



April 9, 2020

Send tips to [news@cwa-union.org](mailto:news@cwa-union.org) or [@CWANews](https://twitter.com/CWANews).

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## We Need OSHA to Protect Workers During the COVID-19 Outbreak



The Occupational Health and Safety Administration (OSHA) has been MIA during the COVID-19 outbreak and has failed to ensure employers are adequately protecting workers. Weakened CDC recommendations have taken precedence over more protective, enforceable OSHA standards. OSHA has not even appeared at any of President Trump's coronavirus press briefings. Secretary of Labor Eugene Scalia and President Donald Trump's political appointees at the Labor Department have all but abandoned America's workers at a time of crisis.

As the COVID-19 outbreak continues to sweep through our communities, workers are being faced with entirely new challenges and daily risks that endanger themselves, their families, and their communities. In a column this week, Dr. David Michaels, who ran federal OSHA from 2009 to 2017, speaks out about OSHA's lack of response during this federal emergency and describes all the ways in which OSHA must step up and protect workers.

We must demand the Trump administration and Secretary of Labor Scalia allow OSHA to do its job. OSHA must issue an Emergency Temporary Standard for Infectious Diseases to safeguard the nation's healthcare workers, first responders, and other workers whose lives are on the line before one more worker dies.

To read the full article by Dr. David Michaels, [click here](#).

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## Addressing the Impact of COVID-19



As the consequences of the COVID-19 pandemic continue to unfold, CWA members are fighting to ensure that the health, safety, and financial security of working people are not ignored in favor of policies that would only benefit the 1%.

[CWA's COVID-19 information page](#) includes action items on expanding paid family leave, increasing production of personal protective equipment, and more.

The page also contains resources on the recently passed federal legislation that mandates paid sick days and paid family leave in some COVID-19 related situations and expands unemployment benefits. The AFL-CIO has posted a state-by-state guide to assistance available to working people who have been impacted by the pandemic. It is available at <https://aflcio.org/covid-19/state-resources>.

## IUE-CWA Members Increase Pressure on GE to Boost Ventilator Production and Enhance Safety

Share This Article:   

This week, IUE-CWA members escalated their campaign demanding that General Electric address the COVID-19 pandemic by using its expertise to manufacture ventilators at its underutilized facilities. They are calling on President Trump to use his authority under the *Defense Production Act* to require GE to increase production.

Protests by members at GE facilities in Dallas, Texas; Salem, Va.; Lynn, Mass.; and Schenectady, N.Y. – standing six feet apart – were widely covered in the media.

[IUE-CWA members' safety demands](#) include the installation of proper equipment for taking the temperature of every person, employee or not, before they enter a GE facility and discussions with Union officials at both the national and plant level on how to best protect workers required to remain on the job during the COVID-19 pandemic.

"Our members are ready to help America during this COVID-19 crisis by making life-saving ventilators in our IUE-CWA represented facilities. These workers have the skills, and we have the space in our plants to do this work," said IUE-CWA President Carl Kennebrew. "Instead of laying workers off, GE should be stepping up to the plate with us to build the ventilators this country needs. In the plants that are up and running, GE also needs to keep workers safe on the job. They need to do more in the plants to make sure workers are protected while they are keeping this country running."

Sign the petition to ask President Trump to use his authority under the Defense Production Act to require that GE use its excess capacity to produce ventilators: <https://actionnetwork.org/petitions/ge/>



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## Tonight: Join the Discussion on The Fight for COVID-19 Protective Equipment

Share This Article:   

From healthcare to telecommunications, transportation, manufacturing and more, essential workers – including many CWA members – have been facing a two-front war: confronting the COVID-19 crisis, and fighting for the Personal Protective Equipment they need to keep themselves, their families, and the general public safe from harm. But it shouldn't have to be that way – and we need everyone to help in this fight.

Join us tonight, April 9, at 7pm ET/6pm CT/5pm MT/4pm PT, for a conversation with frontline CWA healthcare workers and IUE-CWA manufacturing workers on how we're uniting in the fight for PPE and how the federal government can help. The event is hosted by Congresswomen Alexandria Ocasio-Cortez, Rashida Tlaib, Ayanna Pressley, and Ilhan Omar – who will discuss how the federal government must take action to protect workers. [Click here for more information and to RSVP.](#)

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## Bargaining Update

Share This Article:   

### Frontier California

Bargaining opened this week for CWA members at Frontier Communications in California.

In his opening statement, District 9 Vice President Frank Arce noted that the COVID-19 pandemic shows that Frontier's services are more critical than ever. "This is not the time to abandon jobs in the communities of California," Arce said. "This is not the time to be lowering the standard of living or diminishing benefits or pensions. This is a time for Frontier to help the economy and provide good middle-class jobs by investing in California."

Frontier's management has driven the company into debt, and is negotiating bankruptcy terms with its creditors. Although CWA has provided concrete ideas for reducing the debt and returning the company to sound financial footing, the company has not worked with the union to address its financial issues.

Key issues for the bargaining committee include providing adequate protections to CWA members to keep them safe and healthy; maintaining and improving benefits; and preserving continued employment security and access to the jobs of the future.

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## Puerto Rico 9-1-1 Bill Protects Funds for Emergency Calls and Restores Collective Bargaining Rights

Share This Article:   

After two years of intensive lobbying and solidarity from CWA Local 3010 members, the Governor of Puerto Rico, Wanda Vazquez, signed a bipartisan bill last week that will protect public 9-1-1 funds and restore CWA members' collective bargaining that has been suspended since 2017.

"CWA is proud of this achievement. Since 2017, our 9-1-1 employees have been victims of bad legislation approved by the current administration which allowed cuts to all benefits of our collective bargaining agreement and allows the government to use 9-1-1 funds in matters not related to emergency calls. This law will restore collective bargaining rights and wages, while making sure that 9-1-1 funds will be used exclusively to handle emergency calls, in accordance with federal law and regulations," said Aramis Cruz-Domínguez, CWA Local 3010 President.

"Now CWA Local 3010 must ensure that the Department of Public Safety complies with this law. We will fight to make sure the government understands the importance of our 9-1-1 Bureau," said Cruz-Domínguez.



*Members of CWA Local 3010 have been lobbying for two years to protect public 9-1-1 funds and restore collective bargaining.*

## At A Time When Workers Need Unions More Than Ever, Trump is Making it Easier for Employers to Bust Unions

Share This Article:   

We might be in the middle of a pandemic, but the Trump NLRB is not taking a break from union busting.

Last week, the Trump NLRB rolled out new rules expected to go into effect on July 31st including eliminating a policy that allows for a delay in determining the results of a union election if an employer is accused of union-busting. Previously, if an employer was accused of engaging in threats or coercion of workers during a union representation campaign, the election could be delayed until the issue was resolved.. Another new rule would allow as few as 30% of the workers who have gained union representation through voluntary recognition to file a petition with the NLRB and hold an election to overturn recognition of the union.

CWA and other labor unions are exploring options to challenge the rule to stop it from going into effect at the end of July.

[Read more here.](#)



## In Memoriam – April 9, 2020

Share This Article:   

CWA has established [a memorial page](#) for members who have lost their lives to COVID-19.

This week we honor the memory of Richard Stewart-Johnson, a member of CWA Local 1101 who worked as a Parking Production Assistant; Gerald Hall, a member of CWA Local 4100, who worked at AT&T; Anick Jesdanun, a member of TNG-CWA Local 31222 who worked for the Associated Press; Robert Moody, a member of CWA Local 1180 who worked for the New York City Police Department of Environmental Protection; and Tony Greer, a member of CWA Local 51016 who worked for ABC at Good Morning America.

### CWA

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[cwa-union.org](http://cwa-union.org)



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Communications Workers of America, AFL-CIO, CLC.

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**Ken Saether**  
**Assistant to Vice President**  
Telecommunications & Technologies



**VIA E-MAIL**

**L – 010A**

April 3, 2020

**To: All CWA T&T Local Presidents**

**Re: FFCRA Information**

Attached is a document that explains employee rights under the Families First Coronavirus Response Act (FFCRA).

Please let us know if you have any questions.

/attachment

KS:wrc  
opeiu-2, afl-cio

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ► PAID LEAVE ENTITLEMENTS

**Generally, employers covered under the Act must provide employees:**

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

### ► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
|---|---|

### ► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



WH1422 REV 03/20



April 2, 2020

Send tips to [news@cwa-union.org](mailto:news@cwa-union.org) or [@CWANews](https://twitter.com/CWANews).

- [New COVID-19 Resources For Workers](#)
- [IUE-CWA Members Push GE to Manufacture Ventilators In-House and Improve Safety](#)
- [News Outlets Need Support to Continue Providing Life-Saving Coverage](#)
- [Maximus Call Center Workers Demand Meeting to Address COVID-19 Safety Concerns](#)
- [President Trump Should Keep His Promise to Keep Airline Workers Employed](#)
- [CWA Healthcare Workers on the Front Lines of the COVID-19 Crisis](#)
- [In Memoriam – April 2, 2020](#)

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## New COVID-19 Resources For Workers



We have been updating our [COVID-19 resource page](#) with new resources to address common questions and concerns that CWA members have as the pandemic continues to affect every aspect of our lives.

New materials this week include recommended health and safety protocols for [call center workers](#), [emergency medical service workers and first responders](#), [workers who enter customer premises](#), and [workers who interact with the public](#).

There is also information about benefits available for workers as the result of recently passed federal legislation that mandates paid sick days and paid family leave in some COVID-19 related situations and expands unemployment benefits.

Your local leadership will have the most up-to-date information on policies in place at your work location to address the COVID-19 pandemic and what action you should take if you believe you are being asked to work under unsafe conditions.

Remember, if you have been exposed to COVID-19 or are experiencing symptoms consistent with infection, contact your healthcare provider immediately and follow reporting procedures established by your employer. Also notify your CWA Local or District as soon as possible.

During this time, it is more important than ever that we be able to contact you with information that is specific to your employer or local. Please visit <https://cwaunion.wufoo.com/forms/cwa-member-information-update> to help us update our records.

[COVID-19 Resource Page.](#)



## IUE-CWA Members Push GE to Manufacture Ventilators In-House and Improve Safety

Share This Article:



On Monday, IUE-CWA members who work at General Electric [issued a set of demands](#), calling on GE to use excess capacity to manufacture much-needed ventilators in-house and implement enhanced health measures to protect members doing essential work. Members of IUE-CWA Local 81201 marched six feet apart at GE's Lynn, Mass., Aviation facility and GE's national headquarters in Boston to appeal to the company to protect workers and save lives.

"IUE-CWA has represented frontline workers at GE for several decades, workers who have manufactured some of the nation's most innovative products," said IUE-CWA President Carl Kennebrew. "We know that the highly-trained workforce at GE, regardless of their current division, is capable of stepping up to support the needs of the American people during this global pandemic and produce desperately needed ventilators. That's why we're calling on GE to put these men and women to work and manufacture the ventilators necessary to save lives."

Ventilators are desperately needed in states across the country, including New York, California, Washington, and Florida. GE is one of the nation's leading producers of ventilators, through the company's health care division. However, GE has chosen to partner with outside corporations to help transfer the needed technology as well as their experience and their knowledge of the supply chain to source ventilator parts for new production.

CWA Local 1168 Director of Health and Safety Denise Abbott, who is a Registered Nurse, joined a press call to support the demand for ventilator production. "We are in an absolute crisis. Because of supply shortages, frontline healthcare workers like me and the members of my local union cannot follow CDC safety guidelines for protective equipment," Abbot said. "As IUE-CWA members have told us, other essential workers also do not have the equipment and procedures in place to protect their health on the job. Preventing the spread of this virus is urgent, and the alarm that my union brothers and sisters are raising must be heard – and acted upon – by every employer. We are desperate. Lives are at stake."

Learn more at <https://cwa-union.org/news/releases/cwa-demands-general-electric-use-expertise-and-excess-capacity-manufacture-ventilators>.



*IUE-CWA Local 81201 members call for ventilator production and enhanced safety measures outside of GE's Lynn, Mass. facility. Photo credit: Adrienne Mathiowetz.*

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## News Outlets Need Support to Continue Providing Life-Saving Coverage

Share This Article:   

The NewsGuild-CWA is urging Congress to adopt provisions in its next stimulus package that will protect life-saving news operations from devastation. As businesses close due to COVID-19 restrictions, advertising revenue has plummeted, threatening news outlets, especially local and regional media, with extinction.

To address the crisis, The NewsGuild Executive Council unanimously approved a resolution calling for federal, state, and local governments to provide public funds and incentives to sustain news operations.

"Journalists are working on never-ending deadlines and risking their own health to provide life-saving information to a nation sheltering in place," NewsGuild President Jon Schleuss said. "News is an essential service and our country can't afford to lose it during this pandemic."

[See the NewsGuild's demands here.](#)

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## Maximus Call Center Workers Demand Meeting to Address COVID-19 Safety Concerns

Share This Article:   

Workers who are organizing to join CWA are calling on Maximus CEO Bruce Caswell and senior leadership to immediately meet (via video) with their organizing committee to address the safety precautions the company must take to protect its workers, their families, and our communities from the COVID-19 pandemic.

More than 10,000 Maximus workers at 11 call centers work in close quarters helping Americans get healthcare support.

"With these critical health and safety concerns, it's more important than ever that workers have a voice at Maximus – and that the company have an open dialogue with those demanding that voice," said CWA President Chris Shelton. "Refusing to engage in dialogue with workers is always bad policy, but especially bad policy during a pandemic. The lack of communication puts people at unnecessary risk. Maximus needs to meet with the workers' organizing committee and discuss policies that will keep workers, their families, and their communities safe."

[Click here to send a message to Maximus CEO Bruce Caswell](#) asking him to meet via video with our organizing committee to address the safety precautions the company must take to protect its workers, their families, and our communities from the COVID-19 pandemic.

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## President Trump Should Keep His Promise to Keep Airline Workers Employed

Share This Article:   

The grants for the airline industry in the [coronavirus relief act](#) that Congress passed last week are supposed to fund paychecks and benefits for two million hourly workers, including CWA members who are airport agents, reservation agents, and Flight Attendants.

Instead, President Trump's Treasury Secretary, Steve Mnuchin, is threatening to attach stock warrants to the grants, which add debt to the airlines' balance sheets, increase the risk of bankruptcy, and make it more difficult for them to accept the grants.

Congress did not intend for the grants to work this way. Tell President Trump to make sure the grants are used to save jobs, paychecks, and healthcare by signing the petition at <https://cwa-union.org/keep-airline-workers-employed>.

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## CWA Healthcare Workers on the Front Lines of the COVID-19 Crisis

Share This Article:   

CWA's 24,000 healthcare workers are on the front lines of the COVID-19 crisis. Hospitalizations are soaring, and facilities are suffering from extreme shortages of protective equipment, ventilators, tests, and healthcare staff. They face the highest probability of repeat exposure to the virus that causes COVID-19 and their lives are at risk.

On Saturday, CWA Local 1104's Lavita Thompson Payton and CWA Local 1168's Sarah Buckley gave intense, moving interviews on CNN and MSNBC about the desperate shortage of protective equipment for healthcare workers, and the need for the President Trump to use the full force of the *National Defense Production Act* to get equipment produced now.



