

## Coronavirus *Flash Update*: Thursday, June 25, 2020

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Note: *The Flash update is moving to a weekly schedule in July, with a Monday release. Special editions may be released to reflect significant or time sensitive COVID-19 legislative or regulatory action.*

### *The Latest News*

- **U.S. COVID-19 cases** exceed 2,368,663 and 119,887 U.S. deaths. (Source: CDC) (**Updated 6/25/20**)
- **U.S. stock market:** On Wednesday the major U.S. benchmarks dropped sharply, with the Dow losing 710 points, the S&P giving up 80 points, and the Nasdaq falling 222 points. (**New**)
- The Departments of Labor, Health and Human Services, and Treasury have jointly released [FAQs](#) on the COVID-19 **testing coverage mandate provisions** included in the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The FAQs state that the mandate applies to medically appropriate COVID-19 tests and related care for symptomatic individuals and those with known or suspected exposure to an individual with COVID-19 but does **not apply to “return to work” screening testing and public surveillance testing**. The FAQs also address a number of other testing-related questions and provide a safe harbor for large employers with respect to certain telehealth services. (6/23/20) (**New**)
- The Governors from New York, New Jersey, and Connecticut [jointly announced](#) a **14-day quarantine restriction for incoming travelers from nine states** where COVID-19 cases have surged in the past week. The restrictions will apply to states with infection rates that exceed 10 people per 100,000 on a seven-day rolling average, or if 10% of the total population tests positive on a seven-day rolling average. Nine states currently meet the criteria for restrictions: Alabama, Arizona, Arkansas, Florida, North Carolina, South Carolina, Texas, Utah, and Washington. (**New**)

- And due to the increase in COVID-19 cases in:
  - **North Carolina** where Governor Roy Cooper has halted the state's move to the next reopening phase for three weeks and [will require face masks](#) to be worn in public. (**New**)
  - **Texas** where Governor Greg Abbott [announced free masks](#) to all Texans who are tested for COVID-19. (**New**)
  - **Florida** where Governor Ron DeSantis [announced earlier this week that wearing face masks](#) and social distancing was advised for all public settings. (**New**)

## COVID-19 Federal & State Legislation

- **Bill 4.0:** The House is set to vote next week on State Healthcare Premium Reduction Act (combined with drug pricing provisions under the title, Patient Protection and Affordable Care Enhancement Act), H.R. 1425, to **bolster health care coverage through the Affordable Care Act (ACA)**. The proposal would expand ACA tax credits, increase the federal portion for states which expand their Medicaid programs, increase funds for exchange outreach and education, and cap what any person may pay for the coverage premiums at 8.5% of their income. House Energy and Commerce Committee Chairman Frank Pallone announced this week that the ACA enhancements would be **combined with drug pricing provisions** previously passed and the combined measure called the Patient Protection and Affordable Care Enhancement Act. The Energy and Commerce Committee has posted a [one page summary](#), [section-by-section](#), and the [text](#). The ACA enhancement measure and additional drug pricing proposal have passed the House in previous measures along party line vote. (**New**)
  - The HEROES Act was the first formal offer on a new emergency stimulus bill, 4.0: For the full details on the HEROES Act, H.R. 6800, which passed the House on May 15:
    - The HEROES Act text is available [here](#).
    - A [1-pager](#) and 71 page [section-by-section summary](#) are available here.
    - And an outline of the [state and local funding provisions](#) is here.
- The **Paycheck Protection Flexibility Act, H.R. 7010**, was enacted on June 5. To learn more, see this A&B [Summary of the Paycheck Protection Flexibility Act](#). (6/5/20)
- **Bill 3.5: Paycheck Protection Program and Health Care Enhancement Act, (H.R. 266)** was enacted on April 24. Also available are a [section-by-section summary](#) and an [overview of the health care provisions](#).
  - A&B detailed summaries are below:
    - A&B [Summary](#) – **3.5 Small Business Provisions**
    - A&B [Summary](#) – **3.5 Health Care Enhancement Provisions**
- **Bill 3.0: Coronavirus Aid, Relief, and Economic Security (CARES) Act, (H.R. 748)** passed on March 27. A congressional section by section summary is available [here](#).
  - A&B detailed summaries are below:
    - A&B [Summary](#) – **CARES Act Health Provisions**
    - A&B [Overview](#) – **CARES Act Health Care Grants and Reimbursement Changes**
    - A&B [Overview](#) – **CARES Act Key Health Care Appropriations**
    - A&B [Summary and Analysis](#) – **CARES Act PPP & Other Business Funding Sources** (Updated 6/5/20)

- A&B [Summary](#) – CARES Act Small Business Provisions
- A&B [Summary](#) – CARES Act Educational Provisions and Appropriations
- A&B [Summary](#) – CARES Act Individual and Business Tax Provisions
- A&B [Summary](#) – CARES Act Unemployment Provisions
- A&B [Summary](#) – CARES Act Labor Provisions
- A&B [Guide](#) – how the CARES Act refundable Employer Retention tax credit for employers works
- A&B [Hospital Provisions from all 4 bills tracker](#) (Updated 6/24/20)
- A&B [Provider Relief Fund Disbursements tracker](#) (Updated 6/24/20)
- A&B [Summary](#) of oversight and enforcement provisions in the CARES Act
- Congress has passed three coronavirus emergency response bills and the first two are below:
  - **Bill 1.0: Coronavirus Preparedness and Response Supplemental (CPPRS)** ([H.R. 6074](#)) passed on March 5
  - **Bill 2.0: Families First Coronavirus Response Act (FFCRA)** ([H.R. 6201](#)) passed on March 18

