



## American Rescue Plan Act of 2021 Health Care and Related Provisions

### OVERVIEW

On Wednesday, March 10, 2021, the U.S. House of Representatives passed the Senate version of the budget reconciliation package, the *American Rescue Plan Act of 2021* (H.R. 1319). The \$1.9 trillion legislation includes mandatory funding, program changes, and tax policies aimed primarily at mitigating the continuing effects of the COVID-19 pandemic.

The \$1.9 trillion package includes provisions that would:

- Provide \$1,400 in direct payments to individuals and dependents.
- Extend pandemic unemployment programs.
- Expand tax credits for families and for employers who offer paid leave.
- Fund state and local government aid, testing and vaccine activities, schools, mass transit systems, restaurants and other small businesses, childcare, housing, nutrition, and more.
- Expand subsidies to purchase health insurance under the Affordable Care Act for two years.
- Temporarily increase Medicaid funding to states that expand their programs.

The House passed its budget reconciliation measure on Feb. 27 by a 219-212 vote, with two Democrats joining Republicans in voting against it. The Senate passed the bill 50-49 on March 6, after adopting a substitute amendment from Majority Leader Chuck Schumer (D-NY) that was further amended during the “vote-a-rama” process. Those changes included extending pandemic unemployment programs through Sept. 6, instead of Aug. 29; reducing the additional weekly benefit to \$300, from \$400; and making the first \$10,200 in jobless benefits tax free for certain taxpayers. The amended version also includes additional funding for local governments and for students with disabilities.

President Biden signed the *American Rescue Plan Act of 2021* into law on March 11, 2021 (Pub. L. 117-2).

### HEALTH CARE PROVISIONS

#### Medicare Changes



**Imputed Rural Floor:** Requires CMS to reinstate a rural floor for the wage index that applies to hospitals in all-urban states. It would not be applied in a budget-neutral manner. The newly-reinstated imputed rural floor will apply to discharges occurring on or after October 1, 2021.

**Ambulance Services:** The measure allows CMS to waive a requirement during the pandemic that ambulance services include transportation to a hospital to receive Medicare payments, if they didn't transport the patient because of Covid-19-related protocols.

### Medicaid Changes

**Covid-19 Coverage:** Covid-19 vaccines and treatments will be covered until a year after the pandemic ends at no cost to beneficiaries under Medicaid and the Children's Health Insurance Program. The federal medical assistance percentage (FMAP) will be increased to 100% for vaccine costs during that period. Vaccines and treatment will also be covered for the uninsured. Outpatient drugs used for Covid-19 treatment would be included in the Medicaid Drug Rebate Program.

**Coverage Expansions:** The measure increases a state's FMAP by 5 percentage points for two years if it expands Medicaid to cover the newly eligible adult population under the Affordable Care Act. The provision is intended to encourage the 12 states that haven't expanded the program to do so. The measure also allows states, for five years, to provide full Medicaid benefits to eligible pregnant women for a year after giving birth.

### Other FMAP Increases:

- Provides an 85% FMAP for the first three years that a state covers mobile crisis intervention services for mental health or substance use disorders, which would expire after five years.
- Provides a 100% FMAP for two years for services received through an Urban Indian Organization or Native Hawaiian Health Center.
- Increases a state's FMAP by 10 percentage points for home and community-based services for one year.

**Drug Rebates:** Ends, beginning in 2024, a cap on the rebate that drug companies provide to Medicaid, which is currently limited to 100% of the average manufacturer price. Once that cap is reached, drugmakers can raise their prices without increasing the net rebates that must be paid.

**DSH Funding:** The measure modifies Medicaid allotments for disproportionate share hospitals, which treat a large number of low-income or uninsured patients, to account for the 6.2 percentage point increase to states' FMAP under Public Law 116-127. HHS will have to ensure that the total DSH payments that a state may make in a fiscal year is



equal to the total payments it could have made without the FMAP increase during the pandemic.

#### ACA Subsidies and COBRA

**Expansion of Tax Credits:** The measure expands the Affordable Care Act's premium tax credits for health insurance purchased through an exchange. For 2021 and 2022, the bill eliminates premiums for individuals at 150% of the FPL or less, and reduce premiums for all other households. It also would make households above 400% of the FPL eligible, with a premium cap of 8.5% of income. The premium caps currently [range](#) from about 2% to 9.8%, and are adjusted annually for inflation.

**Unemployment and Premium Tax Credits:** The measure allows taxpayers who receive unemployment compensation in 2021 to be eligible for the credit without any premiums, by disregarding any income above 133% of the FPL. The measure also wouldn't allow excess premium credits to be recaptured in 2020.

**Unemployment and Cost-Sharing Subsidies:** The bill allows individuals who receive unemployment compensation in 2021 to qualify for reduced cost-sharing under the ACA. The law requires insurers to reduce out-of-pocket costs, such as copays and deductibles, for enrollees whose income is between 100% and 400% of the FPL and who enroll in a silver plan through the law's exchanges. The measure disregards income that exceeds 133% of the FPL for purposes of determining the cost-sharing reduction amounts.