CWA healthcare workers are also speaking out on videos that explain the urgent need for more equipment. Watch the entire series of videos and share at [https://www.youtube.com/playlist?list=PLrVc3mWU1IO8uB7uDFCBH3arsY0v7\\_atF](https://www.youtube.com/playlist?list=PLrVc3mWU1IO8uB7uDFCBH3arsY0v7_atF).

Take action. [Sign the petition to tell President Trump](#) that he must use the full force of the Defense Production Act now!

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## In Memoriam – April 2, 2020

Share This Article:



CWA has established [a memorial page](#) for members who have lost their lives to COVID-19.

This week we honor the memory of Alan Finder, a member of TNG-CWA Local 31003 who worked at *The New York Times*; Rolondo "Sonny" Aravena, a member of CWA Local 1101 who worked at Verizon; Karisma Dargan, a member of CWA Local 1182 who worked for the New York City Police Department Traffic Enforcement District; José Vázquez, a member of CWA Local 4299 who worked at Envoy Air; and Priscilla Carrow, a member of CWA Local 1180 who worked at Elmhurst Hospital.

**CWA**  
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Communications Workers of America, AFL-CIO, CLC.

## MEMORANDUM

TO: Union Members and Leaders  
FROM: AFL-CIO Staff  
RE: Highlights of H.R. 748 (CARES Act)  
DATE: March 27, 2020

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This memo highlights a few provisions we asked to be included in H.R. 748, as well as a few areas where we came up short. More detailed analyses are available at the links found throughout and at the bottom of this memo.

### WINS

- *UI Expansion.* The CARES Act [provides](#) \$250 billion to [expand](#) the unemployment insurance (UI) system, including a \$600 increase in weekly benefit checks for four months; temporary Pandemic Unemployment Assistance (PUA) benefits for the self-employed, quarantined and sick workers, and [other workers](#) ineligible for state UI (including many in leisure and hospitality); 13 weeks of extended benefits; and funding for states to waive the waiting week before workers can collect benefits.
- *Airline Provisions.* H.R. 748 [provides](#) \$61 billion for the airline sector, including \$25 billion in grants and \$25 billion in loans to passenger airlines, \$4 billion in grants and \$4 billion in loans to cargo airlines, and \$3 billion in grants to contractors. Grant money can only be used to pay worker wages and benefits; grant recipients cannot cut pay or furlough workers until September 30; and the federal government cannot condition grants or loans on the renegotiation of collective bargaining agreements.
- *Mass Transit and Amtrak.* The bill [includes](#) \$25 billion in operating assistance for mass transit and \$1 billion that will help keep Amtrak workers employed.
- *Hospitals.* The CARES Act creates a \$100 billion fund to reimburse healthcare providers for expenses or lost revenue attributable to the coronavirus and a \$27 billion fund for coronavirus preparation and response, and increases Medicare payments to hospitals by 20% to treat Medicare patients with the virus.

### LOSSES



- *No Emergency Temporary OSHA Standard or increase in OSHA inspectors.* The agency charged with ensuring that employers maintain a safe workplace has been absent in workplaces during this crisis.
- *Nothing to expand paid sick days.* The previous Coronavirus bill [left out](#) workers at small and large businesses, health care workers, and first responders, and H.R. 748 does not fill those gaps.
- *Immigrants.* H.R. 748 fails to ensure access to testing, treatment, and benefits for immigrant workers. Key provisions of the House bill were omitted—provisions that would eliminate immigrant restrictions for emergency Medicaid testing and treatment; auto-extend work permits for DACA and TPS-holders; and make all taxpayers eligible for [individual payments](#), including those who file with a tax identification number.
- *Nothing on supporting workers' pensions.* Sen. McConnell objected to the inclusion of any pension provisions.

#### FURTHER ACTION NEEDED

- *State and Local Government Assistance.* The CARES Act [includes](#) \$150 billion in assistance for state and local governments, but this money can be used only for unbudgeted COVID-19 response and not to make up for falling tax revenues. The next COVID-19 bill will have to do much more, including a further increase in the federal share of Medicaid costs.
- *Education.* The bill [includes](#) \$31 billion to support local school systems, split between K-12 and higher education, but another \$20 to \$40 billion will be necessary.
- *Personal Protective Equipment (PPE).* H.R. 748 includes \$16 billion to replenish the Strategic National Stockpile with PPE, but funding to buy unavailable equipment is not a solution. Workers are unprotected at work right now, and PPE must go directly to them, not to a stockpile. While the bill minimally funds the Defense Production Act (DPA) with \$1 billion, we are [calling](#) on the administration to use its authority under the DPA to compel private industry to ramp up production of PPE and coordinate, direct and allocate the distribution of PPE according to need.
- *U.S. Postal Service.* USPS urgently needs financial relief to continue operating through 2020, but the bill only includes a \$10 billion line of credit.

- *Medical costs.* The CARES Act requires private insurance to cover the cost of all testing, fees associated with testing, and a future vaccine with no cost-sharing. However, there is no requirement that private insurance cover the cost of treatment without cost-sharing; no guarantee of free treatment and vaccine for the uninsured; no emergency subsidy of premiums for multiemployer health plans; and no funding to fully subsidize the cost of continued employer coverage for workers who lose jobs or hours.
- *Not enough oversight of the \$454 billion credit facility for businesses.* The bodies tasked with overseeing this fund have no governance powers, leaving control solely in hands of the Treasury Secretary. The bill ostensibly includes several conditions on this financing, but it is not at all clear that these conditions will be binding or even imposed.
- *We will need to do more to keep workers in their jobs.* The bill does have some provisions for this purpose, but they are likely not enough. The bill includes \$350 billion in forgivable loans for small businesses to cover payroll expenses; funding for UI benefits for workers whose hours are reduced; and a refundable payroll tax credit for 50% of wages, available to firms or non-profits that partially or fully suspend operations.
- *Safe Options for Everyone to Vote.* H.R. 748 provides \$400 million for states to prepare for the 2020 elections, but does not require states to expand options to vote by mail or vote early. Moreover, the funding is not nearly enough for states to adapt voting to meet the crisis. The House bill would provide \$4 billion in funding for election administration and require no-excuse absentee voting.

## ADDITIONAL RESOURCES

[Here](#) is a statement on the CARES Act by President Trump.

[Here](#) is Sen. Schumer's floor statement on the CARES Act.

[Here](#) are the priorities of the labor movement in confronting the Coronavirus.

[Here](#) is the statement of the AFL-CIO Executive Council on the Coronavirus.

[Here](#) is CEPR's analysis of all three Coronavirus bills and what they are missing.

# FAMILIES FIRST CORONAVIRUS RESPONSE ACT

H.R. 6201

The House of Representatives first introduced the Families First Coronavirus Response Act (H.R. 6201) as a strong, robust bill that included paid family and medical leave for all workers and an emergency temporary standard OSHA protections for health care workers.

During negotiations, Senate Republicans and the White House put profits over people by giving into the demands of corporate lobbyists and industry trade groups to weaken these provisions.

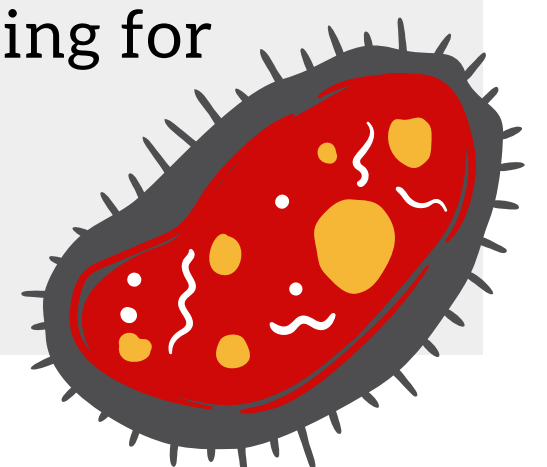
While not perfect, H.R. 6201 is critical in making sure working people facing serious health and financial risks receive the assistance we need.

...

## WHAT'S IN THE BILL?

The \$100 billion coronavirus aid package signed into law by the President:

- Includes two weeks of paid leave for both public and private sector workers if the employer has more than 50 or fewer than 500 workers;
  - Employers are required to provide two weeks of paid sick leave and up to 12 weeks of paid family and medical leave for employees affected by the coronavirus who have worked at the company for at least a month.
  - Emergency leave for workers who are unable to work or telework but have children under 18 whose school or place of care is closed, or their child care provider is unavailable because of a public health emergency.
- Provides free coronavirus testing for those who need it.
- Ensures that states that see their unemployment rates rise by at least 10% are eligible for interest-free loans to extend unemployment payments for six months beyond the usual six-month time limit.
- Suspends the work requirements for SNAP benefits.
- Allocates \$250 million in funding for home-delivery meals to seniors, \$400 million for food banks, and \$500 million to help feed families.
- Allow schools that provide free to-go breakfasts and lunches to low-income students to distribute.
- Increases federal funding for Medicaid.



# CWA

## Summary: CARES Act

After the Families First Coronavirus Act (H.R. 6201) was signed into law, legislators began working on a third package to continue to help working families during the crisis. Mitch McConnell and Senate Republicans introduced the S.3548, the CARES Act, which fell short in addressing the needs of workers. The bill provided a bailout for corporations with no protections for workers, inadequate resources for hospital and healthcare providers, and no economic relief for struggling families.

Thankfully, House and Senate Democrats fought against this corporate windfall and pushed them to move legislation that would actually benefit workers.

The result of these negotiations is a bill that still leaves a number of critical needs for workers unmet and CWA is committed to continue fighting for those vital protections and investments. But this legislation, because of Democrats in Congress, provides significant actual relief for working families. Specifically, the bill includes:

### Airlines

- \$25 billion in grants and \$25 billion in loans to the aviation industry
- A requirement that airlines maintain payroll, wages and hours through at least September
- Includes language that protects collective bargaining agreements from forced changes if an airline receives aid
- Prohibits airlines from raising executive pay or engaging in stock buybacks or dividends through September 2021
- This will keep thousands of CWA members employed through a crushing blow to the industry

### Health Care Investments

- Includes a large investment in hospitals, health system and state and local governments in this agreement, to give them the resources they desperately need during this emergency
- \$100 billion for grants to hospitals to cover the costs of unreimbursed health care treatment during the crisis
- \$1.5 billion to state and local governments for the purchase of Personal Protective Equipment and other supplies
- \$16 billion for the Strategic National Stockpile for critical medical supplies, personal protective equipment, and life-saving medicine
- \$3.5 billion to advance construction, manufacturing, and purchase of vaccines and therapeutics
- Provides \$1 billion in funding to purchase supplies through the Defense Production Act

**CWA**

### **Tax Credits for Companies Maintaining Payroll**

- Provides companies with a payroll tax credit of 50% for the first \$10,000 of wages paid to employees while not actually providing services to the company due to COVID-19

### **Individual Payments**

- Full one-time payment of \$1,200 if available to individuals making up to \$75,000 or couples making \$150,000, then decreases on a sliding scale
  - Payments are only to those with social security numbers and those who filed a 2018 tax return
- Another credit of \$500 per child is also included

### **Unemployment Insurance**

- Expands and improves the unemployment insurance program to provide much more generous benefits and ensure it covers all workers, whether they work for businesses small, medium or large, along with self-employed and workers in the gig economy
- Unemployment checks will be increased by \$600/week for four months
- Provides 13 extra weeks of unemployment for workers who remain unemployed after their benefits run out due to the pandemic

### **Mortgage/Rental Assistance**

- Prohibits foreclosures on federally-backed mortgage loans for 60 days
- Provides up to 180 days of forbearance for borrowers of a federally-backed mortgage loan who have experienced a financial hardship related to the COVID-19 emergency.
- Prohibits eviction proceedings from starting for 120 days on any federally-backed properties
- Includes more than \$7 billion for affordable housing and homelessness aid programs
- Any lender who agrees to forbearance or modification as the result of the crisis is required to submit a borrower's status as "current" to credit reporting agencies so that borrowers don't face harm to their credit as a result of this relief

### **Student Loans**

- Eliminates income tax on student loan repayment assistance by an employer
- Waives the institutional matching requirement for campus-based aid programs
- Makes changes to work study, Pell Grants, and federal student loans to ensure that students are not penalized financially or in terms of eligibility if they are unable to complete their academic year due to the crisis
- Defer student loan payments, principal, and interest for 6 months for federal student loan borrowers



### **State/Local Government Assistance**

- Contains a number of other forms of assistance in addition to hospital/health care investments
- \$30.75 billion in grants to help local school systems
- Those funds are in addition to a \$150 billion fund to States, Territories, and Tribal governments to use for expenditures incurred due to the public health emergency with respect to COVID-19 in the face of revenue declines, allocated by population proportions, with a minimum of \$1.25 billion for states with relatively small populations

### **Additional Corporate Aid**

- Much of the attention on this bill has gone to the direct aid to large corporations
- The bill still includes \$500 billion in assistance to companies (including the airline aid), but there are now additional conditions put on these loans and loan guarantees
- Bans stock buybacks and dividend payments for the term of the government assistance plus 1 year on any company receiving a government loan from the bill;
- Requires all loan recipients to keep at least 90% of employees on payroll
- Includes language that protects collective bargaining agreements from forced changes
- Only companies who have the majority of their employees in the U.S. will be eligible
- Caps executive pay at companies that receive assistance under the bill
- Requires weekly public reporting
- Prohibits businesses controlled by the President, Vice President, Members of Congress, and Cabinet Members from receiving loans or investments from Treasury programs.
- While insufficient, these conditions make it more likely that the aid will actually protect workers and jobs.

### **Elections**

- \$400 million in election assistance for the states to help prepare for the 2020 election cycle, including to increase the ability to vote by mail, expand early voting and online registration, and increase the safety of voting in-person by providing additional voting facilities and more poll- workers.

Senate Democrats have negotiated a much improved deal for working families, but more needs to be done to ensure that all workers can survive the crisis. For example, many workers remain without paid sick leave and paid family leave, OSHA protections are inadequate for our health care workers and other frontline workers, more needs to be done to ensure that health care workers have the equipment they need, and we need more support to ensure elections go forward smoothly and safely if the crisis is still ongoing this Fall.

## **Minutes and Summary of Labor Leaders Call with Congresswoman Sylvia R. Garcia**

### **Congresswoman Garcia:**

(Summarized the \$2 trillion legislation that passed the Senate yesterday evening). The bill heads to the House of Representatives, and then the President's desk.

Congresswoman outlined key provisions in the bill for workers, including:

- A nationwide investment of \$260 billion for unemployment insurance.
- Weekly unemployment payments with a \$600 increase in each payment
- A time extension for unemployment benefits-specifically, an additional 13 weeks of federally funded unemployment insurance benefits
- A nationwide investment of \$3.5 billion for child care for health care sector employees, emergency responders, sanitation workers, and other essential workers
- Protection of collective bargaining agreements across industries, even industries receiving government funds
- One-time cash payments for many Americans.
  - Individuals will receive a \$1200 cash payment.
  - An additional \$500 for each child in a household.
- The full value of those direct cash payments is available to individuals making up to \$75,000 per year.
- For married couples, the income threshold for the full value of the cash payments is \$150,000 per year.
- \$16 billion to replenish the Strategic National Stockpile, which provides supplies of pharmaceuticals, personal protective equipment, and other medical supplies—helping both patients and workers.
- These medical supplies will be distributed to state and local health agencies, and hospitals facing shortages.
- An additional \$4.3 billion towards public health agencies to prevent and respond to the coronavirus outbreak.