## Transition to “Reopening”

- **State/Other Actions**
  - For the latest information on state reopening decisions, see [A&B 50-State Reopening tracker](#) - updated in each A&B Coronavirus Flash. (Updated 6/22/20)
- **Administration Actions**
  - The Department of Justice [filed a statement of interest](#) in Hawaii federal court in support of a lawsuit filed by Nevada and California **residents who own property in Hawaii challenging Governor David Ige’s mandate of a 14-day self-quarantine** for individuals entering Hawaii. (6/24/20) (**New**)
  - The Departments of Labor, Health and Human Services, and Treasury have jointly released [FAQs](#) on the COVID-19 testing coverage mandate provisions included in the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The FAQs state that the **mandate applies to medically appropriate COVID-19 tests** and related care for symptomatic individuals and those with known or suspected exposure to an individual with COVID-19 but does **not apply to “return to work” screening testing and public surveillance testing**. The FAQs also address a number of other testing-related questions and provide a safe harbor for large employers with respect to certain telehealth services. (6/23/20) (**New**)
  - The President signed an [executive order](#) directing U.S. Embassy/Consular offices to **cease issuance of H1B, H-4, H2B, J and L visas to persons who on June 24** do not have one of these valid nonimmigrant visa stamps in the their passport or other official travel documents. The order is in effect until December 31, 2020. (6/22/20) (**New**)
  - The CDC issued a new detailed [report](#) on its activities and initiatives that support the transition to reopening. (5/20/20)
    - The CDC updated or released guidance for reopening:
      - [Reopening Nursing Homes to Visitors](#) (6/24/20) (**New**)
      - [Public Messaging for Travelers \(including air, sea, and land traveling\)](#) (6/24/20) (**New**)

- [Nail Salon Employees](#) (6/23/20) (**New**)
- [When to Return to Work After Exposure](#) (6/22/20) (**New**)
- [Pharmaceutical Manufacturers and Infected Employees](#) (6/22/20) (**New**)
- [Traveling in the US](#) (6/22/20) (**New**)
- [Reopening Resources for Businesses and Workplaces](#) (Updated 6/19/20)
- [Casinos and Gaming Operations](#) (6/18/20)
- [Critical Infrastructure Workers](#) (Updated 6/18/20)

### Department of Health and Human Services

- The **Department of Health and Human Services (HHS)** Coronavirus [toolkit](#) page has been updated. (**Updated 6/22/20**)
- HHS has a **tracking feature that allows public viewing of all COVID-19 HHS grants** and cooperative agreement awards on its [website](#). The grants were distributed through programs in the ACF, ACL, ASPR, CDC, DHHS/OS, HRSA, IHS, NIH, and SAMHSA. (**Updated 6/22/20**)
- The HHS Health Services and Resources Administration [released a reminder](#) to health care providers submitting a COVID-19 **reimbursement claim for testing or treatment for uninsured patients**, they have a step by step process. (6/24/20) (**New**)
- HHS [announced](#) it was **ending its funding of thirteen drive-thru testing locations** (originally set up by HHS and FEMA in March) and notes information on private testing locations. (6/24/20) (**New**)
- The HHS Administration on Children and Families (ACF) [released information](#) for parents and **families of children with disabilities** and for education staff on physical distancing. (6/24/20) (**New**)
- The HHS ACF [released strategies](#) for supporting families experiencing **homelessness and housing instability** during COVID-19. (6/24/20) (**New**)
- The HHS Office of Minority Health has [announced](#) a **cooperative agreement with Morehouse School of Medicine, including a \$40 million grant award to manage the initiative**, to focus on effective COVID-19 outreach and communication in minority communities. (6/23/20) (**New**)
- The HHS Administration on Community Living [released an online tool](#) to help **socially isolated citizens connect and engage**. The tool targets older adults, veterans, and people with disabilities and seeks to combat social isolation and loneliness. (6/23/20) (**New**)
- The HHS Office of Biomedical Advanced Research and Development Authority (BARDA) [announced](#) it has partnered with MBio Diagnostics to develop an **in vitro point-of-care serology test** for the detection of human anti-SARS-CoV-2 antibodies from whole blood samples. (6/23/20) (**New**)
- The National Institutes of Health has [halted the clinical trial of Hydroxychloroquine](#) to evaluate the safety and effectiveness for the treatment of adults hospitalized with COVID-19. (6/20/20) (**New**)
- The HHS Assistant Secretary for Preparedness and Response [released guidance](#) on considerations for resumption of services for health care facilities. (6/19/20)

## HHS/CDC/CMS/HRSA CARES Act Provider Relief Funds

- HHS has posted a [resource on Provider Relief Fund disbursements](#) to serve as summary of the key details. (6/18/20)
- HHS - the CARES Act Provider Relief Fund (PRF) [webpage](#) and [Portal](#) (**Updated 6/24/20**)
  - And the PRF [FAQs](#) (**Updated 6/22/20**) have been **updated and capture numerous modifications.**
  - **The most recent FAQ additions or clarifications include: (New)**
    - **Time Period for Use of Funds – new FAQ**
      - HHS states that it expects providers “will only use Provider Relief Fund payments for as long as they have eligible expenses or lost revenue.”
      - HHS also states that if, “at the conclusion of the pandemic, providers have leftover Provider Relief Fund money that they cannot expend on permissible expenses or losses, then they will return this money to HHS.”
    - **Clarification on Eligibility for Buyers in Asset Deals – modified FAQ** - In its FAQ on stock and asset deals, HHS clarifies that in circumstances when PRF money does not transfer to the buyer, the buyer will be eligible to apply for future PRF payments.
    - **340B Savings – modified FAQ** - HHS clarifies that patient care revenues include “savings obtained” by 340B Program enrolled providers.
    - **Safety Net Hospital Distribution – new FAQs**
      - HHS states that the data used to calculate this payment were pulled from hospital cost reports on May 27, 2020.
      - In response to a question about hospitals that underwent a change in ownership, HHS states that the hospital cost report margin data were not annualized.
    - **Expenses and Lost Revenues – modification** - In the FAQ discussing permissible uses of PRF payments, HHS reiterates that providers may use “any reasonable method of estimating” lost revenues but specifies March and April 2020.
    - **Duration of Applicability of Terms and Conditions – new FAQ** - HHS notes that the T&Cs have varying applicability timeframes, with some requirements (e.g., use of funds) that apply “until the provider has exhausted these funds.” Other T&Cs apply to a longer period (e.g., maintaining all records pertaining to PRF payment expenditures for three years from the date of final expenditure).
    - **Purchases vs. Asset Deals – new FAQ**
      - If the transaction is a purchase of an entity (e.g., purchase of stock or membership interests) that received PRF money, the **PRF recipient** may continue to use the funds, regardless of its new owner.
      - If the transaction is an asset purchase (whether for some or all of the PRF recipient’s assets), the original recipient **must** use the funds for its eligible expenses and lost revenues and return any unused funds to HHS (i.e., the PRF money does not transfer to the buyer).
      - If a bankrupt recipient is liquidated, it **must** use PRF payments for eligible expenses and lost revenues and return any unused funds to HHS.

