legislation will continue to be drafted as this crisis continues to unfold. Additional legislation will also be considered by the House in the coming days.

If you have any questions about this bill, please reach out to Mark Slobodien, Director of Legislative Affairs, at [mslobodien@nhpc.org](mailto:mslobodien@nhpc.org) or Judi Lund Person, Vice President, Regulatory and Compliance at [jlundperson@nhpc.org](mailto:jlundperson@nhpc.org).