- This includes purchases of personal protective equipment and other public health preparedness equipment.
- Significant investments to the transit and airlines industries to ensure workers have jobs to return to once pandemic is over.
- Emergency grant funding to individuals to prevent evictions, homelessness, and hunger.

### **Question and Answer and Comment Period:**

#### **Dean Corgey from the Seafarers Union:**

- Explained that business is doing well at the Port of Houston
- Concerned about rumors he heard that Republican lawmakers were trying to make changes to the Jones Act in this stimulus legislation
- Expressed that members do not want government bailouts for cruise ship industry because many are based overseas and do not pay U.S. taxes
- Asked for more thermometers for seafarers in an effort to prevent the spread of COVID and monitor the health of workers

#### **Congresswoman Garcia and staff:**

- Will look into how union could purchase thermometers, but there is an all-around shortage of medical supplies, including thermometers
- Unaware of any specific efforts by lawmakers to amend the Jones Act at this time, but will be looking for that, just in case

#### **Mike King, President of Local 1633 at the MEDVAMC:**

- Appreciates the protections for collective bargaining
- Concerned about paid leave and general transparency
- Many workers are having to use up their leave because of the lack of child care options, so increasing paid leave options would be ideal
- Workers are concerned about supply stockpile shortage and shortage of personal protective equipment (PPE)

#### **Congresswoman Garcia:**

- This stimulus package does include significant funds to help health care workers receive more PPE and funding for efforts to increase telemedicine to lower risks of exposure for health care workers
- Expressed optimism that in a future stimulus package even more funds will be allocated for health care workers, PPE, and paid leave for health care workers

#### **Laura Perez-Boston, Workers Defense Project:**

- Concerned about lack of protections and assistance for immigrant workers, especially undocumented/unauthorized immigrant workers in this package

- These workers may or may not be protected by a union
- Food banks are having food shortages, which could also negatively impact undocumented and unauthorized workers and their families

**Congresswoman Garcia:**

- Also concerned and disappointed there are not more protections for unauthorized workers
- Explained the immigrant workers who are eligible for direct cash assistance in the stimulus bill are green card holders, H1B and H2A visa holders
- Hopes that where the government has not helped unauthorized workers, the non-profit and faith community can step in
- Stated that she and staff have been speaking with United Way and leaders in the faith community to see what efforts they are making to help all displaced and vulnerable workers during this crisis.

**Oscar Lopez, President, LU 4535M, GCC-IBT**

- Asked Congresswoman if the \$500 per child additional funds was in the form of a direct cash payment or a tax credit for next year

**Congresswoman Garcia:**

- Explained that the \$500 per child is a direct cash payment, along with the individual \$1200 cash payment/or joint cash payment to married couples, as long as the recipients also meet the income requirement

**Tom Schwarz, UFCW:**

- Explained that many grocery store workers are still coming in to work, putting themselves at increased risk of exposure since they cannot stay home
- Would like to see grocery store workers and food processing workers designated as “first responders” because they are helping everyone access food

**Congresswoman Garcia:**

- Agreed with Mr. Schwartz that grocery store and food processing workers should be designated as “first responders”
- Asked Mr. Schwartz to consult with staff after the call to discuss this proposal further

**Ace, Pipefitters Local 211:**

- Asked how Texas Senators, Cruz and Cornyn felt about multi-employer pension plan fixes in the recent legislation

**Congresswoman Garcia:**

- Explained that she believes Mr. Cruz and Mr. Cornyn were not actually a part of the recent stimulus package negotiations because it was primarily between Senate leadership and was unsure how they felt about that particular issue

**Victor Hernandez, IAM:**

- Explained that many airport workers must park remotely and then take a bus to the airport to get to work. However, the bus is usually very crowded, and therefore, many people are unable to socially distance, as the CDC recommends.
- Explained efforts to reach out to the mayor about this issue, and so far the mayor has reduced bus fares, but not yet made changes to the social distancing policy on those buses.

**Congresswoman Garcia:**

- Expressed thanks for bringing the issue to her attention
- Replied that she and staff would reach out to Mayor Turner's office to see what could be done about social distancing on the bus

**Tim Anderson, Hope 123:**

- Expressed that based on a recent digital survey among employees, many are concerned about shortage of supplies and protective equipment
- Asked the Congresswoman if there was an estimated timeframe when employees would be able to access the equipment authorized in this stimulus package

**Congresswoman Garcia:**

- Replied that it may be about two weeks or longer because the House will vote on the bill tomorrow (Friday, March 26) and then the President still must sign the bill.
- Explained that other areas of the country like New York, DC, California, and Louisiana may receive supplies sooner than Texas because the COVID-19 outbreak is more severe and more deadly there right now





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**The information in this article is current through March 18, 2020. However, given the fast changing nature of the nation's response to the COVID-19 pandemic, we acknowledge that facts will change and invite you to visit our [pandemic site](#) where we maintain up-to-date information.**

## Families First Coronavirus Response Act Becomes Law

The House and Senate have passed and President Trump has signed the Families First Coronavirus Response Act (the Act) into law. The Act, which passed with bipartisan support, seeks to ensure the safety of Americans and ease the economic toll of the 2019 Novel Coronavirus (COVID-19) by strengthening the social safety net. A summary of the most important provision for employers follows.

### Emergency Paid Sick Leave

For many employers and their employees, the most significant provision is the introduction of Emergency Paid Sick Leave. This Act requires employers with fewer than 500 employees and government employers to provide employees who are unable to work or telework with two weeks of paid sick leave, calculated using the employee's regular rate of pay, due to one of the following reasons:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- (4) The employee is caring for an individual who is subject to a quarantine or isolation order as described in (1), above, or has been advised as described in (2), above.
- (5) The employee is caring for a son or daughter whose school or place of care has been closed, or the child care provider is unavailable, due to COVID-19 precautions.
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Under the Act, an employer's obligations are limited to paid leave of \$511 per day (\$5,110 in the aggregate) where leave is taken for reasons (1), (2), and (3) above (i.e.,

an employee's own illness or quarantine) calculated using 100% of an employee's regular rate of pay, and \$200 per day (\$2,000 in the aggregate) where leave is taken for reasons (4), (5), or (6) (i.e., care for others or school closures) calculated using two-thirds of the employee's regular rate of pay.

Full-time employees are entitled to two weeks (80 hours) of leave and part-time employees are entitled to the typical number of hours that they work in a typical two-week period. The Act allows employers to exclude employees who are health care providers or emergency responders from this coverage.

Under the Act, Emergency Paid Sick Leave expires on December 31, 2020 and any unused paid leave granted by the Act does not carry over into 2021.

### **Emergency Family and Medical Leave Expansion Act**

The Act also temporarily amends the Family and Medical Leave Act (FMLA) to provide employees of employers with fewer than 500 employees and government employers who have been on the job for at least 30 days with the right take up to 12 weeks of job-protected leave for Public Health Emergency Leave.

To qualify for Public Health Emergency Leave, an employee must be unable to work or telework due to a need to care for the son or daughter under 18 years of age because the child's school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency. A "public health emergency" is defined to mean "an emergency with respect to COVID-19 declared by a Federal, State, or local authority." Note that an employee must provide advance notice as soon as practicable of a need for leave under this temporary provision when the need for leave is foreseeable.

The first ten days of leave may be in the form of Emergency Paid Sick Leave (described above) or an employee may choose to substitute accrued vacation leave, personal leave, or other medical leave during this period, but an employer may not require an employee to do so. An employee may also take unpaid leave for the first ten days. After ten days of leave, employers must continue paid Public Health Emergency Leave at a rate of no less than two-thirds of the employee's usual rate of pay. The Act limits the amount of required paid leave to no more than \$200 per day and \$10,000 in total.

As with Emergency Paid Sick Leave, the Act provides that an employer may exclude employees who are health care providers or emergency responders from Public Health Emergency Leave coverage.

As with traditional FMLA leave, this leave is job-protected, which means that an employer must return the employee to the same or equivalent position upon his or her return to work. However, there is an exception to the job protection provisions for employers with fewer than 25 employees if the employee's position does not exist after

FMLA leave due to an economic downturn or other operating conditions that affect employment caused by the COVID-19 pandemic.

Emergency Family and Medical Leave takes effect 15 days after President Trump signs the Act and will remain in effect for one year from the date of the President's signature.

The Secretary of the Department of Labor has the authority to issue regulations to: (a) exclude certain health care providers and emergency responders from the list of those employees eligible for leave; and (b) exempt small businesses with fewer than 50 employees where the imposition of these requirements would jeopardize the viability of the business as a going concern. However, how and when businesses with fewer than 50 employees will be exempt is currently unclear. Additional regulations on this issue are expected.

## **Tax Credits for Paid Sick and Paid Family and Medical Leave**

Payroll Credit for Required Paid Sick Leave. To assist employers who need to fund emergency paid sick leave, the Act provides a refundable tax credit equal to 100 percent of qualified paid sick leave wages paid by an employer for each calendar quarter. The tax credit is allowed against the tax imposed by Internal Revenue Code section 3111(a) (the employer portion of Social Security taxes).

For tax purposes, the Act distinguishes among reasons an employee is paid qualified sick leave wages. For employees who are subject to a quarantine or are seeking diagnosis or treatment with respect to COVID-19, the amount of qualified sick leave wages taken into account for each employee is capped at \$511 per day. For amounts paid to employees for the other qualifying reasons for paid sick leave (e.g., to take care of a child whose school had been closed), the amount of qualified sick leave wages taken into account for each employee is capped at \$200 per day. The aggregate number of days taken into account per employee may not exceed the excess of ten over the aggregate number of days taken into account for all preceding calendar quarters.

If the credit exceeds the employer's total tax liability under section 3111(a) for all employees for any calendar quarter, the excess credit is refundable to the employer. To prevent a double benefit, no deduction is allowed for the amount of the credit. In addition, no credit is allowed with respect to wages for which a credit is allowed under Code section 45S. Employers may also elect to not have the credit apply.

Payroll Credit for Required Paid Family Leave. To assist employers who need to fund paid Public Health Emergency Leave, the Act also provides a refundable tax credit equal to 100 percent of qualified Public Health Emergency Leave wages paid by an employer for each calendar quarter. The tax credit is allowed against the tax imposed by Code section 3111(a) (the employer portion of Social Security taxes). Qualified

wages are wages required to be paid by the Emergency Family and Medical Leave Expansion Act.

The amount of qualified family leave wages taken into account for each employee is capped at \$200 per day and \$10,000 for all calendar quarters. If the credit exceeds the employer's total liability under Code section 3111(a) for all employees for any calendar quarter, the excess credit is refundable to the employer.

To prevent a double benefit, no deduction is allowed for the amount of the credit. In addition, no credit is allowed with respect to wages for which a credit is allowed under Code section 45S. Employers may again elect to not have the credit apply

Any wages paid for emergency paid sick or emergency family and medical leave under the Act are not considered wages for purposes of Code section 3111(a).

The tax credits for emergency paid sick leave and emergency paid family leave will be available through December 31, 2020 and will apply on any day selected by the Secretary of the Treasury (but no later than 15 days after the Act is signed into law).

## **Other Relevant Provisions**

Coverage of Testing for COVID-19. Private health plans must provide coverage for COVID-19 diagnostic testing, including the cost of a provider, urgent care center and emergency room visits in order to receive testing, at no cost to the consumer and without prior authorization or other medical management requirements.

TRICARE, Coverage for Veterans, Coverage for Federal Workers and Native Americans. The Act also ensures that individuals enrolled in TRICARE, covered veterans, and federal workers have coverage for COVID-19 diagnostic testing without cost-sharing.

*The intent of this article is to provide general information on employee benefit issues. It should not be construed as legal advice and, as with any interpretation of law, plan sponsors should seek proper legal advice for application of these rules to their plans.*

# **Overview of Key Provisions of CARES Act**

## **Lending Program for Businesses and Local Government**

The Act provides \$500 billion for loans, loan guarantees, and other investments to certain, specified industries. Funds will be distributed through (1) direct lending and (2) Federal Reserve lending. The lending opportunities are subject to a host of oversight mechanisms.

The Act provides for the following direct loans: \$25 billion for passenger air carriers and affiliated businesses; \$4 billion for air cargo carriers; and \$17 billion for businesses “critical to maintaining national security.” Direct lending is subject to specified limitations, including restrictions on the use of loans for stock buyback or dividend payments and requirements that borrowers maintain their employment levels.

In addition to direct lending, the Act authorizes \$454 billion to enable the Federal Reserve to provide loans, loan guarantees, and other investments to businesses that have not otherwise received “adequate economic relief” under the CARES Act. Assistance provided under this program is also subject to requirements, including the requirement that funds be used to retain the recipient’s workforce.

## **Small Business Relief Measures**

The CARES Act authorizes \$349 billion for the Paycheck Protection Program, which authorizes the Small Business Administration (SBA) to provide forgivable loans to small businesses, 501(c)(3) nonprofits, 501(c)(19) veterans organizations, and certain tribal entities to use for payroll expenses, such as employee salaries, paid sick or medical leave, insurance premiums, and mortgage, rent, and utility payments. The loan forgiveness option is structured to incentivize employers to keep their employees on the payroll. The amount of paycheck protection loans that will be forgiven will be reduced proportionally by any reduction in the employees or significant reduction in employee pay.

The bill also authorizes \$10 billion to provide emergency grants (up to \$10,000) for eligible small businesses under SBA’s Economic Injury Disaster Loans (EIDL) program. The emergency grants are available to EIDL applicants even if the applicant is subsequently denied an EIDL. Grant funds may be used to provide paid sick leave to employees, maintain payroll, meet increased costs to obtain materials, make rent or mortgage payments, and repay obligations that cannot be met due to revenue losses.

## **Health Care System Investments**

The Act provides \$100 billion to reimburse health care providers for expenses or lost revenues as a result of COVID-19. The legislation further provides funding for medical research, equipment, and training, as well as increased Medicare payments to hospitals and providers.

## **State and Local Government Support**

The Act provides for \$150 billion in aid to states and local governments. Funds will be allocated proportionally, but each state will receive at least \$1.25 billion. The bill sets aside \$3 billion for U.S. territories, including Washington, DC, and \$8 billion for tribal entities.

## **Economic Development Agency Funding**

Under the Act, the Department of Commerce’s Economic Development Agency will allocate \$1.5 billion to private sector companies and local and state governments for “economic assistance programs.” This funding can be used for a variety of purposes, including commercial and commuter transportation, tourism, manufacturing, and infrastructure. EDA funds are usually used to leverage private sector financing. Investors in Opportunity Zones should be eligible for this funding.

## **Emergency Appropriations**

The Act contains over \$300 billion in new emergency funding for federal agencies to use toward programs targeted to help strained state, local, and tribal governments (in addition to the \$150 billion set aside);

hospitals and health care providers; law enforcement and first responders; schools and universities; research centers; and small businesses.

### **Tax Benefits for Employers**

The CARES Act provides a host of tax benefits for employers designed to incent and assist businesses to maintain their payroll during the COVID-19 crisis. Measures include:

**Employee Retention Credit:** The CARES Act provides a refundable payroll tax credit worth 50 percent of employee wages paid during the COVID-19 emergency. The credit is available to employers whose (1) operations were fully or partially suspended due to a COVID-19-related shut-down order, or (2) gross receipts declined by more than 50 percent when compared to the same quarter in the prior year.

