

# COVID-19

## Federal and State Legislative Update

Current as of November 19, 2020.



### Federal Legislation

#### Coronavirus Aid, Relief, and Economic Security Act

Known as the "CARES Act" ([H.R. 748](#)), signed by President Trump on 3/27/20

Provides emergency assistance and health care response for individuals, families, and businesses affected by the COVID-19 pandemic and provides emergency appropriations to support Executive Branch agency operation during the COVID-19 pandemic.

Clarifies that individual and group health plans must cover and waive cost-sharing and prior authorization/medical management requirements for the following items during the COVID-19 public health emergency declaration:

- COVID-19 testing (including those without an emergency use authorization by the FDA, tests developed or authorized by States, and other tests that the HHS deems appropriate in guidance)
- Test-related items and services provided during provider visits, urgent care visits, and ER visits that result in an order of a COVID-19 test

Creates a safe harbor for coverage of telehealth services by High Deductible Health Plans for the 2020 and 2021 plan years. Plans shall not fail to be treated as a high deductible health plan by reason of failing to have a deductible for telehealth and other remote care services.

#### Families First Coronavirus Response Act ([HR 6201](#)), signed by President Trump on 3/18/20

Extends paid leave to those affected by the virus and parents with children not in school; increases unemployment insurance and food assistance; and assures free COVID-19 testing.

#### COVID-19 Testing

The bill provides for coverage of diagnostic testing during the emergency period identified in the bill, as follows:

- Private insurance: Requires private health plans to provide coverage for diagnostic testing, including U.S. Food and Drug Administration (FDA)-approved COVID-19 diagnostic testing products and items and services related to testing furnished during an office, telehealth, urgent care center or emergency room visit. These services must be covered without cost-sharing (including deductibles, copays or coinsurance), prior authorization or medical management requirements.
- (Update from April 11) CMS, in conjunction with the Departments of Labor and Treasury, issued clarifying guidance that the COVID-19 testing mandates for private health plans under both bills includes serological testing for COVID antibodies without cost-sharing. Click [here](#) to read that guidance.

#### Employer Provisions

There are three provisions that are of particular interest to employers: (1) the Public Health Emergency Leave provision, (2) the Emergency

Paid Sick Leave provision and the provision for certain employer payroll tax credits.

These provisions generally apply to employers with **fewer than 500 employees**. There are a couple of exceptions to the Public Health Emergency Leave that apply to much smaller employers noted below. The Emergency Paid

Sick Leave provision applies to private entities with fewer than 500 employees, but also applies to governmental entities that employ more than one employee.

Review this [Overview of Employer Paid Leave Requirements and Tax Credit Provisions](#).

## New Jersey State Legislation

Governor Murphy has signed the following bills into law:

- [S2333](#) (Kean): Provides civil and criminal immunity to certain health care professionals and health care facilities during public health emergency and state of emergency; facilitates issuance of certain temporary licenses and certifications during public health emergency and state of emergency. Signed by the Governor, [P.L. 2020, c. 18](#).
- [S2338](#) (Sarlo): "COVID-19 Fiscal Mitigation Act"; clarifies filing and payment deadline for CBT and GIT taxpayers, modifies duration of State Fiscal Years 2020 and 2021, requires certain updates and presentation for State Fiscal Years 2020 and 2021. Signed by Governor, [P.L. 2020, c.19](#).
- [A3901](#) (Chiaravalloti): Permits professional and occupational licensing boards to reactivate licensure of certain individuals during state of emergency or public health emergency. Signed by the Governor, [P.L. 2020, c.25](#).
- [S2357](#) (Rice): Requires hospitals to report COVID-19 demographic data. Signed by the Governor, [P.L. 2020, c.28](#).
- [S2344](#) (Pou): Requires Medicaid and health insurance coverage for certain refills of prescription drugs during state of emergency. Signed by the Governor, P.L. 2020, c.30
- [A3942](#) (Mukherji): Requires hospital to permit individual to accompany woman during childbirth. Signed by the Governor, P.L. 2020, c.32.
- [A3860](#) (Pinkin): Establishes certain requirements to use telemedicine and telehealth to respond to coronavirus disease 2019 (COVID-19).
- [A3843](#) (McKeon): Requires health insurance and Medicaid coverage for testing of coronavirus disease 2019 and for telemedicine and telehealth during coronavirus disease 2019 state of emergency.
- [A3854](#) (Conaway): Authorizes all licensed health care facilities and laboratories to collect specimens to test for coronavirus disease 2019 (COVID-19); allows waiver of staffing ratio requirements.
- [A3862](#) (Giblin): Permits professional and occupational licensing boards to expedite licensure of certain individuals during state of emergency or public health emergency.
- [S2304](#) (Sweeney): Concerns family leave and disability benefits during epidemic-related emergencies.
- [A3996](#) (Lopez) Permits modification of scope of work or terms and conditions of contract between non-profit organizations and State agencies for failure to perform due to COVID-19 pandemic
- [A3](#) (Pintor Marin): Amends and supplements FY20 appropriations act to effectuate extension of fiscal year through September