- **Medicaid Distribution – *new FAQs***
  - HHS reiterates that a provider eligible for the General Distribution, even if it rejected the payment, is not eligible for a Medicaid Targeted Distribution payment.
  - If a provider is enrolled in Medicaid/CHIP, but did not bill Medicaid/CHIP during the eligibility window (1/1/2018–12/31/2019), may apply for this distribution as long as the provider:
    - Was not eligible for a General Distribution payment
    - Provided diagnoses, testing, or care for individuals with possible or actual cases of COVID-19 after January 31, 2020
  - If a provider has changed tax status between the most recent tax filing and the current year, the provider should use the status that was included in the most recent tax filing when applying for PRF payments
  - Patients’ out-of-pocket costs **should be reported** in the commercial payer amount or whichever category is applicable; this should **not** be separated out into the “other” field.
  - Lost revenue estimates should include revenue from all sources “that can be attributed to COVID-19”, which may include value-based payments (e.g., quality measure achievement payments that do not account for stay-at-home orders).
  - HHS clarifies that new Medicaid/CHIP providers (i.e., those who began billing between 1/1 and 5/31/2020) **are not** eligible to apply. They *may* be eligible for future allocations.
  - HHS collected 2018 and 2019 Medicaid/CHIP provider data from state and federal sources including corporate names, TINs, and payment amounts, and is using this data to validate Portal submissions. Data is not yet available for new providers who submitted claims between 1/1 and 5/31/2020.
  - Indian healthcare providers are eligible to apply for this distribution if they meet all the eligibility criteria.
  - Health care providers that bill either FFS or managed care Medicaid/CHIP **are** eligible for this distribution if they otherwise meet the other eligibility criteria.
  - It appears states have asked for HHS information on providers that received funds. HHS notes that it is currently posting payment information for providers who have attested to receiving a payment from the PRF and accepted the associated T&Cs.
  - HHS notes that all providers eligible for this distribution, *including dentists*, should apply by the 7/20/2020 deadline.
  - HHS has not determined the methodology for the dental allocation at this time but will share additional information in the future. Dental providers should not expect that there will be an advantage by applying for funds from one distribution over another. Dentists should apply for a PRF payment in the first distribution for which they are eligible.

- **Safety Net Hospitals Distribution**
      - HHS revised the FAQ on the methodology to reflect the content of the PRF webpage.
      - There will **not** be future adjustments to the cost reports using SSI ratios that were released after the 2018 cost reports were filed.
      - The Uncompensated Care Cost per bed is based on line 30.00 of W/S S-10.
      - The calculations for the distribution were based on total margins, **not** on profit.
- **HHS announced three new Provider Relief Fund allotments** completing the initial \$100 billion authorized by the CARES Act. (6/9/20) The three new allotments are:
  - \$10 billion for **safety net hospitals**. HHS has [posted the state-by-state breakdown](#). (6/9/20)
    - HHS has provided additional detail on the [Safety Net definitions and data source methodology](#). (6/16/20)
    - HHS [released additional information](#) on the hospital safety net distribution, clarifying that HHS had extracted information from the CMS Hospital Cost Reports and Provider Specific Files to identify acute care facilities and children’s hospitals that met each of the following criteria, respectively: (6/11/20)
      - **Acute Care Facilities:** A Medicare Disproportionate Patient Percentage of 20.2% or greater; Annual uncompensated care of at least \$25,000 per bed; and Net Operating Margin of 3.0% or less.
      - **Children’s Hospitals:** A Medicare Disproportionate Patient Percentage of 20.2% or greater; Net Operating Margin of 3.0% or less.
  - \$10 billion for a **second round funding for hot spot hospitals**.
  - \$15 billion for **Medicaid and Children’s Health Insurance Program (CHIP) providers** that participate in state Medicaid and CHIP programs and have NOT received a payment from the Provider Relief Fund General Allocation and to receive funding an application must be submitted.
    - HRSA is hosting webinars on Medicaid & CHIP targeted allocation process and the webinars have noted the [application portal](#), [application instructions](#), and [application form](#). (**Updated 6/23/20**)
    - **Join the webcast to learn more about the application process.** Please pre-register to reserve a spot in the last webinar (**Still time to register for today’s call**): [Thursday, June 25 at 2:00 PM ET](#)
- The CDC has posted an [updated dataset](#) of **provider recipient specific payment** from the Provider Relief Fund **general distribution high impact targeted allocation and/or rural targeted allocation**. The dataset includes who has attested to receiving one or more payments and agreed to the terms and conditions as of June 22. (**Updated 6/23/20**)
- The CARES Provider Relief Fund **hotline** is (866) 569-3522.