**Employer Payroll Tax Delay:** The bill allows employers and self-employed individuals to defer payment of the employer share of the Social Security tax they otherwise are responsible for paying to the federal government with respect to their employees. The deferred employment tax would be paid over the following two years.

**Net Operating Loss Modifications:** The legislation relaxes the limitations on a company's use of losses. Net operating losses (NOL) are currently subject to a taxable-income limitation, and they cannot be carried back to reduce income in a prior tax year. The bill allows an NOL arising in a tax year beginning in 2018, 2019 or 2020 to be carried back five years. The bill also temporarily removes the taxable income limitation to allow an NOL to fully offset income. The bill authors have stated that these changes are intended to allow companies to utilize losses and amend prior year returns to provide critical cash flow and liquidity during the COVID-19 emergency.

### **Unemployment Insurance Expansion**

The legislation expands access to federal unemployment benefits through the creation of a temporary Pandemic Unemployment Assistance program. The program will provide payment to those not traditionally eligible for unemployment benefits (including those who are self-employed, independent contractors or with limited work history) who are unable to work as a direct result of the coronavirus public health emergency. Benefits are available for individuals who are unemployed, partially unemployed or unable to work.

This bill further provides an additional \$600 per week in unemployment benefits, on top of benefits available under other federal or state programs, for four months.

### **Individual Rebates**

Under the bill, all U.S. residents with adjusted gross income up to \$75,000 (\$150,000 for married couples), who are not a dependent of another taxpayer and have a work eligible Social Security number, are eligible for a full \$1,200 (\$2,400 for married couples) rebate as well as an additional \$500 per child. This rebate is allowed even for those who have no income, as well as those whose income comes entirely from non-taxable means-tested benefit programs, such as SSI benefits.

For the majority of Americans, no action on their part will be required in order to receive a rebate check as the IRS will use taxpayers' 2019 tax return, if filed, or in the alternative their 2018 return.

The rebate amount is reduced by \$5 for each \$100 that a taxpayer's income exceeds the phase-out threshold. The amount is completely phased-out for single filers with incomes exceeding \$99,000, \$146,500 for head of household filers with one child, and \$198,000 for joint filers with no children.

### **Outlook for Future Stimulus Legislation**

Leaders in Congress are already at work crafting new legislation with the expectation that additional funds will be needed to combat the coronavirus pandemic.

Source: <https://www.pillsburylaw.com/en/news-and-insights/care-act-analysis-covid-19.html>

## The CARES Act

### Top 10 Takeaways:

1. Provides stimulus to individuals, businesses, and hospitals in response to the economic distress caused by the coronavirus (COVID-19) pandemic.
2. Creates a \$349 billion loan program for small businesses, including 501(c)(3) non-profits and physician practices. These loans can be forgiven through a process that incentivizes companies to retain employees.
3. Allocates \$500 billion for assistance to businesses, states, and municipalities, with no more than \$25 billion designated for passenger air carriers, \$4 billion for air cargo carriers, and \$17 billion for businesses critical to maintaining national security. The remaining \$454 billion may be used to support lending to eligible businesses, states, and municipalities.
4. Allocates \$130 billion in relief to the medical and hospital industries, including for medical supplies and drug and device shortages.
5. Expands telehealth services in Medicare, including services unrelated to COVID-19 treatments.
6. Provides \$1,200 to Americans making \$75,000 or less (\$150,000 in the case of joint returns and \$112,500 for head of household) and \$500 for each child, to be paid “as rapidly as possible.”
7. Expands eligibility for unemployment insurance and provides people with an additional \$600 per week on top of the unemployment amount determined by each state.
8. Expands the Defense Protection Act, allowing for a period of two years when the government may correct any shortfall in resources without regard to the current expenditure limit of \$50 million.
9. Provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations prior legislation imposed through the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, and others.
10. Accompanied by supplemental appropriations to help the government respond to this pandemic.

### Summary of the CARES Act:

A. Division A - Keeping American Workers Paid and Employed, Healthcare System Enhancements, and Economic Stabilization

#### 1. Title I – Keeping American Workers Paid and Employed Act

##### i. Paycheck Protection Program

- The Paycheck Protection Loan Program, at a price tag of \$349 billion, covers the period February 15, 2020 through June 30, 2020 and greatly expands SBA loan eligibility. The loan program will allow



businesses suffering due to the coronavirus outbreak to borrow money for a variety of qualified costs related to employee compensation and benefits, including (i) payroll costs, (ii) continuation of health care benefits, (iii) employee compensation (of those making less than \$100K), (iv) mortgage interest obligation, (v) rent, (vi) utilities and (vii) interest on debt incurred before the covered period.

- The legislation greatly expands the number of businesses that are eligible for SBA loans and raises the maximum amount for such a loan by 2.5 x the average total monthly payroll costs, or up to \$10 million. The interest rate may not to exceed 4%.
- Companies that employ more than 500 employees are not eligible.
- Waives the credit available elsewhere and person guaranty requirements.
- Provides additional relief for businesses in the accommodation and food services industries, certain franchise business and small businesses that receive financing through the Small Business Investment Company Act.
- For eligibility purposes, requires lenders to, instead of determining repayment ability, which is not possible during the crisis, to determine whether a business was operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes, or a paid independent contractor.

## **ii. Entrepreneurial Development**

- Provides funding to educate small businesses and their employees regarding (i) Federal resources available during this time, (ii) Hazards of COVID-19 and (iii) best practices around teleworking to prevent the spread of COVID-19.

## **iii. State Trade Expansion Program**

- Allows for federal grant funds appropriated to support the State Trade Expansion Program (STEP) in FY 2018 and FY 2019 to remain available for use through FY 2021.

## **iv. Waiver of Matching Funds Requirement under the Women's Business Center Program**

- Eliminates the non-federal match requirement for Women's Business Centers for a period of three months.

## **v. Loan Forgiveness**

- Establishes that the borrower shall be eligible for loan forgiveness equal to the amount spent by the borrower during an 8-week period after the origination date on (i) rent, (ii) payroll costs for employees making less than \$100K, (iii) interest on a mortgage, and (iv) utility payments. The amount forgiven may not exceed the principal of the loan.
- Incentivizes companies to retain employees by reducing the amount forgiven proportionally by any reduction in employees retained compared to the prior year.

- To encourage employers to rehire any employees who have already been laid off due to the COVID-19 crisis, borrowers that re-hire workers previously laid off will not be penalized for having a reduced payroll at the beginning of the period.

#### **vi. Minority Business Development Agency**

- Empowers the Department of Commerce, through the Minority Business Development Agency, to provide grants to minority business centers and minority chambers of commerce to provide education, training and advising related to accessing federal resources.

#### **vii. United States Treasury Program Management Authority**

- The Department of the Treasury, consulting with the Small Business Administration and the Chairman of the Farm Credit Administration shall establish criteria to allow other lenders to participate in the Paycheck Protection Program, so long as such participation does not threaten the safety and soundness of the lender, as determined in consultation with the relevant federal banking agencies.

#### **viii. Emergency Economic Injury Disaster Loans (“EIDLs”)**

- For the period between January 31, 2020 and December 31, 2020 (the “covered period”) EIDL eligibility is expanded to individuals operating sole proprietorships, independent contractors, cooperatives, non-profits and ESOPs with not more than 500 employees.
- Furthermore, EIDLs may be approved by the Small Business Administration solely on the bases of an applicant’s credit score or by use of alternative methods to gauge the applicant’s ability to repay. Additionally, applicants may request an advance of up to \$10,000 within three days after the Administrator receives the application, subject to verification that the entity is eligible under this program. The advance may be used for any allowable purposes under §7(b)(2) of the Small Business Act and is not subject to repayment, even if the loan request is ultimately denied.
- Establishes that an emergency involving Federal primary responsibility determined to exist by the President under Section 501(b) of the Stafford Disaster Relief and Emergency Assistance Act qualifies as a new trigger for EIDLs.

#### **ix. Subsidy for Certain Loan Payments**

- For loans under §7(a) of the Small Business Act, Title V of the Small Business Investment Act, and for loans made by an intermediary using §7(m) loans or grants, the Administrator shall pay the principal, interest, and fees owed for loans in regular servicing status for any such loans, whether on deferment or not, that were made before the enactment of the Act for the following 6-month period, and for any such loans that were made between the date of enactment of the Act and six months from such date.
- This authority to pay shall extend to loans resold on the secondary market. The payments shall be made not later than 30 days from when the first payment is due and shall be applied such that the borrower is

relieved of any obligation to pay that amount. The Administrator shall coordinate with relevant banking agencies to request that lenders not be required to increase reserves because of these payments.

- The Administrator will waive limits on the maximum loan maturities for loans given deferral and extended maturity during the year following enactment. The Administrator will extend lender site visit requirement timelines as necessary because of COVID-19, to within 60 days of a non-default adverse event, and 90 days of a default. \$17 billion is appropriated for the foregoing.

## **x. Bankruptcy**

- Section 1182(1) of Title 11 is amended to define “debtor” as persons engaged in commercial or business activities and their affiliates (excluding persons who primarily own single asset real estate) that have aggregate, noncontingent, liquidated secured and unsecured debts (at the date of petition filing or the order for relief) of \$7,500,000 or less (excluding debts owed to affiliates or insiders), half or more of which arose from those activities.
- Exempt from this new definition are any members of a group of affiliated debtors that has aggregate, noncontingent, liquidated secured and unsecured debts over \$7,500,000 (excluding debt owed to affiliates or insiders); corporations subject to 1934 Act reporting requirements; and affiliates of an issuer under the 1934 Act.
- National Emergency Act payments for COVID-19 by the President are exempted from “current monthly income” and “disposable income” when determining the power of courts to approve debtor plans rejected by trustees or claim holders.
- Debtors that have experienced material financial hardship due to COVID-19 can modify a plan confirmed prior to this Act’s enactment date if approved after notice and hearing, but only if that plan doesn’t provide payments more than seven years after the first payment was due under the original plan, and follows requirements of 1322(a)-(c) and 1325(a). This modification terminates one year after the enactment of this Act.

## **2. Title II – Assistance for American Workers, Families, and Businesses**

### **i. Subtitle A: Unemployment Insurance Provisions**

- **Eligibility**
- The law expands the scope of individuals who are eligible for unemployment benefits, including those who are furloughed or out of work as a direct result of COVID-19, self-employed or gig workers, and those who have exhausted existing state and federal unemployment benefit provisions.
- The only individuals expressly excluded from coverage are those who have the ability to telework with pay and those who are receiving paid sick leave or other paid benefits (even if they otherwise satisfy the criteria for unemployment under the new law).
- **Administration of Benefit**

- The benefits are administered by each state and upon the state's written agreement with the Secretary of Labor to provide the specific benefits. States that enter into such an agreement with the Secretary of Labor will be reimbursed in whole or in part for the cost of the benefits plus administrative expenses

- **Types of Benefits Provide**

- The law provides an increase of \$600 per week in the amounts customarily available for unemployment under state law. This increase applies for unemployment payments made from the date of the law's enactment through July 31, 2020 (approximately four months).
- States can agree to provide pandemic emergency unemployment compensation to individuals who have either exhausted all of the benefits available to them under existing state and federal law or who are not otherwise eligible for benefits under existing state and federal law. Individuals must be able and available to work and actively seeking work, unless they are unable to do so as a result of COVID-19 illness, quarantine, or movement restriction.
- States can agree to waive the waiting period for receipt of benefits so that individuals do not experience gaps in income.
- The federal government will temporarily fund short-time compensation under existing state plans. States that do not yet have short-time compensation plans in place may agree to implement a plan, provided that employers who enter into short-time compensation plans must be required to pay to the state half of the short-time compensation paid under the plan

- **Time Periods for Expanded Benefits**

- The law provides unemployment benefit assistance to covered individuals who are not otherwise entitled to benefits under existing state or federal law for weeks of unemployment, partial unemployment, or inability to work caused by COVID-19 during the period January 27, 2020 through December 31, 2020. This includes any waiting periods for benefits under applicable state law.
- The total benefit may not extend beyond 39 weeks (including any unemployment benefits or extended benefits received under existing state or federal law), unless, after the law is enacted, the duration of extended benefits is extended, in which case the total benefit may extend beyond 39 weeks by that same additional period of extended benefits.
- The \$600 weekly benefit increase will be applicable to weekly payments made through the end of July 2020.

- **Protections Against Fraud and Overpayment**

- Any fraudulent intent or misrepresentations to obtain payments to which an individual is not entitled will result in ineligibility for any other unemployment compensation benefits under the new law as well as criminal prosecution. Overpayments may be clawed back by the state agencies.

- **Social Security Treatment**

- The additional unemployment compensation provided is not considered "income" for purposes of Medicaid and CHIP.

## **ii. Subtitle B: Rebates and Other Individual Provisions**

- **Tax Credits**

- Eligible individual taxpayers can benefit from a tax credit of \$1,200 for single filers and \$2,400 for those filing jointly. Additionally, eligible individual tax payers can receive a \$500 tax credit per qualifying child. However, the aforementioned tax credits will be “phased-out” by 5% of every dollar the taxpayer’s adjusted gross income exceeds: (i) \$150,000 for joint-filers, (ii) \$112,500 for heads of household, and (iii) \$75,000 for all other types of filers.
- This means, for example, the tax credit will phase out entirely at \$198,000 for joint-filers with no children.

- **“Coronavirus-Related Distribution”**

- A coronavirus-related distribution, as defined under the CARES Act, is any distribution from an eligible retirement plan made: (i) on or after January 1, 2020 and before December 31, 2020, (ii) to any individual who is diagnosed with COVID-19, whose spouse or dependent is diagnosed with COVID-19, or who experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, had hours cut, or other factors as determined by the Secretary of the Treasury during the COVID-19 pandemic.

- **Tax Treatment of Coronavirus-Related Distributions**

- Individuals who elect to receive a “coronavirus-related distribution” will not be subject to the Internal Revenue Code’s traditional 10% tax penalty for early withdrawals from eligible retirement accounts, for all distributions up to an aggregate amount of \$100,000.
- Coronavirus-related distributions made from both traditional eligible employer sponsored retirement plans and individual retirement accounts (“IRAs”) may be excluded from gross income.

- **Repayments of Coronavirus-Related Distributions**

- Coronavirus-related distributions may be repaid within the three (3) year period from when such coronavirus-related distribution was made. The aforementioned repayments of coronavirus-related distributions for most retirement plans, including IRAs, will be treated favorably as a transfer to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of distribution.

- **Effects on the Limits on Loans from Qualified Employer Plans**

- The limit on loans from any qualified employer plan made to qualified individuals will be increased from \$50,000 to \$100,000, and should the due date of any such loan occur between the date of enactment of the CARES Act and December 31, 2020, it will be delayed for one (1) year.

- **Effects on Minimum Distribution Threshold**

- The CARES Act temporarily waives the minimum distribution requirements for all “eligible deferred compensation plans.” This includes: (i) certain contribution plans (e.g. an employer purchased annuity

contract), (ii) deferred compensation plans that are maintained by an eligible employer, or (iii) IRAs. This applies for all distributions made on or after January 1, 2020.

- However, if this section applies to any pension plan or contract amendments such pension plan or contract amendments will not fail to be treated as being operated in accordance with the terms of the plan to the extent solely because the plan operates in accordance with this section, so long as the amendment or contract in question has been in effect from its effective date until December 31, 2020.
- Any plan or contract amendments to which Section 2203 of the CARES Act (the section on temporary waiver of required minimum distribution rules) applies will not fail to meet the requirements of either the Internal Revenue Code or the Employee Retirement Income Security Act as a result of making such an amendment. However, this provision only applies to those amendments which are in effect during the period beginning on the effective date of the amendment until December 31, 2020.