30, 2020; reduces authorized appropriations; makes FY20 supplemental appropriations of \$7,745,997,000 in State funds and \$4,586,243,000 in federal fund. Signed by the Governor, [P.L. 2020, c.43](#).

- [S2467](#) (Pou): Extends duration of certain laws pertaining to use of telemedicine and telehealth in relation to COVID-19 pandemic. Signed by the Governor, P.L. 2020, c.47.
- [A4132](#) (Taliaferro): Concerns benefits provided to workers. Signed by the Governor, P.L. 2020, c.57.
- [S2436](#) Authorizes pharmacists to order and administer test for coronavirus disease 2019 (COVID-19) consistent with federal guidance; requires health benefits and Medicaid coverage for tests.

### Executive Orders and Announcements: Governor Murphy:

- [Executive Order No. 102](#) – Establishing Coronavirus Task Force
- [Executive Order No. 103](#) – Declaring State of Emergency and a Public Health Emergency
- [Executive Order No. 109](#) – Suspending all elective surgeries, invasive procedures in order to preserve hospital equipment and capacity
- [Executive Order No. 111](#) – Directing health care facilities to report data, including PPE inventory and bed capacity, on a daily basis
- [Executive Order No. 112](#) – Removing barriers to health care professionals joining COVID-19 response in NJ and to provide protections for front line health care responders
- [Executive Order No. 113](#) – Authorizing Commandeering of Property Such as Medical Supplies

- [Governor Murphy Announces Departmental Actions to Expand Access to Telehealth and Tele-Mental Health Services in Response to COVID-19](#)
- [Governor Murphy Announces New Funding Sources to Assist Health Care Providers with COVID-19-Related Expenses](#)
- [Executive Order No. 115](#) – Allowing Certain Retirees to Return to Public Employment
- [Executive Order No. 119](#) – Extending the Public Health Emergency in New Jersey
- [Executive Order No. 122](#) – Ordering the end of non-essential construction and imposing additional mitigation requirement on essential retail business
- [Executive Order No. 123](#) – Extending Insurance Premium Grace Periods
- [Executive Order No. 138](#) – Extending Public Health Emergency in New Jersey
- [Executive Order No. 140](#) – Naming Restart and Recovery Advisory Council
- [Executive Order No. 141](#) – Mandating all local, county, and regional health departments use the CommCare platform to support contact tracing efforts
- [Executive Order No. 145](#) – Allowing Elective Surgeries and Invasive Procedures to Resume May 26
- [Governor Murphy Announces Departmental Actions to Expand Access to Telehealth and Tele-Mental Health Services in Response to COVID-19](#)
- [Governor Murphy Announces New Funding Sources to Assist Health Care Providers with COVID-19-Related Expenses](#)
- [Governor Murphy Announces Team of Experts with National Experience to Conduct Review of New Jersey's Long-Term Care Facilities – 5/6/20](#)
- [Governor Murphy Announces Expanded Access to Testing at New Jersey's Community Based Testing Sites – 5/8/20](#)
- [Governor Murphy Signs Executive Order Allowing Elective Surgeries and Invasive Procedures to Resume on May 26 – 5/15/20](#)
- [COVID-19 Information Hub](#)

