

Paycheck Protection Program and Health Care Enhancement (3.5) Act – Division B – Title I – Department of Health and Human Services

Public Health and Social Services Emergency Fund (PHSSEF) (\$100 billion total)

Provider Relief Fund

\$75 billion available until expended for the Provider Relief Fund. The language of the appropriation is substantively identical to requirements for the initial \$100 billion appropriation from the CARES Act.

COVID-19 Testing and Research

\$25 billion available until expended for necessary expenses to research, develop, validate, manufacture, purchase, administer, and expand capacity for COVID-19 tests, including tests for both active infection and prior exposure, and including molecular, antigen, and serological tests. The funding may be used for:

- Manufacturing, procurement, and distribution of tests, testing and medical equipment and supplies, including personal protective equipment for test administration;
- Development and validation of rapid molecular point-of-care tests;
- Support for workforce, including increased workforce trainings, and epidemiology;
- Scaling up academic, commercial, public health, and hospital laboratories as well as emergency operation centers and surge capacity for diagnostic, serologic, or other COVID-19 test or related supplies;
- Conducting surveillance and contact tracing;
- Supporting development of COVID-19 testing plans;
- Other related activities related to COVID-19 testing;
- Grants for the rent, lease, purchase, acquisition, construction, alteration, renovation, or equipping of non-federally owned facilities to improve preparedness and response capability at the State and local level for testing; and
- Construction, alteration, renovation, or equipping of non-federally owned facilities for the production of diagnostic, serologic, or other COVID-19 tests or related tests, where HHS determines that such a contract is necessary to secure, or for the production of, sufficient amounts of such tests or related supplies.

Products purchased may, at the discretion of HHS, be deposited in the Strategic National Stockpile.

The \$25 billion is allocated as follows (unless otherwise noted, the amount is the minimum that must be appropriated):

- **\$11 billion** for COVID-19 testing to States, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes. These funds must be allocated within 30 days of enactment.
 - A portion of the \$11 billion must be allocated and distributed as follows:
 - **\$2 billion** will be allocated to States, localities, and territories according to the formula that applied to the Public Health Emergency Preparedness (PHEP) cooperative agreement in FY 2019 (see [here](#)).

- **\$4.25 billion** will be allocated to States, localities, and territories according to a formula methodology that is based on relative number of cases of COVID-19.
- **\$750 million** will be allocated in coordination with the Director of the Indian Health Service to tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes.
- HHS may satisfy funding thresholds by making awards through grant or cooperative agreement mechanisms.
- Not later than one day prior to awarding funds, HHS must submit a formula methodology to the House and Senate Appropriations Committees.¹
- The funds may be used for:
 - Necessary expenses to develop, purchase, administer, process, and analyze COVID-19 tests;
 - Supporting workforce and epidemiology;
 - Use by employers or in other settings;
 - Scaling up testing by public health, academic, commercial, and hospital laboratories
 - Community-based testing sites, health care facilities, and other entities engaged in COVID-19 testing;
 - Conducting surveillance and contact tracing; and
 - Other activities related to COVID-19 testing.
- COVID-19 testing reporting requirements:
 - Within 30 days of enactment, Governors and designees of each State, locality, territory, tribe or tribal organizations must provide HHS its plan for COVID-19 testing. The plan must include goals for the remainder of CY 2020, including:
 - Number of tests needed, month-by-month, including diagnostic, serological, and other tests, as appropriate;
 - Month-by-month estimates of laboratory and testing capacity, including related to workforce, equipment and supplies, and available tests; and
 - Description of how the State, locality, territory, tribe, or tribal organization will use its resources for testing, including as it relates to easing any COVID-19 community mitigation policies.
 - Within 21 days of enactment, and every 30 days thereafter until the end of the COVID-19 public health emergency, HHS must submit a report on COVID-19 testing to the House and Senate Appropriations Committees, House E&C Committee, and the Senate HELP Committee. The report must include:
 - De-identified and disaggregated data on demographic characteristics, including race, ethnicity, age, sex, geographic region and other relevant factors of individuals tested for or diagnosed with COVID-19; and
 - Information on the number and rates of cases, hospitalizations, and deaths as a result of COVID-19.
 - Within 180 days of enactment, HHS must issue a report including:

¹ The legislation references the \$11 billion distribution, which does not have a specific formula methodology. It is unclear whether Congress intended for the formula methodology to align with those described for the required allocations of the \$11 billion for COVID-19 testing.