- **Tax Treatment of Charitable Donation**

- The CARES Act allows taxpayers to take an above-the-line tax deduction for charitable contributions of up to \$300 for the tax year beginning in 2020.
- Additionally, except for certain exclusions specified below, the percentage and excess carryover restrictions on charitable and other “qualified contributions” (e.g. a contribution to a corporation, trust, a state, or an organization of war veterans, etc.) are disregarded.

- **Exceptions to the CARES Act General Disregard of the Percentage and Excess Carryover Restrictions on Qualified Contributions**

- The CARES Act treats individuals and corporations differently regarding the aforementioned exceptions, and such different treatments are described below.
- Qualified contributions for individuals will be allowed as deductions should the combined contributions not exceed the excess of the taxpayer’s adjusted gross income over the amount of the charitable contributions made by the individual that are covered by another part of the act (e.g. donations to a church, educational organization, private foundation, etc.). If these contributions exceed this excess, then they will be added to the qualified contribution excess, which is eligible to be treated as charitable deductions for up to the next five successive tax years.
- Any qualified contributions made by corporations will be allowed as deductions only if these contributions do not exceed 25% of the taxable income of the corporation over the amount of all other charitable contributions. To the extent a corporation exceeds this limit, it will carry over the excess which will be eligible to be applied as charitable contribution deductions for the subsequent five tax years. This is provided that the excess qualified contribution amounts in question meet certain other restrictions, specifically, they must not exceed the lesser of: (i) 10% of the corporation’s taxable income or the total charitable deductions taken by the corporation during the taxable year over the sum of the contributions made in such year plus the aggregate of the excess contributions which were made in taxable years before the contribution year and which are deductible under this subparagraph for such succeeding taxable year; or (ii) in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second, third, fourth, or fifth succeeding taxable year, the portion of such excess contribution

not deductible under this subparagraph for any taxable year intervening between the contribution year and such succeeding taxable year.

### **iii. Subtitle C: Business Provisions**

- **Employee Retention Credit for Employer Subject to Closure Due to COVID-19**

- Eligible employers will receive a credit against applicable employment taxes for each calendar quarter in an amount equal to 50% of the qualified wages with respect to each employee. The amount of qualified wages taken into account for each eligible employer, however, will not exceed \$10,000 per calendar quarter and the credit will not exceed the applicable employment taxes owed for such calendar quarter.
- An eligible employer is defined as any employer: (i) which was carrying on a trade or business during calendar year 2020, and (ii) the operation of their trade or business was fully or partially suspended due to governmental order as a result of COVID-19

- **Delay of Payment of Employer Payroll Taxes**

- The CARES Act will allow for most employers to defer paying their share of the social security tax from the time the CARES Act is signed into law through December 31, 2020. Half of this deferred amount would be due on December 31, 2021 and the other half by December 31, 2022.

- **Modifications for Net Operating Losses (“NOL”)**

- There will be a temporary repeal of taxable income limitation including (i) in the case of a taxable year beginning before January 1, 2021, the aggregate of the NOL carryovers to such year, plus the NOL carrybacks to such year, and (ii) in the case of a taxable year beginning after December 31, 2020, the sum of the aggregate amount of NOLs arising in taxable years beginning before January 1, 2018 and the lesser of the aggregate amount of net operating losses arising in taxable years beginning after December 31, 2017 or 80% of the excess of taxable income.
- With special rules applicable to REITs, there will be special rules for losses arising in 2018, 2019 and 2020 including such loss being a NOL carryback to each of the 5 taxable years preceding the taxable year of such loss.

- **Modification of Limitation on Losses for Taxpayers Other Than Corporations**

- For any taxpayer other than a corporation:
  - ii. For any taxable year beginning after December 31, 2020 and before January 1, 2026, any excess business loss of the taxpayer for the taxable year will not be allowed.
  - i. For a taxable year beginning after December 31, 2017 and before January 1, 2026, subsection (j) (relating to a limitation on excess farm losses of certain taxpayers) would not apply; and
- In regard to treatment of Capital Gains and Losses:
  - i. Deductions for losses from sales or exchanges of capital assets will not be taken into account.



ii. The amount of gains from sales or exchanges of capital assets taken into account will not exceed the lesser of (1) the capital gain net income determined by taking into account only gains and losses attributable to a trade or business, or (2) the capital gain net income.

- The amendments made in the aforementioned section shall apply to taxable years beginning after December 31, 2017.

- **Modification of Credit for Prior Year Minimum Tax Liability of Corporations**

- The corporate alternative minimum tax (AMT) was repealed as part of the Tax Cuts and Jobs Act, but corporate AMT credits were made available as refundable credits over several years, ending in 2021.
- The provision accelerates the ability of companies to recover those AMT credits, permitting companies to claim a refund now and obtain additional cash flow during the COVID-19 emergency.

- **Modification of Limitation on Business Interest**

- The provision temporarily increases the amount of interest expense businesses are allowed to deduct on their tax returns, by increasing the 30% limitation to 50% of taxable income (with adjustments) for 2019 and 2020. As businesses look to weather the storm of the current crisis, this provision will allow them to increase liquidity with a reduced cost of capital, so that they are able to continue operations and keep employees on payroll.

- **Qualified Improvement Property**

- The provision enables businesses, especially in the hospitality industry, to write off immediately costs associated with improving facilities instead of having to depreciate those improvements over the 39-year life of the building. The provision, which corrects an error in the Tax Cuts and Jobs Act, not only increases companies' access to cash flow by allowing them to amend a prior year return, but also incentivizes them to continue to invest in improvements as the country recovers from the COVID-19 emergency.

- **Temporary Exception from Excise Tax for Alcohol Used to Produce Hand Sanitizer**

- For distilled spirits removed after December 31, 2019 and before January 1, 2021, such distilled spirits will be free of tax for use in or contained in hand sanitizer produced and distributed in a manner consistent with any guidance issued by the FDA related to the outbreak of COVID-19.

### **3. Title III – Supporting America's Health Care System in the Fight Against the Coronavirus**

#### **i. Subtitle A, Part I: Addressing Supply Shortages**

- Provides for the National Academies to examine and report on the security of the U.S. medical product supply chain in order to assess U.S. dependence on critical drugs and devices sourced outside of the U.S., and to develop of recommendations to improve resiliency of the U.S. supply chain for critical drug and devices.

- Requires the Strategic National Stockpile to include certain types of medical supplies, including personal protective equipment (PPEs), and identifies respiratory protective devices as covered countermeasures for use during a public health emergency.
- Prioritizes the review of drug applications to mitigate emergency drug shortages.
- Creates additional reporting requirements for drug manufacturers to report a discontinuation and disruption of the sourcing of active pharmaceutical ingredients.
- Requires manufacturers of certain drugs and medical devices critical to public health during a public emergency to develop, maintain, and implement risk management plans related to shortages, creating an annual notification requirement of the same. Such manufacturers are also subject to shortage-related inspections by the Secretary of Health and Human Services (HHS).

## **ii. Subtitle A, Part II: Access to Health Care for COVID-19 Patients**

- Permits group health plans and insurers to cover and reimburse providers of diagnostic testing relating to COVID-19 at pre-emergency-period negotiated rates, and sets reimbursement rates in instances without previously negotiated rates equal to the cash price for services listed on a publicly-available website or the plan or insurer can negotiate with a provider for a rate lower than such cash price. All providers of a diagnostic test for COVID-19 are required to publicize cash price for such tests. Failure to comply with these requirements could result in HHS assessing a civil monetary penalty of up to \$300 per day.
- Requires health plans and issuers to provide for rapid coverage of “qualifying coronavirus preventative services” – an item, service, or immunization intended to prevent or mitigate coronavirus—and vaccines for coronavirus.
- Appropriates \$1.3 billion for FY 2020 for supplemental awards to health care centers for the prevention, diagnosis, and treatment of COVID-19.
- Amends Section 330I of the Public Health Service Act, relating to Telehealth Network and Telehealth Resource Centers Grant Programs, and Section 330A of the Public Health Service Act, relating to the Rural Health Care Services Outreach, Rural Health Network Development, and Small Healthcare Provider Quality Improvement Grant Programs—an individual or entity affected by these grant programs should seek out an attorney to examine the effect of such amendments.
- Limits potential state and federal liability for volunteer health care professionals—who provide services without compensation or other thing of value—for harm caused to patients relating to the diagnosis, prevention, or treatment of COVID-19. This provision expressly preempts more restrictive state or local law.
- Amends certain federal regulations governing the confidentiality and disclosure of substance use disorder patient records (Part 2), including allowing certain re-disclosures to covered entities, business associates, or other programs subject to HIPAA after obtaining the patient’s prior written consent.
- Permits a state agency or area agency on aging to transfer, without prior approval, not more than 100% of the funds received by the agency to meet the needs of the state or area served, and provides that the same

meaning shall be given to an individual unable to obtain nutrition due to social distancing as one who is homebound due to illness.

- Provides that within 180 days of the passage of the Act, the Secretary of Health and Human Services shall issue guidance on the sharing of patients' protected health information (PHI) related to COVID-19, including guidance on compliance with HIPAA regulations and applicable policies.
- Provides that the Secretary of HHS shall carry out a national awareness campaign relating to the importance and safety of blood donation, and the need of for donations for the blood supply during a public health emergency.

### **iii. Subtitle A, Part III: Innovation**

- Using competitive process, enter into transactions to carry out public-health emergency health related projects and cannot cancel those contracts even if they extend beyond the emergency.
- Includes new provisions to expedite the development and approval of drugs to prevent or treat diseases in animals that are could have significant adverse consequences for humans.

### **iv. Subtitle A, Part IV: Health Care Workforce**

- Approves appropriations for a variety of health professions-related programs, with particular focus on programs serving medically underserved populations (rural and geriatric).

### **v. Subtitle B: Education Provisions**

- Waives requirement for certain higher education institutions to match federal funding and allows certain institutions to transfer unexpended allotment.
- Permits certain higher education institutions to use their allocations of Supplemental Educational Opportunity Grants for emergency financial aid for students.
- Permits certain higher education loan borrowers flexibility in repaying loans or returning grants during a qualified emergency.
- Permits certain students to complete distance education and certain students of foreign institutions to take classes in the United States.
- Allows the Secretary of Education to issue waivers upon request relating to assessments, accountability, and related reporting requirements, and requirements for state and local educational agencies and Indian Tribes to receive funding.
- Allows the Secretary of Education to grant a deferment to an institution that received a loan under Part D of Title III of the Higher Education Act.
- Payments on student loans held by the Department of Education are suspended for 6 months, and the Secretary of Education shall suspend all involuntary collection activities during the period of payment suspension.

- The Corporation for National and Community Service can allow individuals to accrue service hours and may permit certain grants funds.
- Not more than 20% of the total amount allocated to a local area under 29 U.S.C. 3151 et seq. may be used for administrative costs.
- For the program year 2019, not more than 20% of the total amount allocated to a local area under 29 U.S.C. 3151 et seq., may be used for administrative costs of carrying out certain local workforce investment activities, if the portion of the total amount that exceeds 10% of the total amount is used to respond to qualifying emergency. For the program year 2019, certain unobligated funds reserved by a governor for statewide activities under the Workforce Innovation Opportunity Act may be used for statewide rapid response activities, or in certain circumstances, released to local boards impacted by the coronavirus.
- Gives the Secretary of Education authority to waive certain eligibility requirements, wait periods, and allotment requirements under the Higher Education Act for a period of time.
- Authorizes the Secretary of Education to modify the required and allowable uses of funds for grants and to modify any federal share or other financial matching requirement for a grant awarded under certain provisions of the Higher Education Act to an institution of higher education or other grant recipient (not including an individual recipient of Federal student financial assistance) as a result of a qualifying emergency.
- Allows the Secretary of Education to modify the categories of extenuating circumstances under which a grant recipient may be excused from fulfilling a portion of a service obligation under title IV of the Higher Education Act and must consider teaching service that is part-time or temporarily interrupted due to the emergency to be full-time service. Requires the Secretary of Education to waive certain years of teaching service requirements under the Higher Education Act in certain circumstances.

#### **vi. Subtitle C: Labor Provisions**

- **Paid Public Health Emergency Leave Minimums**
  - Employers may, but are not required to, pay any more than \$200 per day and \$10,000 in the aggregate for each employee for public health emergency leave under section 110(b)(2)(B) of the Family & Medical Leave Act of 1993 as amended by the Emergency Family and Medical Leave Expansion Act.
- **Rehire Eligibility for Paid Public Health Emergency Leave Employers**
  - For purposes of public health emergency leave under the Emergency Family and Medical Leave Expansion Act, an eligible employee is an employee who has been employed for at least 30 calendar days by an employer with respect to whom leave is requested. The employee must be employed for at least 30 calendar days, which includes an employee who was laid off by that employer on or after March 1, 2020, had worked for employer for not less than 30 of the last 60 calendar days prior to the employees layoff, and was rehired by the employer.
- **Emergency Paid Sick Leave Minimums**

- Employers may, but are not required to, pay any more than:

i. \$511 per day or \$5,110 in the aggregate for each employee when taking emergency paid sick leave if the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19, the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or the employee is experiencing symptoms of COVID-19 and seeking medical diagnosis; or

ii. \$200 per day or \$2,000 in the aggregate for each employee when taking emergency paid sick leave if the employee is caring for an individual who is subject to a federal, state or local quarantine order, or is caring for an individual who has been advised to self-quarantine due to concerns related to COVID-19, the employee is caring for the employee's son or daughter, if the child's school or childcare facility has been closed or the child's care provider is unavailable due to COVID-19 precautions, or the employee is experiencing any other substantially similar condition specified by HHS in consultation with the Department of the Treasury and the Department of Labor.

- **Advance Refunding of Payroll Credits for Required Paid Sick Leave and Required Paid Family Leave**

- Employers can apply a credit in the amount calculated under subsection (a) of section 7001 or 7003 of the Family First Coronavirus Response Act, subject to the limitations placed by subsection (b) of section 7001 and 7003, both calculated through the end of the most recent payroll period in the quarter. In anticipation of a credit, the credit may be advanced according to forms and instructions to be provided by the Secretary of Labor. The Act ensures employers that the Secretary of Treasury shall waive any penalty under section 6656 of the Internal Revenue Code of 1986 for failure to make a deposit of the tax imposed under section 3111 (a) or 3221(a) of such Code if failure was due to anticipation of credit allowed.

#### **vii. Subtitle D: Finance Committee**

- An additional safe harbor provision is added to section 223(c)(2) of the Internal Revenue Code, providing that a plan shall not fail to be treated as a high deductible health plan (HDHP) by reason of failing to have a deductible for telehealth and other remote care services. Section 223(c)(1)(B) of the Internal Revenue Code is adjusted to include “telehealth and other remote care.” This addition allows an individual to have an insurance plan (for plan years beginning on or before December 31, 2021) that includes telehealth and other remote care without disqualifying the individual from owning an HDHP.
- **Inclusion of Certain Over-the-Counter Medical Products as Qualified Medical Expenses**
  - Menstrual care products are now included under the term “qualified medical expenses.”
- **Increasing Medicare Telehealth Flexibilities During Emergency Period**
  - The amendment removes some limiting qualifications to section 1320b-5(b)(8), which allows for the Secretary to temporarily waive or modify the application of portions of the Social Security Act in the case of a telehealth service furnished in any emergency area during an emergency period. The provision that sets out the defined term “qualified provider,” which limited 1320b-5(b)(8), is removed in its entirety.

