

HEROES ACT Analysis

The federal response to date to secure public health and support state and local economies includes supplemental funding, the Families First Coronavirus Response Act and the CARES Act. These legislative actions are important steps to respond to COVID-19 and begin to address both the health and economic aspects of the crisis. However, the federal response to date is not sufficient to match the magnitude of what our country is facing.

The House of Representatives took another important step this week to address ongoing issues threatening the health and well-being of individuals, families and communities. The Health and Economic Recovery Omnibus Emergency Solutions Act (“HEROES ACT”) invests in Medicaid, eliminates cost sharing for treatment of COVID-19, regardless of insurance status, and makes substantial investments in workers and families.

Below is an analysis of key provisions of the HEROES ACT based on [Community Catalyst’s recommendations](#) to strengthen the federal response to COVID-19.

Coverage and Affordability

Medicaid Financing: The HEROES ACT does aim to shore up state Medicaid programs through a 14-percentage point increase in the federal matching percentage (including the 6.2% increase in the Families First Coronavirus Response Act), going slightly above the National Governor’s Association recommendation. However, the bill does not establish a trigger to address countercyclical Medicaid funding as in previous House proposals and does not provide 100% matching funds to expand Medicaid in states that have not yet taken up expansion.

The HEROES ACT includes additional Community Catalyst priorities like Medicaid coverage for criminal justice populations starting 30 days prior to release and delayed enactment of the harmful Medicaid Fiscal Accountability Regulation (MFAR). The bill also clarifies that for immigrants who are ineligible for full-scope Medicaid due to immigration status – but who meet other Medicaid eligibility requirements – coverage for COVID-19 testing, treatment and vaccines is available through Emergency Medicaid. In addition, the bill includes a 10% FMAP increase for improvements to Home and Community Based Services and supports for home health workers. Unfortunately, the bill does not address the barriers to essential care for immigrants posed by the administration (such as public charge rule). The bill also includes a troubling exemption from the maintenance of effort requirements for New York state.

Marketplace and Private Insurance: In line with Community Catalyst’s recommendations, the HEROES ACT includes a 2-month special enrollment period (SEP) for all states except those with state exchanges already operating their own SEP. It also requires group and individual market health plans to waive cost sharing for treatment of COVID-19 retroactively to the start of the public health emergency and throughout its duration.

The HEROES ACT falls short, however, in addressing underlying affordability concerns for marketplace plans. While the bill does include 9 months of full premium subsidies for individuals enrolling in COBRA coverage, we recommended that Congress increase the income

below which no premiums are required, to 200% FPL, as well as a more gradual increase in premiums up the income ladder for low- and moderate-income households. Unfortunately, this bill does not address this aspect of the affordability equation.

Medical debt: In line with Community Catalyst's recommendations, the HEROES ACT ensures no cost sharing for COVID-19 treatment and vaccines across all public and private health insurance markets. In addition, the bill includes provisions that ban all debt collections during the public health emergency and provides safeguards from credit reporting during the COVID-19 pandemic.

Access and Quality

Targeted resources: The HEROES ACT specifies that "essential work" includes behavioral health work, including mental health services and substance use disorder prevention, treatment, and recovery services. This is important to ensure essential providers have access to supports needed during the pandemic.

Surpassing Community Catalyst's recommendations, the HEROES ACT proposes \$1.5B in new funds for the Substance Abuse Prevention and Treatment (SAPT) Block Grant Program as part of a larger allocation of \$3B to SAMHSA that also includes funds for the mental health block grant.

The HEROES ACT also proposes \$10M in grant funding to states, localities, tribes, and community-based entities to address the harms of drug misuse during COVID-19. This is a good start but is significantly less than the \$58M recommended by Community Catalyst. We recommend that Congress appropriate the money to the Centers for Disease Control and Prevention for distribution instead of the Substance Abuse and Mental Health Services Administration.

The HEROES ACT also appropriates an addition of \$100 billion into the Provider Relief Fund to reimburse providers for all COVID-19 related expenses and a portion of their lost revenues. The bill does not specify that at least 30 percent must be directed to non-Medicare providers but does make technical adjustments so that some Medicaid providers can more equitably access funds. Providers that accept these funds are prohibited from balance billing insured patients. The bill also appropriates funds to reimburse providers treating uninsured patients for COVID-19. There is a budget limitation of \$10 million for expenses incurred in providing uncompensated care, an amount that is insufficient.

The bill does not include Community Catalyst's priority of establishing a separate Safety Net Coronavirus Provider Relief Fund for front-line health workers that include doulas, peer support, dental therapists, community health workers and others who are providing important care to communities of color.

The bill also falls short in ensuring equitable access to telehealth services at parity with in-person care.

Justice-Involved Populations: The HEROES ACT includes the Emergency Community Supervision Act, for federal prisons to release eligible individuals. We recommend that this eligibility language be amended to include people with substance use disorders and mental illness. HEROES also includes a \$500M grant program per year for two years for states to test, release, and link eligible individuals to medication assisted treatment and reentry services. These align with Community Catalyst's recommendation to reduce the number of individuals incarcerated, and reduce spread of COVID-19 within correctional facilities.

Worker Protections/PPE: The HEROES ACT does expand the use of the Defense Production Act to increase the supply of medical equipment, testing supplies, and personal protective equipment and provides additional tax deductions and credits for certain front-line workers. The bill also includes \$200 billion in the form of premium pay for essential workers, a provision supported by Community Catalyst.

