



MEMORANDUM

February 9, 2021

To: Committee on Energy and Commerce Members and Staff

Fr: Committee on Energy and Commerce Staff

Re: Full Committee Markup of Legislative Recommendations for Budget Reconciliation

On Thursday, February 11, 2021, at 11 a.m. (EST), and subsequent days as necessary, via Cisco Webex online video conferencing, the Committee on Energy and Commerce will hold a virtual markup of the Committee's legislative recommendations for budget reconciliation. The Committee will consider four committee prints drafted as individual subtitles relating to: (1) Public Health; (2) Medicaid; (3) the Children's Health Insurance Program (CHIP); and (4) Other Provisions.

I. OVERVIEW

On February 5, 2021, pursuant to the provisions of H. Res. 101, the House of Representatives adopted S. Con. Res. 5, a concurrent resolution setting forth the congressional budget for the United States Government for fiscal year (FY) 2021, setting forth the appropriate budgetary levels for FY 2022 through FY 2030, and providing reconciliation instructions. The resolution included the following budget reconciliation instructions for the Committee: *the Committee on Energy and Commerce shall submit changes in laws within its jurisdiction to increase the deficit by not more than \$188,498,000,000 for the period of fiscal years 2021 through 2030.*

II. LEGISLATIVE RECOMMENDATIONS FOR BUDGET RECONCILIATION

A. Subtitle A: Budget Reconciliation Legislative Recommendations Relating to Public Health

i. Chapter 1 – Vaccines and Therapeutics (Secs. 3001, 3002, 3003, and 3004)

This provision provides \$7.5 billion in funding for the Centers for Disease Control and Prevention (CDC) to prepare, promote, administer, monitor, and track the coronavirus disease of 2019 (COVID-19) vaccines. These activities can include distribution and administration of COVID-19 vaccines and ancillary supplies, support for state, local, tribal, and territorial public health departments, community vaccination centers and mobile vaccination units, information technology and data enhancements, facility enhancements, and public communications regarding when, where, and how to get a vaccine. It also provides \$1 billion in funding for CDC to strengthen vaccine confidence, further

information and education with respect to authorized or licensed vaccines, and improve vaccination rates.

This provision also addresses the vaccine and therapeutic supply chain by allocating \$5.2 billion to Health and Human Services (HHS) to support advanced research, development, manufacturing, production and purchase of vaccines, therapeutics, and ancillary medical products utilized for treatment and prevention of COVID-19, and any viral variant of SARS-CoV-2. The legislation also provides \$500 million for the Food and Drug Administration (FDA) to support the review, facilitate the development and post-marketing surveillance of COVID-19 vaccines and therapeutics, and address drug shortages, among other activities.

ii. Chapter 2 – Testing (Secs. 3011, 3012, 3013, and 3014)

This provision provides \$46 billion to HHS to detect, diagnose, trace, and monitor COVID-19 infections, and for other activities necessary to mitigate the spread of COVID-19. Specified activities include implementing a national strategy for testing, contact tracing, surveillance, and mitigation of COVID-19; guiding state and local public health departments in their work to implement the national strategy; support developing, manufacturing, procuring, distributing, and administering tests, personal protective equipment (PPE), and other supplies necessary for COVID-19 testing; establishing and expanding federal, state, or local testing and contact tracing capabilities, including investments in laboratory capacity, community-based testing sites, and mobile testing units; and sustaining our nation's public health workforce.

This provision provides \$1.75 billion for CDC to conduct, expand, and improve activities to sequence genomes, identify mutations, and survey the circulation and transmission of viruses including SARS-CoV-2. These dollars could also be used to provide genomic sequencing support to state, local, tribal, or territorial public health departments, expand the understanding of the COVID-19 variations, and build analytical capacity in health departments across the country.

This provision also provides \$500 million to allow CDC to establish, expand, and maintain data surveillance and analytics infrastructure and to modernize the U.S. disease warning system to forecast and track hotspots for COVID-19.

This provision provides \$750 million to support CDC's efforts to combat COVID-19 globally, including those efforts relating to global health security, global disease detection and response, global health protection, global immunization, and global coordination on public health.

iii. Chapter 3 – Public Health Workforce (Secs. 3021 and 3022)

This provision provides \$7.6 billion to HHS for efforts related to establishing, expanding, and sustaining a public health workforce, and to make awards to State, local, and territorial public health departments. These workforce positions would include contact tracers, social support specialists, community health workers, public health nurses, epidemiologists, lab personnel, disease intervention specialists, and communications personnel. Funds would also support necessary technology and supplies, such as PPE, for use by the public health workforce.