## Centers for Disease Control and Prevention

- The **Centers for Disease Control and Prevention (CDC)** COVIDView [Weekly Summary](#) is available. (Updated 6/19/20)

- The CDC weekly COVID [forecast](#). (**Updated 6/23/20**)
- The CDC [U.S. testing data](#). (**Updated 6/24/20**)
- The CDC [updated](#) its information on **contact tracing and case investigation**. (**Updated 6/22/20**)
- The CDC [updated serology surveillance](#) information. (6/24/20) (**New**)
- The CDC updated its [step-by-step guide](#) for conducting a COVID-19 case investigation. (6/22/20) (**New**)
- The CDC [posted an approach](#) for monitoring and evaluating community mitigation strategies for COVID-19. (6/22/20) (**New**)
- The CDC has [updated guidance](#) for nursing homes and other long-term care facilities. (**Updated 6/22/20**)
- The CDC [announced](#) a SARS-CoV-2 Sequencing for Public Health Emergency Response, Epidemiology, and Surveillance (SPHERES), a new genomics consortium to coordinate SARS-CoV-2 sequencing across the United States. (6/18/20)
- The CDC has updated its [correctional and detention facilities FAQs](#). (6/17/20)
- The CDC has released new guidance for:
  - [Pet Stores, Pet Distributors, and Pet Breeding Facilities](#) (6/24/20) (**New**)
  - [Public Health Rapid Response Teams](#) (**Updated 6/23/20**)
  - [COVID-19 and Animals](#) (6/22/20) (**New**)
  - [COVID-19 and Food](#) (6/22/20) (**New**)
  - [General Population Disaster Shelters](#) (6/23/20) (**New**)
  - [Cleaning and Disinfecting Polling Stations](#) (6/22/20) (**New**)
  - [Contact Tracers](#) (Updated 6/21/20)

## Centers for Medicare & Medicaid Services

- The **Centers for Medicare and Medicaid Services (CMS)** latest [news alerts](#). (**Updated 6/23/20**)
  - For the latest COVID-19 related CMS guidance and FAQs visit the CMS Current Emergencies [webpage](#). (**Updated 6/24/20**)
- CMS has announced **flexibility for clinicians** participating in the Medicare Quality Payment Program (QPP) Merit-based Incentives Payment System (MIPS) due to the impact of the COVID-19 pandemic. Clinicians may submit an [extreme circumstances exception application](#) to reweight any or all of the MIPS performance categories. (6/24/20) (**New**)
- CMS [released preliminary](#) Medicare COVID-19 claims data. The released included an [FAQ on the data released](#). (6/22/20) (**New**)
- CMS released an updated [FAQ on COVID surveillance testing](#) for nursing homes and other long-term care facilities. This FAQ clarifies when laboratories need a CLIA certificate and the risks of pooled sampling procedures. (6/19/20) (**New**)
- CMS [announced](#) the membership of the 25 individuals to serve on the independent [Coronavirus Commission on Safety and Quality in Nursing Homes](#). The Commission will seek an independent review and comprehensive assessment of nursing homes' responses to COVID-19, and a report is due September 1. (6/19/20)

- CMS [announced](#) it has instructed Medicare Administrative Contractors and notified Medicare Advantage **plans to cover COVID-19 laboratory tests for nursing home residents** and patients. Medicare Advantage plans must continue not to charge cost sharing or apply prior authorization or other utilization management requirements for COVID-19 tests and testing-related services. (6/19/20)
- CMS has updated its Medicare Fee-for-Service billing [FAQs](#). (Updated 6/19/20)

## Food and Drug Administration

- FDA provides a [daily roundup](#) on COVID-19 related actions. (Updated 6/24/20)
  - FDA updated its [FAQs](#) on Testing for SARS-CoV-2 relating to the development and performance of tests for SARS-CoV-2. (Updated 6/24/20)
  - FDA [FAQs](#) on Asymptomatic testing for COVID-19. (Updated 6/24/20)
  - FDA maintains its COVID-19 [FAQs](#) for the general public. (Updated 6/19/20)
  - FDA [webpage](#) for health professionals. (Updated 6/24/20)
  - The agency also maintains a [public database](#) of drug shortages. (Updated 6/24/20)
  - The FDA has published a new [webpage on COVID-19 Educational Resources](#). (Updated 6/24/20)
- The FDA and the U.S. Department of Agriculture released a [joint statement](#) on food export restrictions pertaining to COVID-19. (6/24/20) (New)
- The FDA [released a consumer update](#) on COVID-19 and food safety. (6/23/20) (New)
- The FDA is [partnering](#) with the Critical Path Institute (C-Path) and the National Institutes of Health's National Center for Advancing Translational Sciences (NCATS) on the CURE Drug Repurposing Collaborative (CDRC). The CDRC is a forum for the exchange of clinical practice data to inform potential new uses of existing drugs for areas of high unmet need. The pilot project will focus on COVID-19. (6/23/20) (New)
- The FDA has [released guidance](#) for drug and biologic industries on good manufacturing practice considerations for responding to COVID-19 infection. (6/22/20) (New)
- The FDA [issued guidance](#) called "Effects of the COVID-19 Public Health Emergency on Formal Meetings and User Fee Applications for Medical Devices – Questions and Answers." (6/22/20) (New)
- The FDA posted a [webpage on 3D](#) printing and rapid response to COVID-19. (6/19/20) (New)
- The FDA [issued a letter to clinical laboratory and health care provider staff](#) recommending they stop using COVID-19 antibody tests that are listed on the FDA's "removed" test list. (6/19/20) (New)
- The FDA posted a [fact sheet](#) on convalescent plasma. (6/19/20) (New)
- The FDA [advises consumers](#) not to use any hand sanitizer manufactured by Eskbiochem. (6/19/20)

## Department of Homeland Security/FEMA

- The Department of Homeland Security (DHS) posts a [weekly update](#) of its response to COVID-19. (Updated 6/22/20)

- The Federal Emergency Management Administration (FEMA) has [cancelled the annual national test](#) called the 2020 Integrated Public Alert & Warning System due to the ongoing pandemic response. (6/19/20)
- FEMA [announced it was phasing out](#) Project Airbridge. Project Airbridge served as FEMA's program to shorten medical supply distribution for key COVID-19 supplies. (6/19/20)