National Testing and Contact Tracing Initiative: The bill establishes a national system for testing, contact tracing, surveillance, containment and mitigation. State, local, tribal, and territorial health departments will receive funding for this initiative, with funding priority going to the most impacted areas and medically underserved populations. Community-based organizations will also receive funding to hire culturally competent contact tracers. The HEROES ACT also creates a national information campaign on testing and contact tracing. While the initiative's attention to equity is the right step forward, it does not explicitly require data collected in the contact tracing initiative to be disaggregated by race and ethnicity.

The bill does not address Community Catalyst's recommendations on promoting the hiring community health workers (CHWs) and other community workers (doulas, peer supports and others) as well as providing training on implicit bias for contact tracers. However, the bill requires the GAO to conduct a study on the US public health workforce during the COVID-19 pandemic and report to Congress by December 1, 2021. The study must address gaps in the workforce, including: epidemiological and disease intervention specialists needed during the pandemic for contact tracing, laboratory technicians necessary for testing, community health workers for community supports and services, and other staff necessary for contact tracing, testing, or surveillance activities. The report must also include recommended steps the federal government should take to improve hiring, recruitment, and retention of the public health workforce.

Build infrastructure: The HEROES ACT includes \$100M (\$50M per year) in grants over two years to states, local entities, tribes, community-based entities, and primary care and behavioral health organizations to address COVID-19 related behavioral health needs. Among other things, the funds can be used for upgrading telehealth technology, screening/assessment/diagnosis/treatment, and community behavioral health recovery supports. This aligns with Community Catalyst's recommendation to increase digital

infrastructure of community organizations; however, we want to make sure that the definition of behavioral health includes both substance use disorders and mental illness.

The HEROES ACT unfortunately does not provide new funding for school-based health centers.

Address barriers to quality care: The HEROES ACT does not address Community Catalyst's concerns with the need to clarify what constitutes unlawful discrimination on the basis of disability and age as it relates to the allocation of limited resources due to the COVID-19 pandemic.

Disaggregated Data Collection and reporting: The HEROES Act authorizes funding to modernize data collection methods and infrastructure that enable data collection related to health inequities at the federal, state, local and territorial level.

The bill requires an HHS report to Congress on race and ethnicity rates of COVID-19 testing, hospitalization, and mortalities. The report must also propose strategies to reduce disparities related to COVID-19 and a final report in 2024. It also requires regular CDC reporting on COVID-related demographics data, and requires this information be publicly accessible. While this information is helpful, it doesn't affect initiatives already put into place to address the needs of marginalized communities. The disaggregation of data, especially in terms of race and ethnicity, should be a standard requirement for all federally funded health initiatives.

Social Determinants of Health

Financial Assistance: The HEROES ACT provides \$925 million in relief for overburdened state unemployment insurance systems and provides full federal funding for extended unemployment compensation. It also extends the Pandemic Unemployment Assistance benefits (PUA) provided to workers who do not qualify for regular unemployment compensation, and increases flexibility for income verification, as well as Pandemic Extended Unemployment Compensation. The bill did not respond to Community Catalyst's recommendation to make cash payments available to family caregivers who provide care that would otherwise be provided by a home health worker. While the bill infuses resources into unemployment systems, these short-term fixes do not address the continued need for economic assistance after the pandemic passes.

Paid Leave: The bill's paid leave modifications respond to Community Catalyst's recommendations. The bill eliminates the employer exemptions from previous bills and provides up to 12 weeks of job-protected paid leave, regardless of employer size. It also stipulates that paid emergency FMLA leave and such leave does not count towards an employee's 12 weeks of non-emergency unpaid FMLA leave. In addition, two weeks of paid sick leave is available to employees regardless of existing employer-sponsored paid leave. While paid leave doesn't cover reduced staffing due to physical distancing needs, it does cover self-

isolation due to work-related health risks. The bill does not include direct payments to family caregivers, but does increase tax credits for employers granting family caregivers paid leave. This bill makes strides in making paid leave accessible to all, but more action must be taken to improve supports for family caregivers who are not included in the formal labor system.

Immigrant Worker Inclusion: The bill extends CARES Act cash payments to immigrant workers by including payments made under the CARES Act to persons filing with an Individual Taxpayer Identification Number. Paired with the bill's expansion of eligibility for the \$500 CARES Act child payment to include "dependents" not just "children," many more immigrant families will be able to access cash assistance.

Housing stability: As recommended by Community Catalyst, the bill provides at least \$11.5 billion in Emergency Solutions Grants (ESG) that assist individuals and families experiencing homelessness. It also fulfills our recommendation to provide \$100 billion in emergency rental assistance and eviction prevention funding. While the bill increases funding to mitigate housing instability due to the pandemic, it fails to implement a uniform eviction and foreclosure policy that assures that renters will not lose their homes during a pandemic where our collective health depends on each of us staying home.

Supplemental Nutrition Assistance Program (SNAP): In line with Community Catalyst's recommendations, the HEROES ACT increases the SNAP benefit level by 15%, increases the minimum SNAP benefit to \$30 a month, and suspends all SNAP administrative rules that would terminate or weaken benefits. Pandemic Unemployment Compensation income will not count against SNAP applicants. These new investments and flexibilities are critical steps to addressing increasing food insecurity across the country.

Investing in state and local public health infrastructure: The HEROES ACT includes \$2.1 billion for the Centers for Disease Control and Prevention to support state, local, and tribal public health agencies in responding to COVID-19. In addition, the bill appropriates \$2.1 billion for Indian Health Service for COVID-19 response, including expansion of telehealth and broadband infrastructure.