- [All Governor's Transcripts of Coronavirus Briefings and Press Releases](#)
  - [Executive Order No. 151](#) – Extending the Public Health Emergency for another 30 days
  - [Executive Order No. 159](#) – Extending Certain Statutory Deadlines Across State Government
    - [Appendix To Executive Order No. 159](#)
  - [Executive Order No. 161](#) – Increasing Outdoor Gathering Capacity Limit
  - [Executive Order No. 162](#) – Extending Public Health Emergency in NJ for another 30 days
  - [Executive Order No. 163](#) – Requiring Individuals to Wear Masks in Outdoor Public Spaces when they Cannot Social Distance
  - [Executive Order No. 166](#) – Creating Greater Oversight and Accountability for Federal COVID-19 Resources
  - [Executive Order No. 170](#) – Extending Certain Statutory Deadlines Across State Government
    - [Appendix to Executive Order No. 170](#)
  - [Executive Order No. 171](#) – Extending the Public Health Emergency that was declared on March 9, 2020 through Executive Order No. 103, which was previously extended on April 7, May 6, June 4, and July 2.
  - [Executive Order No. 172](#) – Allowing Public Employees to Immediately Enroll in SHBP
  - [Executive Order No. 173](#) – Decreasing Indoor Gathering Capacity Limit
  - [Executive Order No. 175](#) – Opening NJ's Schools for In-Person Instruction Subject to Critical Health and Safety Protocols
  - [Executive Order No. 178](#) – Extending Certain Statutory Deadline Across State Government
    - [Appendix To Executive Order No. 178](#)
  - [Executive Order No. 180](#) – Extending Public Health Emergency in NJ
  - [Executive Order No. 186](#) – Extending Public Health Emergency in NJ
  - [Letter to Secretary Azar and Administrator Verma](#) requesting a Special Enrollment Period in New Jersey
  - [Governor Murphy Announces Departmental Actions to Expand Access to Telehealth and Tele-Mental Health Services in Response to COVID-19](#)
  - [Governor Murphy Announces New Funding Sources to Assist Health Care Providers with COVID-19-Related Expenses](#)
  - [COVID-19 Information Hub](#)
  - [All Governor's Transcripts of Coronavirus Briefings and Press Releases](#)
- Attorney General Directives:
- AG Grewal [Waives](#) Rules for Out-of-State Healthcare Providers to Offer Services to NJ Residents During COVID-19 Emergency
  - [Federal-State COVID-19 Fraud Task Force](#) Announcement by AG Grewal, US Attorney General Carpenito, and Acting Comptroller Walsh
  - [AG Grewal Announces Expansion of Pharmacists' Role in COVID-19 Testing Across New Jersey](#)
  - [AG Grewal Announces Action by Division of Consumer Affairs to Pave Pathway for Healthcare Providers to Resume Routine Care and Elective Procedures](#)
- Department of Banking and Insurance (DOBI) Guidance:
- [DOBI Resource Page](#)
  - [DOBI Bulletin 20-03](#) – Response to COVID-19
  - [DOBI Bulletin 20-04](#) – Disruption Resulting from COVID-19
  - [DOBI Bulletin 20-05](#) – COVID-19 Matters
  - [DOBI Bulletin 20-07](#) – Use of Telemedicine and Telehealth to Respond to the COVID-19 Pandemic



- [DOBI Bulletin 20-08](#) – Temporary External Appeal Application Procedures for the Independent Health Care Appeals Program
- [DOBI Bulletin 20-10](#) – Extended Transition for Certain Health Insurance Policies
- [DOBI Bulletin 20-11](#) – Guidance Concerning Circumstances Related to the COVID-19 Pandemic (Individual Market)
- [DOBI Bulletin 20-12](#) – Guidance Concerning Circumstances Related to the COVID-19 Pandemic (Small Employer Market)
- [DOBI Bulletin 20-13](#) – Guidance Concerning Circumstances Related to the COVID-19 Pandemic (Large Employer Market)
- [DOBI Bulletin 20-14](#) – Response to COVID-19 (Medicare Supplement)
- [FAQ](#) on COVID-19 & Health Insurance
- DOBI Bulletin 20-17 – [Frequently Asked Questions](#)
- [DOBI Bulletin 20-19](#) – Use of Telemedicine and Telehealth During the COVID-19 Pandemic
- [DOBI Bulletin 20-22](#) – Premium Refunds, Credits and Reductions in Response to COVID-19 Pandemic
- [DOBI Bulletin 20-24](#) – Response to COVID-19 (Supplement to Bulletin 20-03)
- [FAQ](#) on COVID-19 & Health Insurance
- [DOBI Resource Page](#)
- [DOBI Bulletin 20-27](#) – 60-Day Grace Period for Health Insurance Policies and Contracts Not Addressed by Bulletin Nos. 20-11, 20-12, 20-13 AND 20-14 Due to the Disruption Caused by COVID-19