- **Enhancing Medicare Telehealth Services for Federally Qualified Health Centers and Rural Health Clinics During Emergency Period**
  - A new provision is added under Section 1834(m) of the Social Security Act (42 USC 1395m(m)), enhancing payment for telehealth services furnished via a telecommunications system by a federally qualified health center (FQHC) or rural health clinic (RHC) during an “emergency period” notwithstanding that the FQHC or the RHC providing the telehealth service is not at the same location as the beneficiary. Payment methods for FQHCs or RHCs that serve as distant sites shall be based on payment rates similar to the national average payment rates for comparable telehealth services under the physician fee schedule under section 1848.
- **Temporary Waiver of Requirement for Face-to-Face Visits Between Home Dialysis Patients and Physicians**
  - Amended section 1395rr(b)(3)(B) to allow the HHS Secretary to waive the requirement that individuals with end stage renal disease receiving home dialysis must receive certain periodic face-to-face (non-telehealth) clinical assessments in order to be eligible to receive end stage disease-related clinical assessments via telehealth.
- **Use of Telehealth to Conduct Face-to-Face Encounter Prior to Recertification of Eligibility for Hospice Care During Emergency Period**
  - Section 1395f(a)(7)(D)(i) is amended to allow a hospice physician or hospice nurse practitioner during an “emergency period” to conduct a face-to-face encounter via telehealth to determine recertification for continued eligibility for hospice care.
- **Encouraging Use of Telecommunications Systems for Home Health Services Furnished During Emergency Period**
  - During an emergency period, the HHS Secretary shall consider ways to encourage the use of telecommunications systems.
- **Improving Care Planning for Medicare Home Health Services**
  - Certain Medicare sections are expanded from being limited to the services of a physician to include services of nurse practitioners, clinical nurse specialists, and physician assistants that provide home health services.
- **Adjustment of Sequestration**
  - A temporary suspension of Medicare sequestration put into effect during the period of May 1, 2020 through December 31, 2020. The Medicare programs under title XVIII of the Social Security Act shall be exempt from reduction under any sequestration order during the period.
- **Medicare Hospital Inpatient Prospective Payment System Add-On Payment for COVID-19 Patients During Emergency Period**



- The Secretary will increase the weighting factor for coronavirus-diagnosed patients discharged during the emergency period. The weighting factor is used by the Secretary to reflect the relative hospital resources used with respect to discharges for a particular group compared to discharges within other groups.
- **Increasing Access to Post-Acute Care During Emergency Period**
- During the emergency period, the HHS Secretary will waive the requirement that patients of inpatient rehabilitation facilities receive at least 15 hours of therapy per week. For long-term care hospitals furnishing services during the emergency period, the HHS Secretary will further waive discharge percent requirements and the general application of site neutral payment rates.
- **Revising Payment Rates for Durable Medical Equipment Under the Medicare Program Through Duration of Emergency Period**
- The Secretary shall apply the transition rule, described in section 414.210(g)(9)(iii) of the Code of Federal Regulations, to items and services furnished in rural areas and noncontiguous areas as planned through December 31, 2020, and through the duration of the emergency period. For areas other than rural and noncontiguous areas, the Secretary shall apply the transition rule described in section 414.210(g)(9)(iv) of the Code of Federal Regulations through the remainder of the emergency period.
- **Coverage of the COVID-19 Vaccine Under Part B of the Medicare Program Without Any Cost-Sharing**
- The term “medical and other health services” is expanded to include “COVID-19 vaccine and administration.” The deductible described in section 1395l(b) shall not apply with respect to a COVID-19 vaccine and its administration.
- **Requiring Medicare Prescription Drug Plans and MA-PD Plans to Allow for Fills and Refills of Covered Part D Drugs for up to a 3-Month Supply**
- During the emergency period, a prescription drug plan or MA-PD plan shall permit a part D eligible individual reenrolled in such plan to obtain a single fill or refill the total day supply prescribed for such individual for a covered part D drug.
- **Providing Home and Community-Based Services in Acute Care Hospitals**
- The prohibition that nothing in section 1395a allows the Secretary authorization to limit the amount of payment that may be made under a plan for home-and-community care is expanded to include home and community-based services, self-directed personal assistance services, or home and community-based attendant services. The provision is also expanded to clarify that the section shall not be construed to prohibit receipt of any care or services specified in paragraph (1) in an acute care hospital, provided certain requirements are met.
- **Clarification Regrading Uninsured Individuals**
- The Families First Coronavirus Response Act, March 18, 2020, added subsection (ss) to section 1396a, which defined “uninsured individual” as those not described in section 1396a(a)(10)(A)(i) and not enrolled in certain health care programs. The current bill amends this definition to exclude subsection VIII if the individual is a resident of a state that does not furnish medical assistance as described.

- **Clarification Regarding Coverage of COVID-19 Testing Products**

- The Families First Coronavirus Response Act, March 18, 2020, added COVID-19 testing to section 1396d, which provides medical assistance payments under certain conditions. The current bill amends this section to remove the requirement that the in-vitro diagnostic products administered are approved, cleared, or authorized sections 510(k), 513 514, or 564 of the Federal Food, Drug, and Cosmetic Act.

- **Amendment Relating to Reporting Requirements with Respect to Clinical Diagnostic Laboratory Tests**

- The Act extends the dates by one year for the reporting periods in section 1395m-1(a)(1)(B). The applicable prohibition that payment amounts determined under section 1395m-1 shall not result in a reduction in payments, as defined by the subsection, for a clinical diagnostic laboratory test is expanded to 2017 through 2024. The applicable percentages used to determine the limits on reductions in payment defined in 1395m-1(b)(3)(A) are adjusted to include a new clause for 2021, which makes the new applicable percentage zero (0) for 2021.

- **Expansion of Medicare Hospital Accelerated Payment Program During the COVID-19 Public Health Emergency**

- Mandates that the Secretary expand the accelerated payment program to hospitals experiencing significant cash flow problems during the “emergency period.”

- **Exception for Certain States from Enhanced FMAP Requirements**

- Provides that states may receive the temporary increase of Medicaid Federal Medical Assistance Percentage (FMAP) (authorized under the Families First Act enacted last week) notwithstanding the requirement to not impose premiums on beneficiaries, for a period of 30 days.

#### **viii. Subtitle E, Part I: Medicare Provisions**

- **Extension of Funding for Quality Measure Endorsement, Input, and Selection**

- The Social Security Act is amended to increase the amount allotted for this fiscal year ending on October 1, 2020 from \$4,830,000 to \$20,000,000 and for the period beginning on October 1, 2020 and ending on November 30, 2020, the amount equal to the pro rata portion of \$20,000,000.

- **Extension of Funding Outreach and Assistance for Low-Income Programs**

- The amount allocated for state health insurance programs shall be \$13,000,000 for this fiscal year. For the period beginning on October 1, 2020 and ending on November 30, 2020, the amount available will be equal to the pro rata portion of \$13,000,000.
- The amount allocated for area agencies on aging shall be \$7,500,000 for the fiscal year of 2020. For the period beginning on October 1, 2020 and ending on November 30, 2020, the amount available will be equal to the pro rata portion of \$7,500,000.

- The amount allocated for aging and disability resource centers shall be \$5,000,000 for fiscal year 2020. For the period beginning on October 1, 2020 and ending on November 30, 2020, the amount available will be equal to the pro rata portion of \$5,000,000.
- The amount allocated for grant or contract with national center for benefits and outreach enrollment is now \$12,000,000 for the 2020 fiscal year ending on October 1, 2020. For the period beginning on October 1, 2020 and ending on November 30, 2020, the amount available will be equal to the pro rata portion of \$12,000,000.

#### **ix. Subtitle E, Part II: Medicaid Provisions**

- **Extension of the Money Follows the Person Rebalancing Demonstration Program**

- The Deficit Reduction Act of 2005 section 6071(h)(1)(G) is amended to allocate \$337,500,000 for the period beginning on January 1, 2020 and ending on September 30, 2020. For the period beginning on October 1, 2020 and ending on November 30, 2020, the amount available will be equal to the pro rata portion of \$337,500,000.

- **Extension of Spousal Impoverishment Protections**

- Extends the protections through November 30, 2020.
- Allows the State to disregard the income of a spouse and conduct an analysis solely on an individual's eligibility for medical assistance on the basis of reduction of income.

- **Delay of DSH Reductions**

- This section removes the \$4 billion DSH reductions for federal fiscal year 2020 and delays the cuts from taking effect December 1, 2020.

- **Extension and Expansion of Community Mental Health Services Demonstration Program**

- Expands the Protecting Access to Medicare Act of 2014.
- According to this section not later than 6 months after the date of enactment, the Secretary shall select two states, in addition to the eight States already listed, to participate in two-year demonstration programs that meet the requirements of this subsection.
- The requirements are states that:
  - i. Were awarded planning grants,
  - ii. Applied to participate in the demonstration programs under this subsection but were not selected
- The Secretary shall use the results of its evaluation of the state's original application and shall not require the submission of any additional application.
- If a state is selected it is required to:

- i. Submit a plan to monitor certified community behavioral health clinics under the demonstration program to ensure compliance with certified community behavioral health criteria during the demonstration period; and
  - ii. Commit to collecting data, notifying the Secretary of any planned changes that would deviate from the prospective payment system methodology outlined in the state's demonstration application, and obtaining approval from the Secretary of any such change before implementing change.
- The Federal matching percentage applicable to amounts expended by states participating in the demonstration program under this subsection shall apply to amounts expended by the state during the fiscal period that begins on January 1, 2020 if the state was participating in the demonstration program as of January 1, 2020 and shall apply to amount expended by the state during the first fiscal period the state participates if the state was selected pursuant to the expansion.
  - **Extension of Sexual Risk Avoidance Education Program**
  - Section 510 of the Social Security Act is amended to extend the time through 2020 instead of ending in May 22, 2020 and to change the fiscal year to 2021.

**x. Subtitle E, Part III: Human Services and Other Health Programs**

- **Extension of Demonstration Projects to Address Health Professions Work-Force Needs**
- Activities authorized by section 2008 of the Social Security Act shall continue through November 30, 2020.
- **Extension of the Temporary Assistance for Needy Families Program and Related Programs**
- Activities authorized by part 1 of title IV and section 1108(b) of the Social Security Act shall continue through November 30, 2020.

**xi. Subtitle E, Part IV: Public Health Provisions**

- **Extension for Community Health Centers, the National Health Service Corps, and Teaching Health Centers that Operate GME Programs**
- The amount allocated for community health centers under the Patient Protection and Affordable Care Act is increased to \$4,000,000,000 for fiscal year 2020 and \$668,493,151 for the period beginning on October 1, 2020 and ending on November 30, 2020.
- The amount allocated for the National Health Service Corps is now \$310,000,000 for fiscal year 2020 and \$51,808,219 for the period beginning on October 1, 2020 and ending in November 30, 2020.
- The amount allocated for teaching health centers that operate graduate medical education programs now extends through fiscal year 2020 and \$21,141,096 is allocated for the period beginning on October 1, 2020 and ending on November 30, 2020.
- **Diabetes Programs**

- The amount allocated under the Public Health Service Act for Type I will extend through the fiscal year of 2020 and \$25,068,493 will be allocated for the period beginning on October 1, 2020 and ending on November 30, 2020.
- The amount allocated under the Public Health Services Act for Indians will extend through the 2020 fiscal year and \$25,068,493 will be allocated for the period beginning on October 1, 2020 and ending on November 30, 2020.

## **xii. Subtitle F, Part I: Over-the-Counter Drugs**

- Amends Chapter V of the Federal Food, Drug, and Cosmetic Act (FD&C Act) to insert a new section regulating certain nonprescription drugs that are marketed without an approved drug application under section 505 of the FD&C Act. This new section primarily achieves two goals: (1) reforms the regulatory process for over-the-counter (OTC) drug approvals permitting the FDA more flexibility to make changes administratively, rather than through the time-consuming full notice and comment rulemaking process; and (2) incentivizes pharmaceutical companies to research and manufacture innovative drug products by providing an 18-month market-exclusivity period to reward investments for new OTC drugs.
- Amends Section 502 of the FD&C Act, to clarify that an OTC drug which does not comply with the requirements of its OTC monograph, which is essentially an approved recipe for a drug product, is considered misbranded. The FDCA prohibits the introduction of misbranded drugs into interstate commerce.
- Clarifies that nothing in this bill will apply to drugs previously excluded by the FDA from the Over-the-Counter Drug Review under the original 1972 Federal Register document.
- Clarifies that sponsors of sunscreen ingredients with pending orders have the option to see review in accordance with the Sunscreen Innovation Act (SIA) or to see review under the new monograph review process. The election must be made within 180 calendar days of the date of enactment of this Act.
- Provides an annual procedure to update Congress on the appropriate pediatric indication for certain OTC cough and cold drugs for children under the age of six. The evaluation consists of conditions under which nonprescription drugs are generally recognized as safe and effective.
- Makes technical corrections to the FDA Reauthorization Act of 2017 (Public Law 115-52).

## **xiii. Subtitle F, Part II: User Fees**

- Declares that the fees paid pursuant to this section will be dedicated to FDA review of over-the-counter monograph drugs as set forth in the goals section and in letters from the Secretary of HHS to certain congressional committees.
- Establishes a new FDA user fee to allow the agency to hire additional staff members to ensure there is adequate agency oversight to approve changes to OTC drugs.

## **4. Title IV – Economic Stabilization and Assistance to Severely Distressed Sectors of the United States Economy**

i. Title IV of the Coronavirus Aid, Relief, and Economic Securities Act provides the Secretary of the Treasury with the authority to make loans or loan guarantees to states, municipalities, and eligible businesses and loosens a variety of regulations prior legislation imposes through the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Economic Stabilization Act of 2008, and others.

## **ii.Subtitle A – Coronavirus Stabilization Act of 2020**

### **• Emergency Relief and Taxpayer Protections**

- The Secretary of the Treasury may make up to \$500 billion worth of loans and loan guarantees to eligible businesses, states, and municipalities. An “eligible business” means an air carrier or any other business that has not already “received adequate economic relief in the form of loans or loan guarantees under the Act.”
- \$46 billion is reserved to “passenger air carriers”, “air cargo carriers”, and “businesses important to maintaining national security,” in amounts up to \$25 billion, \$4 billion, and \$17 billion, respectively.
- \$454 billion is reserved for Federal Reserve programs that support lending to eligible businesses, states, and municipalities. This establishes a credit facility through the Federal Reserve for businesses, states, and municipalities to get access to loans, loan guarantees, and other investments for distressed businesses.
- Businesses that receive these loans are prohibited from paying dividends or repurchasing any outstanding equity interests while the loan or loan guarantee is outstanding, or for 12 months after. The Secretary of the Treasury can waive these restrictions, but he must testify before Congress regarding the waiver.
- Businesses that receive these loans can only make loans or other advances to business that are created or organized in the United States.
- The Secretary of the Treasury “shall endeavor to seek the implementation” of a program to provide low-interest loans for eligible businesses, including nonprofit organizations, with between 500 and 10,000 employees. These loans will require no repayment for at least six months. However, these loans require a good-faith certification that the recipient intends to maintain at least 90 percent of its workforce, the recipient will not pay dividends or repurchase an equity security, the recipient will not outsource or offshore jobs during the loan or two years after, the recipient will not abrogate existing collective bargaining agreements, and the recipient will stay neutral regarding union organizing activity.