This provision allocates \$100 million for the Medical Reserve Corps, which is a network of volunteers, including medical and public health professionals, who support emergency response efforts and community health activities.

iv. *Chapter 4 – Public Health Investments (Secs. 3031, 3032, 3033, 3034, 3035, 3036, 3037, and 3038)*

This provision invests \$7.6 billion in Community Health Centers (CHCs), including at least \$20 million for Native Hawaiian Health Centers. CHCs would be allowed to use these funds to carry out COVID-19 vaccine-related activities; conduct COVID-19 testing, contact tracing, surveillance, mitigation, and treatment; purchase COVID-19 equipment and supplies; support health care workforce; expand health care services and infrastructure; and conduct COVID-19 community outreach and education activities. This provision also includes \$800 million for the National Health Service Corps and \$200 million for the Nurse Corps Loan Repayment Program, both of which support primary health care providers in high-need, low-resource areas across the country. It also provides \$331 million to expand the number of Teaching Health Centers (THC) Graduate Medical Education (GME) sites nationwide and increase the per resident allocation.

This provision provides \$1.8 billion to HHS to support the purchase, procurement, or distribution of COVID-19 tests and testing supplies, PPE, and vaccines for staff and individuals in congregate settings. It also allows HHS to provide technical assistance and award grants or cooperative agreements to states, localities, territories, and tribes to support strategies and activities to detect, diagnose, trace, or monitor COVID-19 in congregate settings, including prisons, jails, detention centers, long-term care facilities, psychiatric hospitals and residential treatment facilities, intermediate care facilities, and other settings providing care for individuals with disabilities.

This provision provides \$50 million for the Title X Family Planning Program and \$425 million for children under the care of HHS to be used for costs related to increasing capacity to provide care; activities related to detecting, diagnosing, tracing, treating, and monitoring SARS-CoV-2 and COVID-19 infections for such children; and for other purposes.

This provision also provides \$5 million to the Office of the Inspector General of HHS for oversight of activities related to funds provided to HHS for COVID-19.

v. *Chapter 5 – Indian Health (Sec. 3041)*

This provision provides \$6.094 billion in funding for tribal health programs. These dollars will support activities at the Indian Health Service (IHS), including \$2 billion for lost revenue; \$500 million for Purchased/Referred Care; \$140 million for information technologies, telehealth, and electronic health records infrastructure; \$84 million for urban Indian health programs; \$600 million for vaccine-related activities; \$1.5 billion for testing, tracing, and mitigating COVID-19; \$240 million for public health workforce; and \$420 million for mental and behavioral health prevention and treatment services among Indian tribes, tribal organizations, and urban Indian organizations. This provision also includes \$600 million for funding support of tribal health care facilities and infrastructure, and \$10 million for potable water delivery.

vi. *Chapter 6 – Mental Health and Substance Abuse (Secs. 3051, 3052, 3053, 3054, 3055, 3056, 3057, 3058, 3059, 3059A, and 3059B)*

This provision provides \$3.5 billion for the Substance Abuse Prevention and Treatment and Community Mental Health block grant programs administered by the Substance Abuse and Mental Health Services Administration (SAMHSA). Both programs provide funding to all 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and six Pacific jurisdictions. The Substance Abuse Prevention and Treatment block grant program also supports the Chippewa Tribal Nation.

This provision also provides \$80 million for mental and behavioral health training for health care professionals, para-professionals, and public safety officers. Also included are \$20 million for a national evidence-based education and awareness campaign targeting health care professionals and first responders, and \$40 million for grants for health care providers to promote mental and behavioral health among their health professional workforce.

This provision provides \$80 million to develop new grant programs at SAMHSA to allow additional entities, such as community-based entities and behavioral health organizations, to receive grants to support mental health and substance use disorder services.

This provision provides \$10 million for the National Childhood Traumatic Stress Network, an existing SAMHSA program that works to develop and promote effective community practices for children and adolescents exposed to a wide array of traumatic events. It also provides \$50 million for existing SAMHSA grant programs that support youth mental health services and suicide prevention efforts.

Lastly, this provision provides \$100 million to the Behavioral Health Workforce Education and Training Program, which is administered by the Health Resources and Services Administration (HRSA), to expand access to behavioral health services through focused training for behavioral health paraprofessionals, such as peer support specialists.

vii. *Chapter 7 – Exchange Grant Program (Sec. 3061)*

This provision provides \$20 million for State-Based Marketplaces (SBMs) to modernize information technology systems.

B. Subtitle B: Budget Reconciliation Legislative Recommendations Relating to Medicaid

i. *Mandatory Coverage of COVID-19 Vaccines and Administration Treatment Under Medicaid (Sec. 3101)*

This provision requires Medicaid coverage of COVID-19 vaccines and treatment without beneficiary cost sharing with vaccines matched at a 100 percent federal medical assistance percentage (FMAP) through one year after the end of the public health emergency (PHE). It also gives states the option to provide coverage to the uninsured for COVID-19 vaccines and treatment without cost sharing at 100 percent FMAP.

- ii. *Modifications to Certain Coverage Under Medicaid for Pregnant and Postpartum Women (Sec. 3102)*

This provision allows states, for five years, to extend Medicaid eligibility to women for 12 months postpartum.