## Small Business Administration

- Small Business Administration (SBA) [announced it had reopened](#) the **Economic Injury Disaster Loan** and the Advance Program to small businesses and nonprofits. (6/15/20)
- The SBA **Paycheck Protection Program (PPP)**:
  - **Reminder: Small businesses must apply with a lender to be eligible for PPP funding by June 30. (New)**
  - The PPP borrower [application form](#) has been revised. (6/24/20) **(New)**
  - The PPP lender [application form](#) has been revised. (6/24/20) **(New)**
  - The SBA has released [interim final rule on additional eligibility](#). **(Updated 6/24/20)**
  - The SBA [released interim final rule revisions](#) to the loan forgiveness interim final rule and SBA loan review procedures interim final rule. (6/22/20) **(New)**
  - The SBA [guidance on refinancing](#) of Economic Injury Disaster Loans (EIDL) with PPP Loan Proceeds and Lender remittance of EIDL refinance proceeds to the SBA. (6/19/20) **(New)**
  - The SBA, jointly with the Department of Treasury, has [released a statement](#) that they will be **releasing the business names and loan range**, as well as demographic and location information. The announcement noted that steps would be taken to protect personally identifiable information. (6/19/20)
  - The SBA has launched a [Lender Match tool to aid small businesses](#) and non-profits to be matched with Community Development Financial Institutions (CDFIs), Minority Depository Institutions (MDIs), Certified Development Companies (CDCs) Farm Credit System lenders, microlenders, and traditional smaller asset size lenders. (6/19/20)

## Department of Treasury/IRS/Federal Reserve

- The Department of Treasury [website](#) for **CARES Act** business assistance programs.
- The Internal Revenue Service (IRS) [announced](#) rollover relief for required minimum distributions from **retirement accounts** that were waived under the CARES Act. (6/23/20) **(New)**
- The Federal Reserve and other federal and state regulatory agencies [issued guidance](#) for assessing **safety and soundness of financial institutions** considering the stress and impact from the pandemic. (6/23/20) **(New)**
- The IRS [released Notice 2020-50](#) to clarify the enhanced retirement plan distributions and plan loans as authorized under the CARES Act. This includes expanding the categories of individuals eligible for these types of distributions and loans and providing guidance on how qualified individuals will reflect the tax treatment of these distributions and loans on their federal income tax filings. (6/19/20)

- The recent IRS guidance to expand the medical condition exception, also provides a COVID-19 medical condition travel exception. A&B [translates this IRS guidance](#) to offer a better understanding of the IRS procedures and FAQs covered in the recent information. (6/16/20)

## Other Agencies

- The U.S. Department of Agriculture has [awarded](#) \$86 million in **rural broadband** service grants in eight states. (6/24/20) (**New**)
- The U.S. Department of Commerce Economic Development Administration began [awarding grants](#) to eligible county and metropolitan communities this week under the CARES Act to **boost economic recovery**. (6/24/20) (**New**)
- The Consumer Financial Protection Bureau (CFPB) [issued its interim final rule on loss mitigation](#) options for home owners to “transition out of financial hardship” caused by COVID-19. (6/23/20) (**New**)
- The Federal Communications Commission [approved](#) an additional 77 **telehealth funding** applications totaling \$29.41 million in 44 states. (6/24/20) (**New**)
- The Federal Trade Committee (FTC) and SBA [sent warning letters](#) to six companies that may be **misleading small businesses seeking SBA loans as a result of the COVID-19 pandemic**. The warning letters detail the claims that could lead small businesses to believe the companies are affiliated with the SBA, or that small businesses can apply on their websites for loans through the Paycheck Protection Program (PPP) or other programs authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The FTC and SBA warn the letter recipients to take immediate action to remove deceptive claims, to remediate any harm to consumers, and to notify the FTC within 48 hours about the specific actions they took to address the agency’s concerns. (6/24/20) (**New**)
- The FTC filed a [complaint](#) on June 16 in U.S. District Court for the Eastern District of Louisiana against a Louisiana-based company that **allegedly deceived consumers with mailers that claimed to direct them on how to obtain federal COVID-19 stimulus benefits**, but instead lured them to a used car sale. The mailing envelopes were labeled “IMPORTANT COVID-19 STIMULUS DOCUMENTS” and led consumers to believe they could obtain stimulus relief temporarily in person at a “relief headquarters” in Florida. When consumers showed up to the address, they only found a lot hosting a car sale. The FTC is seeking injunctive relief to stop the defendants’ actions and to require them to provide redress to their consumers. (6/16/20)
- The U.S. Department of Housing and Urban Development (HUD) [announced](#) it was awarding \$962,160 in grants to state and local fair housing organizations in nineteen states as authorized by the CARES Act. (6/24/20) (**New**)
- The **Department of Labor** will [host a webinar](#) on coronavirus-related sick leave requirements for business owners, employers and other stakeholders. **The webinar will be held on June 30, 9:30am to 10:30am CDT.** (6/23/20) (**New**)
- The Department of Labor [developed an online tool](#) to help employees determine eligibility for **paid sick leave** due to coronavirus. (6/23/20) (**New**)
- The Department of Justice [released a statement that a Texas man has been charged](#) with fraudulently seeking \$13 million in PPP loans. (6/24/20) (**New**)

- The Department of Transportation [announced it had approved](#) a request from Sun Country for an exemption from the CARES Act airline service obligations through September 30. (6/19/20) **(New)**