### **• Limitation on Certain Employee Compensation**

- Passenger air carriers, air cargo carriers, and businesses important to maintaining national security may only receive a loan or loan guarantee under the Act if no officer or employee whose total compensation exceeded \$425,000 for the calendar year 2019 will receive compensation exceeding that amount in any 12 consecutive months from March 1, 2020, through March 1, 2022. The same restriction applies to severance payments or other compensation upon termination from the eligible business.

### **• Continuation of Certain Air Services**

- The Secretary of Transportation may require any air carrier receiving loans or loan guarantees under Section 4003 to maintain scheduled air transportation services as the Secretary deems necessary to



maintain service to any destination the carrier served before March 1, 2020. The Secretary of Transportation is to consider the needs of “small and remote communities” and “health care and pharmaceutical supply chains” when enforcing this portion of the Act.

- **Suspension of Certain Aviation Excise Taxes**

- The Act suspends the imposition of aviation excise taxes as otherwise required under the Internal Revenue Code through December 31, 2020.

- **Debt Guarantee Authority**

- In order to backstop solvent depository institutions, it appears that the CARES ACT allows the FDIC to establish a program to insure these institutions without regard to a maximum amount. All such guarantees are to last at least until December 31, 2020.

- **Temporary Government in the Sunshine Act Relief**

- In the event that unusual and exigent circumstances exist while the current public emergency exists or December 31, 2020, the Board of Governors of the Federal Reserve System may conduct meetings with less restrictive and formal meeting notification and record-keeping requirements.

- **Temporary Hiring Flexibility**

- Without regard to certain statutory hiring requirements, the Secretary of Housing and Urban Development and the Securities Exchange Commission are given flexibility to recruit and appoint candidates for temporary and term appointments as necessary to prevent, prepare for, or respond to COVID-19 during the “covered period” of the CARES Act.

- **Temporary Lending Limit Waiver**

- Enlarges exception to requirement on the maximum amount of loans and extensions of credit by a national banking association to include a nonbank financial company (as defined in Section 102 of the Financial Stability Act of 2010) and allows the Comptroller of Currency to exempt any transaction or series of transactions from the total maximum amount of loans and extensions of credit upon a finding by the Comptroller that the exemption is in the public interest and consistent with the purposes of 12 U.S.C. 84.

- **Temporary Relief for Community Banks**

- The federal banking agencies shall issue an interim final rule that sets the Community Bank Leverage Ratio (as defined in Section 201(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act) to 8% and provides qualifying community banks falling below this threshold a reasonable grace period to satisfy the leverage requirement.

- **Temporary Relief from Troubled Debt Restructurings**

- Allows financial institutions to suspend GAAP requirements and loan determinations related to loan modifications that would be categorized as a troubled debt restructuring, if such loan modifications are related to COVID-19. Such suspensions cannot be applied to loans that were more than 30 days past due as of December 31, 2019.

- **Optional Temporary Relief from Current Credit Losses**

- Suspends the requirement to comply with the Financial Accounting Standards Board's rules regarding the "Measurement of Credit Losses on Financial Instruments" during the covered period.

- **Non-applicability of Restrictions on ESF During National Emergency**

- Removes certain restrictions on the Exchange Stabilization Fund until December 31, 2020, namely, the requirement the Treasury reimburse the ESF for any funds that are used for the Treasury Money Market Funds Guaranty Program and the prohibition of the establishment of any future guaranty program for the money market mutual fund industry. It further makes an appropriation to reimburse the ESF for any losses it incurs from the Treasury Money Market Funds Guaranty Program.

- **Temporary Credit Union Provisions**

- The Act broadens the definition of the kinds of credit unions to beyond only those serving "natural persons" and the eligibility requirements for those institutions to receive assistance from the National Credit Union Central Liquidity Facility. Specifically, a credit union may access liquidity if the obligation does not exceed 16 times the subscribed capital stock and surplus of the facility itself. The present restriction is 12 times the capital stock and surplus. These loosened restrictions will expire December 31, 2020.

- **Increasing Access to Materials Necessary for National Security and Pandemic Recovery**

- The Act loosens the limitations of the Defense Production Act of 1950. For a period of two years from the enactment of the Act, the government may take any action to correct a "shortfall" in "industrial resources" without regard to the current expenditure limit of \$50 million.
- Similarly, the Defense Production Act currently limits the amount of money that may exist in the "fund" the law authorizes to \$750,000,000. This limitation is similarly waived for a period of two years from enactment of the Act. For a period of one year from the enactment of the Act, the \$50 million limit on government loans to correct industrial shortfalls is waived.

- **Special Inspector General for Pandemic Recovery**

- Establishes within the Department of the Treasury the Office of the Special Inspector General for Pandemic Recovery. The Special Inspector General shall be appointed by the President, with the advice and consent of the Senate, and shall conduct, supervise, and coordinate audits and investigations of the making, purchase, management, and sale of loans, loan guarantees, and other investments made by the Treasury Secretary under this Title.

- The Special Inspector General shall keep Congress informed through quarterly reports that provide the details of all such loans, loan guarantees, or other investments.

- **Conflicts of Interest**

- Any company in which the President, Vice President, an Executive Department head, Member of Congress, or any of such individual's spouse, child, son-in-law, or daughter-in-law own over 20% of the

outstanding voting stock shall not be eligible for loans, loan guarantees, or other investments provided under this Title.

- **Congressional Oversight Commission**

- Establishes a Congressional Oversight Commission charged with oversight of the implementation of this Title by the Department of the Treasury and the Board of Governors of the Federal Reserve System, including efforts of the Department and the Board to provide economic stability as a result of coronavirus.
- The Oversight Commission shall consist of five members as follows: one member appointed by the Speaker of the House of Representatives; one member appointed by the House Majority Leader; one member appointed by the Senate Majority Leader; one member appointed by the Senate Minority Leader; one member appointed by the Speaker of the House and Senate Majority Leader, after consultation with the Senate Minority Leader and House Minority Leader.

- **Credit Protection During COVID-19**

- This section requires that furnishers to credit reporting agencies who agree to account forbearance, or agree to modified payments with respect to an obligation or account of a consumer that has been impacted by COVID-19, report such obligation or account as “current” or as the status reported prior to the accommodation during the period of accommodation unless the consumer becomes current.
- Only applies to accounts for which the consumer has fulfilled requirements pursuant to the forbearance or modified payment agreement.
- Such credit protection is available beginning January 31, 2020 and ends at the later of 120 days after enactment or 120 days after the date the national emergency declaration related to the coronavirus is terminated.

- **Foreclosure Moratorium and Consumer Right to Request Forbearance**

- Prohibits foreclosures on all federally-backed mortgage loans for a 60-day period beginning on March 18, 2020.
- Provides up to 180 days of forbearance for borrowers of a federally-backed mortgage loan who have experienced a financial hardship related to the COVID-19 emergency.
- Applicable mortgages include those purchased by Fannie Mae and Freddie Mac, insured by HUD, VA, or USDA, or directly made by USDA.

- **Forbearance of Residential Mortgage Loan Payments for Multifamily Properties with Federally Backed Loans**

- Provides up to 90 days of forbearance for multifamily borrowers with a federally backed multifamily mortgage loan who have experienced a financial hardship.
- Borrowers receiving forbearance may not evict or charge late fees to tenants for the duration of the forbearance period.

- Applicable mortgages include loans to real property designed for five or more families that are purchased, insured, or assisted by Fannie Mae, Freddie Mac, or HUD.
- **Temporary Moratorium on Eviction Filings**
  - For 120 days beginning on the date of enactment, landlords are prohibited from initiating legal action to recover possession of a rental unit or to charge fees, penalties, or other charges to the tenant related to such nonpayment of rent where the landlord's mortgage on that property is insured, guaranteed, supplemented, protected, or assisted in any way by HUD, Fannie Mae, Freddie Mac, the rural housing voucher program, or the Violence Against Women Act of 1994.
- **Reports**
  - Requires the Secretary of the Treasury to publish on the Department's website detailed information about each transaction authorized by this Act, within 72 hours of the time such transaction is executed.
  - The Comptroller General shall conduct a study of the loans and loan guarantees and report the same no later than nine months after enactment of the Act to various congressional committees. The Comptroller General shall continue making such reports annually through the year succeeding the previous year as loans or loan guarantees remain outstanding.

### **iii. Subtitle B – Air Carrier Worker Support**

- **Pandemic Relief for Aviation Workers**
  - Provides financial assistance for the exclusive use of employee wages, salaries, and benefits in the amounts of up to \$25 billion for passenger air carriers, up to \$4 billion for cargo air carriers, and up to \$3 billion for airline contractors.
  - Provides for \$100 million for administrative fees associated with providing the financial assistance.
- **Procedures for Providing Payroll Support**
  - Provides the formula by which the Secretary will allocate financial assistance. The formula is based on the salaries and benefits reported by an air carrier pursuant to part 241 of Title 14, CFR, for the period from April 1, 2019, through September 30, 2019 be used as the basis of support.
  - Smaller air carriers and contractors that do not file part 241, must document wages, salaries and benefits for the same time period.
- **Required Assurances**
  - To be eligible for a financial assistance, recipients enter into an agreement with the Secretary of the Treasury that it will not, until September 30, 2020, conduct furloughs, reduce pay rates, buy back stock, pay dividends, and must meet requirements of Sections 4115 and 4117.
- **Protection for Collective Bargaining**

- Restricts the Secretary from conditioning financial assistance on a carrier's implementation of measures to enter into negotiations with the certified bargaining representative of a class of employees regarding pay.
- **Taxpayer Protections**
- Provides for Secretary of Treasury to receive warrants, options, stock and other financial instruments to provide appropriate compensation for the government for the assistance.
- **Limitation on Certain Employee Compensation**
- Financial assistance is dependent upon compensation limits.
- Pay above \$425,000 is frozen for two years.
- No retirement or severance packages can exceed twice the maximum total compensation during 2019. Further, no officer or employee whose total compensation exceeded \$3,000,000 in 2019 may receive in excess of \$3,000,000 and 50% of the excess over \$3,000,000 of the total compensation received in 2019.
- Defines "total compensation" to include salary, bonuses, awards of stock, and other financial benefits.

## **5. Title V – Coronavirus Relief Funds**

### **i. Coronavirus Relief Fund**

- Provides \$150 billion to states, territories, and tribal governments to use for expenditures incurred due to the public health emergency with respect to COVID-19 in the face of revenue declines, allocated by population proportions, with a minimum of \$1.25 billion for states with relatively small populations.

## **6. Title VI – Miscellaneous Provisions**

### **i.COVID-19 Borrowing Authority for the United States Postal Service**

- The Secretary of the Treasury may lend the U.S. Postal Service up to \$10 billion for current operating expenses but not to pay any existing debt obligations. The postal service shall prioritize delivery of products for medical purposes and may establish temporary delivery points in order to protect employees or individuals receiving the deliveries.

\* \* \*

### **Appropriations**

In addition to the above stimulus provisions, the Senate passed supplemental appropriations to help the government respond to the COVID-19 pandemic. Below is a quick summary of the appropriations provisions that are most likely to impact your business:

- **USDA/Food and Nutrition Service** – \$25.06 billion. Child Nutrition Programs – \$8.8 billion. The bill provides additional funding for food purchases and demonstration projects to increase flexibility for schools. Supplemental Nutrition Assistance Program ("SNAP") – \$15.51 billion. The bill provides

additional funding for SNAP to cover waiver authorities granted in H.R. 6201 and anticipated increases in participation as a result of coronavirus.

- **U.S. Department of Agriculture (USDA)/Office of the Secretary** – \$9.5 billion. The bill provides \$9.5 billion in emergency COVID-19 response funding to support agricultural producers impacted by COVID-19, including producers of specialty crops, producers that supply local food systems, and livestock producers.
- **Commodity Credit Corporation (“CCC”)** – The bill includes language that replenishes the CCC borrowing authority by \$14 billion.
- **Rural Business Cooperative Service** – \$20.5 million. The bill provides the necessary subsidy to make \$1 billion in lending authority available for the Business and Industry Loan Guarantee Program, which provides much-needed financing to business owners who might not be able to qualify for a loan on their own.
- **Food and Drug Administration** – \$80 million. The bill provides additional funding to support the development of necessary medical countermeasures and vaccines, advance domestic manufacturing for medical products, and monitor medical product supply chains.
- **Distance Learning, Telemedicine (DLT) and Broadband Program** – \$25 million. The bill provides additional funding for the DLT grant program, which supports rural communities’ access to telecommunications-enabled information, audio, and video equipment, as well as related advanced technologies for students, teachers, and medical professionals.

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Source: <https://www.natlawreview.com/article/senate-passes-coronavirus-aid-relief-and-economic-security-act-cares-act>

March 26, 2020

Send tips to [news@cwa-union.org](mailto:news@cwa-union.org) or [@CWAnews](https://twitter.com/CWANews).

- [CWA COVID-19 Response Update – March 26, 2020](#)
- [In Memoriam – March 26, 2020](#)
- [We Need To Use The National Defense Production Act NOW](#)
- [Senate Passes Coronavirus Relief Bill But More Remains to Be Done to Help Working People](#)
- [Bargaining Update](#)

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## CWA COVID-19 Response Update



As the COVID-19 crisis spreads and deepens across the world, we know that you are concerned about your health and safety on the job and about the possibility of layoffs and furloughs. The challenges can seem overwhelming.

CWA leaders on every level – elected officers, stewards, health and safety activists, and others – are identifying issues as they arise and working with employers to ensure policies are in place to address those issues and that those policies are enforced.

If you have a problem that needs to be addressed, please reach out, especially if you are being asked to work in unsafe conditions. Stewards and local officers have the most up-to-date information for your worksite. If you are having trouble reaching them, you can submit your question using the form available on [cwa.org/covid-19](https://cwa.org/covid-19) and we will route it to the proper person for response.

The COVID-19 information page on CWA's website has been updated to include new resources. You can find these at [cwa.org/covid-19](https://cwa.org/covid-19).

During this time, it is more important than ever that we be able to contact you with information that is specific to your employer or local. Please visit <https://cwaunion.wufoo.com/forms/cwa-member-information-update> to help us update our records.

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## In Memoriam



CWA has established [a memorial page for members](#) who have lost their lives to COVID-19.

This week we honor the memory of Larry Edgeworth, a member of NABET-CWA Local 51001 who worked at NBC News.

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## We Need To Use The National Defense Production Act NOW



CWA members are on the front lines of the COVID-19 crisis. Shortages of N95 respirators, surgical masks, latex gloves, and other protective equipment leave essential workers at risk of infection.

This is especially true for healthcare workers, including 24,000 represented by CWA. Hospitalizations are soaring, and facilities are suffering from extreme shortages of protective equipment, ventilators, tests, and healthcare staff. **They face the highest probability of repeat exposure to the virus that causes COVID-19 and their lives are at risk.**



President Trump has the power to make a difference but has failed to do what needs to be done to keep workers and patients safe. Through the *National Defense Production Act (NDPA)* the President can mandate the immediate production of all the personal protective equipment, tests, and ventilators we need to respond to the crisis and protect healthcare and other essential workers – but so far he's refused to do so.