- iii. *Allowing for Medical Assistance Under Medicaid for Inmates During 30-Day Period Preceding Release (Sec. 3103)*

This provision provides Medicaid eligibility, for five years, to incarcerated individuals 30 days prior to their release.

- iv. *Enhanced Federal Medicaid Support for Bundled Community-Based Mobile Crisis Intervention Services (Sec. 3104)*

This provision provides an enhanced FMAP to incentivize state Medicaid programs to cover mobile crisis intervention services for individuals experiencing a mental health or substance use disorder crisis.

- v. *Temporary Increase in FMAP for Medical Assistance Under State Medicaid Plans which Begin to Expend Amounts for Certain Mandatory Individuals (Sec. 3105)*

This provision provides an incentive for states to expand Medicaid by temporarily increasing the state's base FMAP by five percentage points for two years for states that newly expand Medicaid.

- vi. *Extension of 100 Percent Federal Medical Assistance Percentage to Urban Indian Health Organizations and Native Hawaiian Health Care Systems (Sec. 3106)*

This provision provides 100 percent FMAP for services provided to Medicaid beneficiaries receiving care through Urban Indian Organizations and Native Hawaiian Health Centers for two years.

- vii. *Sunset of Limit on Maximum Rebate Amount for Single Source Drugs and Innovator Multiple Source Drugs (Sec. 3107)*

This provision eliminates the cap on Medicaid drug rebates, starting in calendar year 2023.

- viii. *Additional Support for Medicaid Home and Community Based Services During the COVID-19 Emergency Period (Sec. 3108)*

This provision provides a temporary FMAP increase of 7.35 percentage points for states to make improvements to Medicaid home- and community-based services (HCBS) for one year.

- ix. *Funding for State Strike Teams for Resident and Employee Safety in Nursing Facilities (Sec. 3109)*

This provision provides \$250 million to HHS to help states create nursing home strike teams for facilities to manage COVID-19 outbreaks when they occur.

C. Subtitle C: Budget Reconciliation Legislative Recommendations Relating to CHIP

- i. Mandatory Coverage of COVID-19 Vaccines and Administration and Treatment Under CHIP (Sec. 3201)*

This provision requires CHIP coverage of COVID-19 vaccines and treatment without cost sharing to the beneficiary with vaccines matched at 100 percent FMAP until one year after the end of the PHE.

- ii. Modifications to Certain Coverage Under CHIP for Pregnant and Postpartum Women (Sec. 3202)*

This provision allows the option to states, for five years, to extend CHIP eligibility for women to 12 months postpartum.

D. Subtitle D: Budget Reconciliation Legislative Recommendations Relating to Other Provisions

- i. Chapter 1 – Ensuring Environmental Health and Ratepayer Protection During the Pandemic (Secs. 3301, 3302, and 3303)*

This provision provides the Environmental Protection Agency (EPA) with funds to address health outcome disparities from pollution and the COVID-19 pandemic. Specifically, it provides \$50 million in funds to EPA for environmental justice grants and activities. Additionally, the provision directs \$50 million in funding to EPA for air quality monitoring grants and other purposes outlined in subsections (a), (b), and (c) of section 103 of the Clean Air Act.

This provision directs \$4.5 billion to HHS for home energy assistance through the Low-Income Home Energy Assistance Program.

This provision also makes \$500 million available to HHS to provide financial assistance to low income and other consumers adversely affected financially by COVID-19 to assist with payments for drinking water and wastewater expenses.

- ii. Chapter 2 – Distance Learning and Consumer Protection During the COVID-19 Pandemic (Secs. 3311 and 3312)*

This provision provides \$50 million to the Consumer Product Safety Commission (CPSC) to carry out the mandate in the Consolidated Appropriations Act, 2021 directing the CPSC to increase surveillance of consumer products at ports of entry, including ports of entry for de minimis shipments; enhance the targeting, surveillance, and screening of consumer products, particularly COVID-19 products, and enhance the monitoring of internet websites for the offering for sale of new and used violative consumer products, particularly COVID-19 products. The funding is also for increased

awareness and communication of risks related to COVID-19 products and to improve the CPSC's data collection and analysis system. COVID-19 products are defined as products whose risks have been significantly affected by or whose sales have materially increased as a result of the COVID-19 pandemic.

This provision establishes a \$7.6 billion Emergency Connectivity Fund, and requires the Federal Communications Commission (FCC) to promulgate rules within 60 days of enactment for provisioning support to eligible schools and libraries to provide, among other things, eligible connected devices, internet service, and hotspots to students and teachers for internet use at home. In providing support under the covered regulations, the FCC shall reimburse 100 percent of the costs associated with the eligible equipment and services.

iii. Chapter 3 – Oversight of Department of Commerce Prevention and Response to COVID-19 (Sec. 3321)

This provision provides \$3 million to the Office of the Inspector General of the Department of Commerce (Commerce) for oversight of activities related to funds provided to Commerce for COVID-19.