## Business Insurance Issues Related to COVID-19

- For a **50-state review of business interruption insurance related issues** see this new COVID-19 [Insurance Litigation and Regulatory Issues tracker](#). (Weekly update 6/21/20)
- On June 15, Lief Cabraser Heimann & Bernstein, LLP filed a complaint on behalf of its client Atelier 1 2 3 Restaurant LLC dba Atelier Crenn against insurers Farmers Group Inc. and Truck Insurance Exchange alleging that Farmer’s Group Inc. wrongfully denied plaintiff’s claim for business interruption coverage. **Plaintiff argues that the denial of coverage was “part of a premeditated strategy by Defendant to deny all claims related to the ‘shelter in place’ orders and COVID-19.”** Plaintiff claims that the policies at issue provide coverage for several reasons, including because the shelter in place orders resulted in a loss of access to the insured premises necessitating a suspension of business operations. Plaintiff asserts claims for breach of contract, breach of covenant of good faith and fair dealing, unfair business practices under California’s Unfair Competition Law, and declaratory relief. The case is *Atelier 1 2 3 Restaurant LLC, et al. v. Farmers Group Inc., et al.*, No. CGC-20-584762 (San Francisco Cnty. Sup. Ct., filed June 15, 2020).
- On June 15, Society Insurance moved to dismiss Rising Dough, Inc.’s putative class action alleging wrongful denial of business interruption coverage. **Society cited several grounds for dismissal including that the policy did not provide business income or extra expense coverage because COVID-19 did not cause “direct physical loss of or damage to covered property.”** Moreover, Civil Authority coverage did not exist because Plaintiffs’ alleged losses were not caused by an order of civil authority prohibiting access to the premises on grounds of either damage to other property or a dangerous physical condition. The docket entry is *Rising Dough, Inc. v. Society Insurance*, No. 2:20-cv-00623-JPS (E.D. Wis.), Dkt. No. 20.

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For background and the most up-to-date information, please visit the Centers for Disease Control and Prevention Coronavirus Disease 2019 website: [HERE](#). The additional federal agency links are provided by the White House Coronavirus Task Force:

### What You Should Know:

- [How to Protect Yourself & Others](#)
- [What to Do If You Are Sick with COVID-19](#)
- [Symptoms](#)
- [Facts about COVID-19](#)
- [Guidance Documents](#)

## **Information for Businesses:**

- [Information for Communities, Schools, and Businesses](#)
- [Workplaces during the COVID-19 Pandemic](#)
- [Cleaning and Disinfecting Your Facility](#)
- [Worker Safety and Support](#)
- [COVID-19 Critical Infrastructure Sector Response Planning](#)
- [General Business Frequently Asked Questions](#)
- [Information for Small Businesses](#)
- SBA: [COVID-19 Resources](#)
- Treasury: [Assistance for Small Businesses](#)
- DOL: [Guidance for Preparing Workplaces for Coronavirus](#)
- DOL: [COVID-19 and the American Workplace](#)
- DOL: [OSHA Resources for Workers and Employers on COVID-19](#)
- WHO: [Get Your Workplace Ready for COVID-19](#)
- CISA: [Risk Management for COVID-19](#)
- CISA: [Telework Guidance and Resources](#)
- CISA: [Guidance on the Essential Critical Infrastructure Workforce](#)

## **Information for Travel and Transportation:**

- [Information for Travel](#)
- [Travel in the United States](#)
- [Public Health Considerations for Reopening Mass Transit During the Covid-19 Pandemic](#)
- [COVID-19 Travel Recommendations by Country](#)
- [Travel Restrictions to Prevent the Spread of Disease](#)
- [Airline Guidance](#)
- [Cruise Ship Guidance](#)
- [Cargo Ship Guidance](#)
- [Maritime Resources](#)
- [Returning from International Travel](#)
- [Travelers Returning from Cruise Ship and River Cruise Voyages](#)
- [Travel: Frequently Asked Questions and Answers](#)
- [Travelers Prohibited from Entry to the United States](#)
- [Communication Resources for Travelers](#)
- State: [Travel Advisories](#)
- State: [Traveler's Checklist](#)
- State: [Smart Traveler Enrollment Program](#)
- DOT: [FAQs from FTA Grantees Regarding COVID-19](#)
- DOT: [Expanded Emergency Declaration](#)
- FAA: [Guidance for Air Carriers and Crews](#)

## **Information for Healthcare Providers, First Responders, and Research Facilities:**

- [Information for Healthcare Professionals](#)

- [Guidance for U.S. Healthcare Facilities](#)
- [Evaluating and Testing](#)
- [Staffing Resources](#)
- [Clinical Care Guidance for Healthcare Professionals](#)
- [Infection Control Guidance for Healthcare Professionals](#)
- [Preparedness Tools for Healthcare Professionals](#)
- [Strategies to Optimize the Supply of PPE and Equipment](#)
- [Potential Exposure in a Healthcare Setting](#)
- [Training for Healthcare Professionals](#)
- [Clinical Questions about COVID-19: Questions and Answers](#)
- [Pandemic Preparedness Resources](#)
- [Reporting Cases of COVID-19](#)

## Alston & Bird Coronavirus Links

- Alston & Bird Coronavirus [Response & Relief](#) Web page
- To [Subscribe](#) to Alston & Bird Advisories
- For Alston & Bird [COVID-19 Insights and Events](#)
- **Previous Alston & Bird Coronavirus Advisories** (not included in the above)
  - **June 8**
    - [Into the Unknown: Employee Retention Credits Remain Murky](#)
  - **June 5**
    - [Environmental, Land Use & Natural Resources Advisory: President Issues Executive Order on Expediting Infrastructure Investments](#)
    - [What's in Store: A&B Review of the Challenges for Retailers During COVID-19](#)
  - **June 3**
    - [Grand Reopening: Guidelines for Resuming Business Operations in California Amid COVID-19](#)
  - **June 1**
    - [Federal Tax Advisory: Disaster Losses](#)
  - **May 29**
    - [Environment, Land Use & Natural Resources Advisory: Emergency Rule 9 Amendment Provides Deadlines for Statutes of Limitations](#)
  - **May 22**
    - [A&B Environment and Land Use Briefing: COVID-19 Articles Included](#)
  - **May 21**
    - [Prescribing Paid Sick Leave -- An Important Tool for Primary Care During the Pandemic: JAMA Health Forum](#)
  - **May 18**
    - [International Tax Advisory: Proposed Treasury Regulations Clarify UBTI "Silo" Rule](#)
    - [Financial Services Litigation / Financial Services & Products Advisory: CFPB Reflects on the Impact of COVID-19 and Provides a Window into Future Enforcement](#)

