

Title III of the CARES Act: Supporting America's Health Care System in the Fight Against the Coronavirus

On Friday, March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law.

Title III of the Act, "Supporting America's Health Care System in the Fight Against the Coronavirus," is subdivided into six Subtitles, as follows:

The CARES Act repeatedly references the "emergency period," which is defined by reference to Section 1135(g)(1)(B) of the Social Security Act, which is the period during which there exists: (i) the public health emergency declared by the Secretary on January 31, 2020, entitled "Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus"; and (ii) any renewal of such declaration.

The following is a summary of key provisions of Title III.

Subtitle A: Health Provisions

Part I - Addressing Supply Shortages

Sections 3101 through 3121 address medical supply and drug shortages by:

Part II - Access to Health Care for COVID-19 Patients

Sections 3201 through 3226 address access to healthcare for COVID-19 patients by:

Part III - Innovation

Sections 3301 and 3302 address innovation by:

Part IV - Health Care Workforce

Sections 3401 through 3404 address the healthcare workforce by:

Subtitle B: Education Provisions

Sections 3501 through 3519 apply to the Higher Educational Act of 1965 (20 USC Â§1091) and, during a period of qualified emergency:

Subtitle C: Labor Provisions

Sections 3601 through 3611 address labor provisions by:

Subtitle D: Finance Committee

Sections 3701 through 3720 address a host of healthcare payment issues and:

Subtitle E: Health and Human Services Extenders

Sections 3801 through 3803 extend Medicare funding for the current fiscal year, ending on October 1, 2020, and for the first two-month period of the new fiscal year, beginning on October 1, 2020 and ending on November 30, 2020, by an amount equal to the pro rata portion of the increased annual funding. The following programs are affected by these changes:

Sections 3811 through 3814 address the Medicaid Program, as follows:

Sections 3821 through 3824 extend the following Human Services and Other Health Programs:

Sections 3831 through 3832 extend the following Human Services and Other Health Programs:

Subtitle F: Over-the-Counter Drugs

Sections 3851 through 3862 amend the Federal Food, Drug, and Cosmetic Act to address certain nonprescription drugs that are marketed without an approved drug application. The regulatory process for certain OTC drug approvals is reformed, permitting the FDA more flexibility to make changes administratively, rather than through the full notice and comment rulemaking process. Note: This is not a waiver of the process for all OTC drugs, but for those that meet several detailed requirements.

Furthermore, the following changes are made to the Sunscreen Innovation Act:

A new FDA user fee plan is also established:

Please contact the following co-authors of this Alert with questions or to discuss specific circumstances related to the provisions of the CARES Act:

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