- The number of positive diagnoses, hospitalizations, and deaths as a result of COVID-19, disaggregated nationally by race, ethnicity, age, sex, geographic region, and other relevant factors; and
 - Epidemiological analysis of such data.
- Within 30 days of enactment, and updated every 90 days thereafter until funds are expended, HHS, in coordination with other departments and agencies, must report on a COVID-19 strategic testing plan to the House and Senate Appropriations committees, House E&C Committee, and the Senate HELP Committee. The plan must:
 - Assist States, localities, territories, tribes, tribal organizations, and urban Indian health organizations in understanding COVID-19 testing for both active infection and prior exposure, including hospital-based testing, high-complexity laboratory testing, point-of-care testing, mobile-testing units, testing for employers and other settings, and other tests as necessary;
 - Include estimates of testing production that account for new and emerging technologies and guidelines for testing;
 - Address how HHS will increase domestic testing capacity, including testing supplies and address disparities in all communities; and
 - Outline Federal resources that are available to support the testing plans of each State, locality, territory, tribe, tribal organization, and urban Indian health organization.
- **\$1 billion** will be transferred to the “Centers for Disease Control and Prevention—CDC-wide Activities and Program Support” for surveillance, epidemiology, laboratory capacity expansion, contact tracing, public health data surveillance and analytics infrastructure modernization, disseminating information about testing, and workforce support necessary to expand and improve COVID-19 testing.
- **\$306 million** will be transferred to the “National Institutes of Health—National Cancer Institute” to develop, validate, improve, and implement serological testing and associated technologies for COVID-19 response.
- **\$500 million** will be transferred to the “National Institutes of Health—National Institute of Biomedical Imaging and Bioengineering” to accelerate research, development, and implementation of point-of-care and other rapid testing related to COVID-19.
- **\$1 billion** will be transferred to the “National Institutes of Health—Office of the Director”, which may be transferred to the accounts of the Institutes and Centers of the National Institutes of Health for the following purposes (in addition to all other transfer authority available):
 - To develop, validate, improve, and implement testing and associated technologies;
 - To accelerate research, development, and implementation of point-of-care and other rapid testing; and
 - For partnerships with governmental and non-governmental entities to research, develop, and implement these activities.
- **\$1 billion** will be available to the Biomedical Advanced Research and Development Authority (BARDA) for necessary expenses of advanced research, development, manufacturing, production, and

purchase of diagnostic, serologic, or other COVID-19 tests or related supplies, and other activities related to COVID-19 testing at the discretion of HHS.

- **\$22 million** will be transferred to the “Department of Health and Human Services—Food and Drug Administration—Salaries and Expenses” to support activities associated with diagnostic, serological, antigen, and other tests, and related administrative activities.
- **\$600 million** will be transferred to “Health Resources and Services Administration—Primary Health Care” for grants under the PHSA Section 330 Health Centers program and for grants to federally qualified health centers (FQHCs). Such grants will not be subject to certain Public Health Service Act requirements including rural to urban ratios for new access point applications or for expanded service applications, or consistent proportional distribution of certain grants (see PHSA Sections 330(e)(6)(A)(iii), 330(e)(6)(B)(iii), and 330(r)(2)(B)). HHS may specify a minimum amount for each eligible entity accepting assistance.
- **\$225 million** will be provided to rural health clinics for COVID-19 testing and related expenses. Such funds may be used for building or construction of temporary structures, leasing of properties, and retrofitting facilities as necessary to support COVID-19 testing. Such funds will be distributed using the procedures developed for the Provider Relief Fund authorized by the CARES Act, may be distributed using contracts or agreements established for such program, and will be subject to the process requirements applicable to the Provider Relief Fund. HHS may specify a minimum amount for each eligible entity accepting assistance.
- **Up to \$1 billion** may be used to cover the cost of testing for the uninsured (consistent with the language in the Families First Coronavirus Response Act).

General Provisions

- Up to \$6 million may be transferred to the HHS Office of Inspector General for oversight activities provided the Inspector General and HHS consult with the House and Senate Appropriations Committees prior to obligating the funds.
- Funds other than the \$75 billion for the Provider Relief Fund and the \$11 billion for COVID-19 testing may be transferred to and merged with other appropriation accounts under the Centers for Disease Control and Prevention, the Public Health and Social Services Emergency Fund, the Food and Drug Administration, and the National Institutes of Health for COVID-19 purposes.
- The requirements, authorities, and conditions described in sections 18108, 18019, and 18112 of division B of the CARES Act apply to the funds appropriated under the 3.5 Act.

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