- **May 15**
  - [A&B Investment Management Updates, including items reflecting the impact of the coronavirus pandemic.](#)
- **May 12**
  - [Finance Advisory: Ginnie Mae Extends PTAP/C19 Assistance to Multifamily MBS Program](#)
  - [A&B Guide to Telehealth Waivers and Regulatory Flexibilities](#)
  - [The Digital Download -- Alston & Bird's Privacy & Data Security Newsletter](#)
- **May 8**
  - [Finance Advisory: ESG During the Coronavirus Crisis -- Should You Care?](#)
  - [Health Care / Privacy & Data Security Advisory: Expansive Interoperability and Data-Sharing Requirements Require Attention Despite Delays in Enforcement](#)
  - [Financial Restructuring & Reorganization Advisory: Delaware Courts Leery of Shareholder Obstruction](#)
- **May 6**
  - [Finance Advisory: Federal Reserve Revises Main Street Lending Program, Adds Third Option](#)
- **May 5**
  - [Finance Advisory: Brexit and Its Potential Impact on Cross-Border Litigation Throughout Europe](#)
  - [Investment Management Advisory: Update on Relief Under the CARES Act for Fund Managers](#)
- **May 4**
  - [Food, Drug & Device/FDA Advisory: Examining the Drug Supply Chain -- How the Public Health Emergency Impacts DSCSA](#)
- **April 30**
  - [College & Universities Advisory: Schools Face Class Action as Parents and Students Sue for Refunds](#)
  - [White Collar Government & Internal Investigations Advisory: New PPP Funding Ups Ante for Compliance Failure--Audits on the Horizon](#)
- **April 29**
  - [Health Care / Health Care Litigation Advisory: COVID-19 A Tipping Point for Telehealth Expansion](#)
- **April 28**
  - [Labor & Employment Advisory: The New Executive Order Suspends Entry of Immigrant Visa Applicants into the U.S. for 60 days](#)
- **April 24**
  - [Commercial Litigation Advisory: COVID-19 Impacts on Statutes of Limitations](#)
- **April 23**
  - [International Trade & Regulatory Advisory: FEMA Issues Guidance on Exemptions for Critical PPE Export Restrictions](#)
- **April 22**
  - [Labor & Employment Advisory: Developing a Plan to Bring Your Employees Back to Work](#)

- **April 21**
  - [Financial Advisory: Forbearance Agreements in the age of COVID-19 and National Shelter-in-Place Orders](#)
  - [Antitrust / Mergers & Acquisitions / International Trade & Regulatory Advisory: COVID-19 Affect European Foreign Direct Investment Reviews: New EU Guidance Potentially Heralds Increased Protectionism](#)
- **April 20**
  - [Financial Advisory: FHFA Limits Servicer Advancing Obligations for Loans in COVID-19 Forbearance](#)
- **April 17**
  - ["INSIGHT: Businesses Better Brace for Post-Coronavirus Lawsuits" Bloomberg Law](#)
  - [Antitrust / Labor & Employment Advisory: Federal Antitrust Agencies Remind Businesses That Colluding on Labor Issues Remains Illegal During Pandemic](#)
  - [Labor & Employment / Health Care / Corporate & Finance Advisory: Ramping Up: What Does Restarting Look Like?](#)
- **April 16**
  - [International Tax Advisory: Risky Business - Allocating Losses When Your Supply Chain Is Disrupted](#)
  - [Finance Advisory: Ginnie Mae Expands Pass-Through Assistance Program to Finance Servicing Advances in Response to COVID-19](#)
- **April 15**
  - ["Force Majeure Clauses in the Face of COVID-19: Commercial Leasing Guidance \(CA\)," Lexis Practice Advisor](#)
  - [Federal Tax Advisory: IRS Issues COVID-19 Forbearance Guidance for REMICs and Investment Trusts](#)
- **April 14**
  - [Investment Advisory: Federal Reserve Announces Main Street Lending Program to Provide Liquidity to Small & Mid-Size Businesses](#)
  - [Investment Management Advisory: Relief Under the CARES Act for Fund Managers](#)
- **April 13**
  - ["As Pandemic Triggers Continuity Plans, What RIAs and BDs Should Ask Themselves," Financial Planning](#)
  - [FDA & Environment Advisory: Cleaning Up After COVID-19? What You Need to Know Before You Manufacture, Import, or Sell Sterilizers, Sanitizers, Purifiers, and Disinfectants](#)
  - [Securities Law Advisory: SEC Reminds Companies to Keep Their Disclosures Looking Forward](#)
- **April 10**
  - [Securities Law Advisory: ISS Offers COVID-19-Conscious Policy Guidance](#)
- **April 9**
  - [Federal Tax Advisory: IRS Provides Partnerships a Mechanism to Claim Benefit of Retroactive CARES Act Provisions](#)