Instead, President Trump has announced vague and confusing intentions to "leverage" manufacturers into producing an insufficient amount of supplies.

[Sign the petition](#) to tell President Trump that he must use the full force of the *Defense Production Act* now!

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## Senate Passes Coronavirus Relief Bill But More Remains to Be Done to Help Working People



CWA legislative activists have been engaging with their members of Congress and Senators to make sure that the coronavirus emergency relief bill addresses the needs of working people, not just CEOs and Wall Street.

The bill passed yesterday by the Senate includes \$58 billion in grants and loans for the airline industry. In a major victory, the bill includes a ban on involuntary furloughs and layoffs by those airlines receiving the funds. It also includes restrictions on stock buybacks and executive compensation for airlines accepting assistance, despite objections from the Senate Republican leadership and corporate executives.

The bill would also send checks directly to over 150 million households, boost funds for unemployment insurance, and provide increased support for schools, hospitals, and state and local governments. The House of Representatives is expected to pass the bill later this week. For more information about how the bill affects CWA members, visit <https://cwa-union.org/cares-act-summary>.

While these gains are important, much work remains to be done to address this crisis.

More must be done quickly to ensure that healthcare workers and other front line workers have the equipment that they need to safely and effectively handle cases of coronavirus.

Regulatory agencies like the Occupational Safety and Health Administration that have been weakened by the Trump Administration need to be fully staffed with new standards and increased funds to make sure that employers are not putting workers' lives in jeopardy. More will be needed to ensure that employers keep workers on their payrolls instead of taking recovery money, spending it on stock buybacks and executive compensation, then shipping jobs overseas.

Republican lawmakers must stop standing in the way of requiring paid sick days and family leave for all workers, not just in response to the current coronavirus crisis, but so that those benefits are in place for workers and families to deal with future crises and life events.

To receive updates on legislative issues, visit <https://actionnetwork.org/forms/sign-up-to-the-cwa-collective-briefing>.

## Bargaining Update

Share This Article:   

### AT&T West

Last week, the CWA bargaining team reached a tentative agreement with AT&T on a new four-year contract for AT&T West workers. The CWA AT&T West contract covers more than 13,000 technicians, call center customer support workers, and administrative staff in California and Nevada.

The tentative agreement provides for pay raises, affordable healthcare, and increased pension benefits. It also maintains existing job offer guarantee provisions in the event of layoffs.

"I am proud of our CWA bargaining team for negotiating a strong contract, under difficult circumstances, that protects good, family-supporting jobs in California and Nevada," said CWA District 9 Vice President Frank Arce. "CWA members are out there every day installing, maintaining, and supporting critical communications services so businesses can continue operations and customers can stay in contact with their loved ones. Our member mobilization meant that our bargaining team had the support they needed to win a fair agreement well before the current contract expired."

Details of the proposed contract will be provided to local leadership as soon as practicable based on the current conditions, and a ratification vote will be held once the members have an opportunity to review the details of the agreement. If ratified, the new contract will go into effect on April 5, 2020.

###

### Altice



The CWA Local 1103 bargaining committee reached a tentative agreement with Altice/ATS on a three-year agreement that provides real job security, wage increases, and much more!

CWA  
501 Third Street NW  
Washington, DC 20001  
[cwa-union.org](http://cwa-union.org)



Discounts and Benefits for CWA Members & Retirees



*This message will be sent to members in today's CWA eNewsletter.*

March 19, 2020

Brothers and Sisters,

I know that each and every one of you has felt the effects of the COVID-19 pandemic. This crisis is unprecedented, and CWA members are on the front lines doing the work necessary to keep people informed, connected and safe during this difficult time.

We are devoting every available resource to make sure that employers are doing everything possible to protect and support CWA members during this pandemic. Over the past few weeks, District, Sector and Division Vice Presidents have been contacting all of our employers to request detailed information about their health and safety precautions, sick leave accommodations, and plans for continuity of pay. They have been making sure that existing collective bargaining agreements are followed and negotiating additional protections to address the special challenges that you are facing in this rapidly changing environment. This early engagement spurred many employers to take a variety of precautionary measures and get prepared for the onslaught of the pandemic.

Unfortunately, while CWA has established agreements with many of our employers, many companies are failing to update front-line managers about new sick leave and safety protocols. While some employers have been proactive by working with CWA in setting up enhanced safety procedures, others have not taken necessary action. We are following up to identify and resolve these problems.

Our legislative and political teams are also keeping their eye on the larger picture. Federal, state and local governments are moving quickly to address the crisis. Sadly, even during times like this that demand national unity, some corporations are instructing their lobbyists to resist programs that would provide immediate help to working people and retirees and lay the groundwork for a recovery that includes everyone, not just the 1%.

We are also frequently updating the resources on our COVID-19 information page at [cwa.org/covid-19](https://cwa.org/covid-19). There you will find information on what to do if you believe that your working conditions are unsafe and links to reliable sources of information about the virus. In the coming days we will be posting best practices recommendations for different types of work and information about the policies that specific employers have implemented.

Conditions vary across the country and are changing constantly. Your local leadership will have the most up-to-date information on policies in place at your work location. If you have a question and are unable to contact your steward or local officers, there is a link on our [COVID-19 information page](#) where you can submit a question that we will route to the appropriate person for response.

While we have many difficult months ahead of us, I know that we will do what we do best - take care of each other, make sure our health and safety is protected on the job, and fight for legislative and political change that puts working people first.

In Unity,

A handwritten signature in black ink, appearing to read "Chris M. Shelton".

Christopher M. Shelton  
President


p.s. Please note that CWA National, District, Sector and Division staff are also following social distancing guidelines in order to do our part in stopping the spread of this virus. Although most of our office buildings are closed, we have implemented a work from home plan that allows us to continue functioning at full capacity. Larger meetings have been postponed and smaller meetings have been moved to audio- and video- conferencing platforms.

cc: Executive Board  
Staff



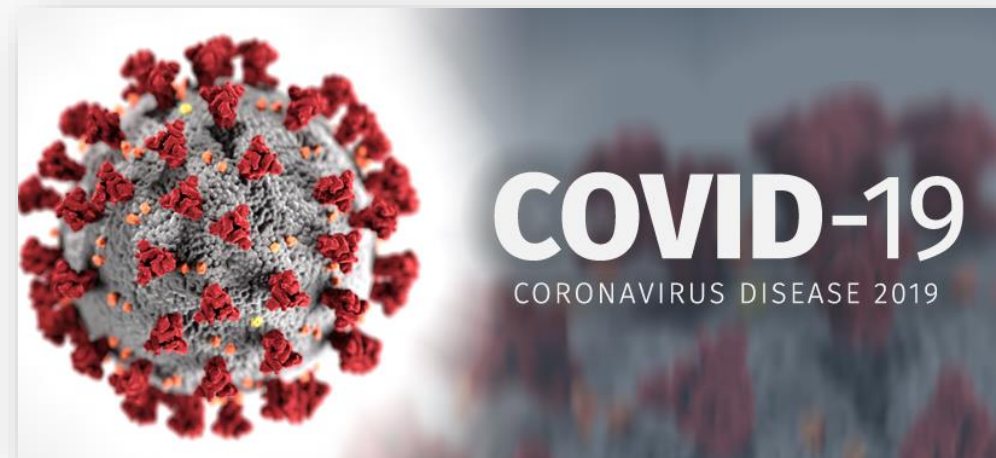
# COVID-19 (CORONAVIRUS) & CWA PANDEMIC RESPONSE

CWA HQ Staff Meeting  
Wednesday, March 4, 2020



# Agenda

1. Information on COVID-19
2. District/Sector/Division Structure and Coordination with Locals
3. Communication with Employers
4. CWA Objectives For Developing COVID-19 Protocols
5. Prevention Practices



# INFORMATION ON COVID-19





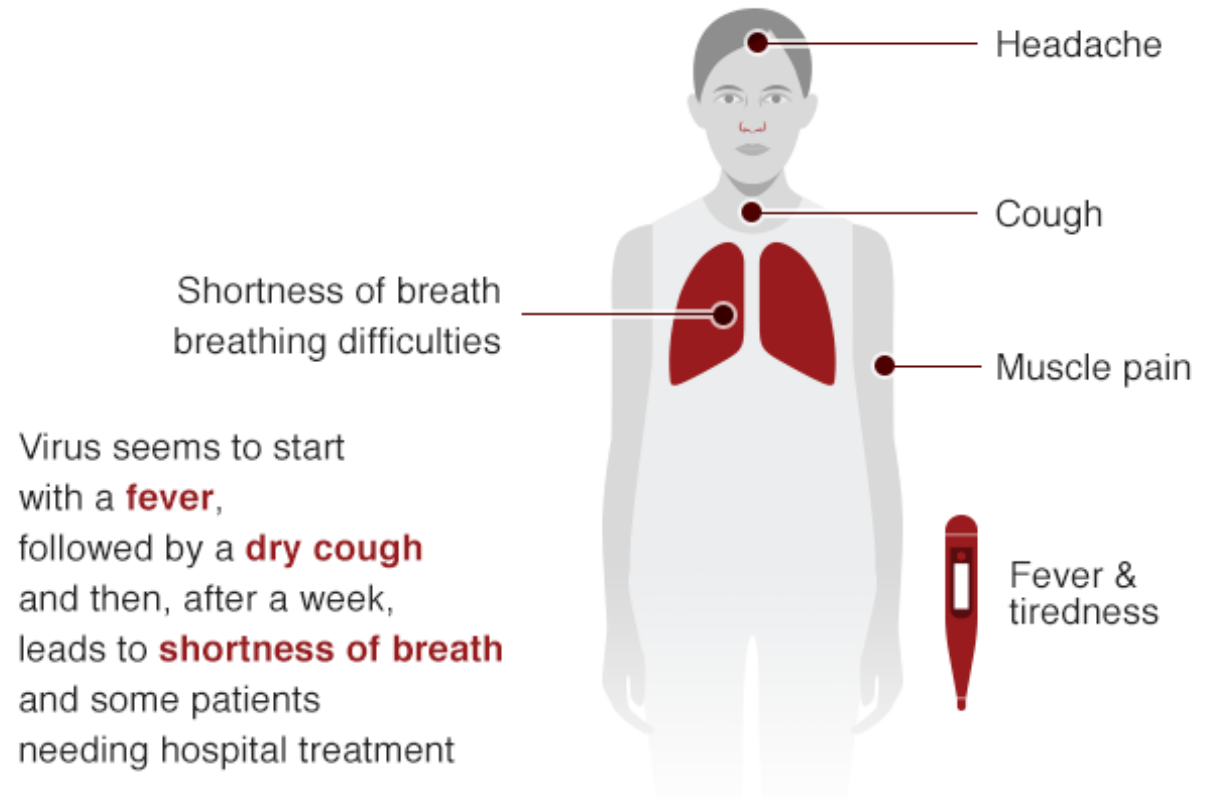
# 1. Information on COVID-19: Symptoms

Reported illnesses have ranged from mild symptoms to severe illness and death.

Symptoms may appear 2-14 days after exposure:

- Fever
- Cough
- Shortness of breath; difficulty breathing

## Symptoms of coronavirus (Covid-19)



Source: WHO

BBC



# 1. Information on COVID-19: Spread

## A. Person-to-person Spread



- The virus can be transmitted from person-to-person through multiple routes of exposure including respiratory (airborne and droplet), oral/fecal, and bodily fluids.
- People who are in close contact with one another (within about 6 feet) are at risk of infection from respiratory droplets produced when an infected person coughs or sneezes.
- These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
- Airborne transmission can occur when the virus remains suspended in air and can be inhaled by others.
- Community spread

# 1. Information on COVID 19 - Spread



## B. Spread from contact with infected surfaces or objects

- There is evidence that viruses can survive for a period of time on a variety of surfaces
- It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes.
- However, according to the CDC this is not thought to be the primary way the virus spreads.

# 1. Information on COVID-19: High Risk Industries

■ Workers with increased risk to exposure include those involved in:

- Health care workers
- Emergency responders (i.e., law enforcement, firefighters, EMTs)
- Airline operations (i.e., pilots, flight attendants, passenger service and other airport workers)
- Correctional workers
- Educators
- Cleaning workers
- Workers who have been identified as “essential personnel” by their employers during an outbreak or quarantine
- Other workers with broad exposure to the public

# CWA PANDEMIC RESPONSE IN REPRESENTING MEMBERS



## 2. District/Sector/Division Structure and Coordination with Locals

### District/Sector/Division Structure

- Establish points of contact
- Share information
- Identify confirmed cases, exposures and high risk units
- Engage with building office management
- Make Incident Tracking Form available to locals

### Coordination with Locals

- Vice Presidents' Communication with Local Presidents
- Engagement with Local Health & Safety Committees
- Identifying worksite points of contact in high risk units
- Review of local internal protocols for union halls and events, and as employers

# 3. CWA Communication with Employers

- Employer Pandemic & Contingency Protocols
- Collective Bargaining Agreement language

1. What are the employer's protocols in place?
2. Are the safety teams trained on the protocols?
3. What specific safety measures are in place to prevent infection while at work?
4. Is there a contact tracing process in place?
5. Is there a symptom or exposure reporting protocol or process?
6. Do you have a business/work contingency plan in case of a required shutdown?
7. What safeguards are in place to protect customer facing employees? (Call centers, Customer's premises, retail stores, airports etc.)
8. How will payment of employees be handled in case of shutdown?
9. How will payment of employees be handled in case of employees with positive tests? Confirmed exposure? Quarantined?
10. How will attendance absences/occurrences be handled as a result of any of the incidents?
11. How has the above information been communicated to the Local Union leadership?
12. How has the above information been communicated to the employees?

# CWA'S PANDEMIC RESPONSE AS AN EMPLOYER





## 4. CWA Objectives For Developing COVID-19 Protocols

1. What are CWA's protocols in place?
2. Are the safety teams trained on the protocols?
3. What specific safety measures are in place to prevent infection while at work?
4. Is there a contact tracing process in place?
5. Is there a symptom or exposure reporting protocol or process?
6. Do you have a business/work contingency plan in case of a required shutdown?
7. What safeguards are in place to protect customer facing employees? (Call centers, Customer's premises, retail stores, airports etc.)
8. How will payment of employees be handled in case of shutdown?
9. How will payment of employees be handled in case of employees with positive tests? Confirmed exposure? Quarantined?
10. How will attendance absences/occurrences be handled as a result of any of the incidents?
11. How has the above information been communicated to the CWA internal staff union(s) leadership?
12. How has the above information been communicated to the employees?

## 4. CWA Objectives For Developing COVID-19 Protocols

- CWA's goal is to provide comprehensive safety and prevention measures
- Human Resources & Staff Unions working together to finalize protocols
- Contacting your supervisor or Human Resources
- Coordination with HQ Building Committee and Cleaning Services

# 5. Prevention Practices

- At this time, there is no vaccine
- Avoiding people who are sick.
- Cover your mouth and nose when you cough or sneeze.
- Disinfect the objects and surfaces you touch.
- Avoid touching your eyes, nose and mouth.
- Wash your hands often with soap and water for at least 20 seconds.
- Use alcohol-based hand sanitizers with at least 60% alcohol.
- Awareness is key.
- Avoiding stigma.



MORE INFORMATION TO COME