- [Financial Services Advisory: Agencies Update Their Interagency Statement on Reporting Loan Modifications](#)
- [Early Securities Class Actions Highlight COVID-19 Litigation Risk \(Law360\)](#)
- [FDA Compliance & Enforcement Advisory: FDA Issues New Guidance on Supply-Chain Disruption Notifications During COVID-19 Emergency](#)
- [Financial Restructuring & Reorganization Advisory: Protecting Recoveries in a Pandemic: What Creditors Can Do Right Now](#)
- **April 7**
  - [Updated FAQs Regarding Paid Leave Obligations Under the Families First Coronavirus Response Act](#)
  - [Cyber Alert: Cybersecurity and COVID-19: Four Categories of Cyber Threats and Practical Tips in Response](#)
- **April 6**
  - [Antitrust Advisory: Production and R&D Joint Ventures in a Pandemic: Reducing Antitrust Risk](#)
  - [Financial Services Advisory: Regulatory Agencies Issue Mortgage Servicing Guidance and FAQs for the CARES Act](#)
  - [White Collar, Government Investigations Advisory: CARES Act Follows Familiar Blueprint for Oversight and Enforcement](#)
- **April 3**
  - [EU State Aid Measures in the Fight Against COVID-19 Pandemic](#)
- **April 2**
  - [USPTO Announces Additional Limited Extensions Due to the COVID-19 Pandemic](#)
  - [Deadline for Reg BI and Form CRS Compliance Remains on Track](#)
  - [What Does the Coronavirus Mean for Companies and Their Critical Offshore Services?](#)
- **April 1**
  - [Federal Tax Advisory: Downward Stock Attribution for CFC Purposes](#)
  - [Hospital EMTALA Obligations Under Recent COVID-19 Waivers](#)
  - [CMS Issues Blanket Waivers from Physician Self-Referral Law Sanctions](#)
- **March 31**
  - [Additional Families First Coronavirus Response Act Paid Leave FAQs for Employers](#)
  - [SEC Extends Timeframe for Regulatory Relief for Investment Advisers and Investment Companies](#)
  - [Responsibility for Construction Site Safety in a Coronavirus World](#)
- **March 30**
  - [Keep Mystery to a Minimum in Your SEC COVID-19 Disclosures](#)
  - [How the CARES Act Will Affect Banking During the Coronavirus Emergency](#)
  - [Economy in Chaos: Is Bankruptcy Inevitable for My Business?](#)
  - [CMS Announces Expansion of Medicare's Accelerated and Advance Payment Program](#)
- **March 27**
  - [Utilization of Electronic Signatures and Records: What You Need to Know](#)
  - [SEC Extends Conditional Filing Relief to Companies Affected by COVID-19](#)

- [COVID-19: What It May Mean for Landlords and Lenders Under Their CRE Facility Agreements](#)
- [Congress Further Expands Medicare Telehealth Benefits with the CARES Act](#)
- **March 26**
  - [USTR to Consider Additional Tariff Exclusions Due to COVID-19 Pandemic](#)
  - [COVID-19 and Price Gouging](#)
  - [SEC Continues to Keenly Monitor Insider Trading During COVID-19 Pandemic](#)
- **March 25**
  - [Is the COVID-19 Outbreak an "Act of God"? Why It May Matter for Your Contracts](#)
  - [FDA and USDA Food Safety Response to COVID-19 & DHS "Critical Infrastructure" Classification of Food and Agriculture Sector](#)
  - [Does Your Force Majeure Provision Extend to the Coronavirus?](#)
  - [Competition Authorities Across Europe Relax Competition Law Enforcement During COVID-19 Outbreak](#)
  - [COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
- **March 24**
  - [Health Care Providers with Exposure to COVID-19: What You Need to Know](#)
  - [Regulators Further Clarify Guidance Regarding Loan Modifications and Reporting](#)
  - [Avoiding Antitrust Risk as Industries Respond to the Coronavirus: Businesses Look to Collaborate & Federal Government Offers Expedited Avenues](#)
- **March 23**
  - [FDA Continues to Accelerate Availability of COVID-19 Tests](#)
  - [CFTC Issues No-Action Letter Offering Regulatory Relief for CPOs](#)
  - [Building a Case for Force Majeure in Construction Contracts](#)
- **March 20**
  - [Employee Benefits & Executive Compensation Advisory: Coronavirus Impact on Health Benefits: A Deeper Dive](#)
  - [FDA Compliance & Enforcement Advisory: FDA Temporarily Postpones Routine Domestic Inspections](#)
- **March 19**
  - [Antitrust / Mergers & Acquisitions Advisory: COVID-19 Impacts Antitrust Deal Reviews: New Procedures and Delays](#)
  - [Construction Advisory: Five Best Practices for Construction Industry Stakeholders During the Coronavirus Pandemic](#)
  - [Labor & Employment Advisory: Employee Leave Requirements Under the Families First Coronavirus Response Act](#)
  - [Labor & Employment / Health Care Advisory: Coronavirus \(COVID-19\) FAQs for Employers](#)
- **March 18**
  - [Cyber Alert: Six Practical Tips for Practicing Cyberhygiene in the Middle of a Global Pandemic](#)
  - [Advisory: Are You an "Essential Business" in California Counties Where Shelter-in-Place Order Have Been Issued?](#)

- **March 17**
  - [Finance Advisory: Coronavirus and Securitization: Disclosure and Diligence Issues](#)
- **March 16**
  - [Securities Law Advisory: SEC Provides Guidance on the Possible Impacts of COVID-19 on Annual Meetings](#)
  - [Health Care / Cybersecurity Preparedness & Response Advisory: COVID-19 and HIPAA: Privacy, Security, and Breach Response During a Global Pandemic](#)
- **March 13**
  - [Financial Services & Products Advisory: FINRA Guidance: COVID-19 and Business Continuity Planning](#)
  - [Food, Drug & Device/FDA Advisory: FDA Seeks Help to Solve Personal Protective Equipment Shortages](#)
  - [Securities Litigation Advisory: Securities Litigation Risk Arising Out of the Coronavirus Pandemic](#)
- **March 12**
  - [FDA Compliance & Enforcement Advisory: FDA Postpones Foreign Inspections Through April 2020: Considerations for Industry](#)
- **March 10**
  - [Labor & Employment / Health Care Advisory: Coronavirus, Employers, and Domestic Travel: A Complicated Business Decision](#)
- **March 6**
  - [Securities Law Advisory: SEC Provides Conditional Relief to Companies Affected by COVID-19](#)
- **March 5**
  - [Health Care Advisory: Congress Expands Medicare Telehealth Benefit Amid Coronavirus Concerns](#)
- **February 28**
  - [Labor & Employment / Health Care Advisory: The Coronavirus: Employer and Workplace Considerations](#)