**COBRA Coverage:** The measure subsidizes 100% of premiums for individuals eligible for COBRA continuation coverage if they lose their job. The individual wouldn't have to pay any premiums, and the employer or health plan could claim a refundable tax credit against its Medicare payroll tax liability for the cost of the premiums. The premium assistance under the measure will be available through Sept. 30 for individuals who were involuntarily separated from their jobs or had their hours reduced.

#### Health Care Funding

Funding for the Health and Human Services Department to respond to the pandemic would include:

- \$47.8 billion for testing and tracing activities.
- \$8.5 billion for vaccine activities at the Centers for Disease Control and Prevention.
- \$7.66 billion to expand the public health workforce, including grants to state, local, and territorial health departments.
- \$7.6 billion for community health centers.
- \$6.09 billion for tribal health programs.



- \$6.05 billion to support manufacturing and purchasing vaccines and therapeutics.
- \$3 billion for block grant programs under the Substance Abuse and Mental Health Services Administration.
- \$1.75 billion for genomic sequencing and surveillance.
- \$800 million for the health workforce.
- \$750 million for CDC global health activities.
- \$500 million for the Food and Drug Administration to continue evaluating Covid-19 vaccines and therapeutics.
- \$500 million for CDC data modernization and forecasting.

The measure also would provide \$8.5 billion for rural health-care providers for expenses and lost revenue related to Covid-19, \$250 million for “strike teams” to assist skilled nursing facilities, and \$200 million for infection control support at those facilities.

### **Defense Production Act**

The measure provides \$10 billion to use the Defense Production Act to purchase, produce, and distribute medical supplies and equipment related to Covid-19. That would include tests, face masks, personal protective equipment, and drugs and vaccines to treat or prevent Covid-19. Under the DPA, the president can require manufacturers to prioritize contracts related to national defense and other emergencies. It also authorizes the president to allocate scarce goods and provide incentives such as loans and contracts to help expand production.

### **STATE & LOCAL AID**

H.R. 1319 includes about \$360 billion to help state, local, tribal, and territorial governments mitigate fiscal effects tied to the Covid-19 emergency.

The measure would create state and local funds that would provide:

- \$195.3 billion for states and Washington, D.C.
- \$130.2 billion for local governments.
- \$20 billion for federally recognized tribal governments.
- \$4.5 billion for territories.

The measure will distribute \$25.5 billion equally among states and the District of Columbia. Other funds will be allocated based on each state’s share of unemployed people. (Specifically, the number is based on the number of unemployed individuals over a three-month period that ended in December).

### **TAX PROVISIONS**



### Major Tax Provisions

**Direct Payments:** The bill provides another round of direct payments of as much as \$1,400 for an individual, \$2,800 for joint filers, and \$1,400 for each qualifying dependent. The payments will begin to phase out for individuals with adjusted gross incomes of \$75,000 and will be zero for AGIs of \$80,000 or more. Those amounts are doubled for joint filers. Dependents include full-time students younger than 24 and adult dependents. Individuals who died before Jan. 1, 2021, wouldn't be eligible for the payments. Payments will be based on 2019 or 2020 tax returns.

**Earned Income Tax Credit:** The measure expands the earned income tax credit for taxpayers without children for 2021 by increasing the credit percentage and phase out thresholds. It also allows taxpayers ages 19 and older without children to qualify, eliminating the 25 to 64 age range for the year. Individuals who are homeless or were in foster care could claim the credit beginning at age 18, and full-time students could claim it beginning at age 24.

**Child Tax Credit:** The measure expands the child tax credit, which provides a credit of as much as \$2,000 for each child younger than 17, for 2021. It also makes the CTC fully refundable, meaning the entire credit could be provided as a refund if it exceeds an individual's income tax liability, instead of partially refundable under current law. It also increases the maximum credit to \$3,600 for each child younger than 6 and \$3,000 for other children, and allows the CTC to be claimed for 17-year-olds.

**Dependent Care:** The bill temporarily increases the value of the child and dependent care tax credit, which covers 35% of care expenses of as much as \$3,000 for one dependent or \$6,000 for two or more dependents.

**Employee Retention Credit:** The measure extends through Dec. 31 an employee retention credit established by the CARES Act. It was expanded and extended to July 1 under Public Law 116-260. The measure also expands eligibility for the credit to new startups that were established after Feb. 15, 2020, and companies if their revenue declined by 90% compared to the same calendar quarter of the previous year. The credit will be capped at \$50,000 per calendar quarter for startups.

**Paid Leave Credits:** The bill extends through Sept. 30 tax credits for employer-provided paid sick and family leave, which were established under the Families First Coronavirus Response Act. The value of the credits will be increased to match an employer's share of contributions to defined benefit plans and registered apprenticeship programs. It also increases the wages covered by the paid family leave credit to \$12,000 per worker, from \$10,000.

### Other Tax Changes





- **Business Losses:** The measure extends rules relating to limitations on “excess business losses” for noncorporate taxpayers for one additional year, through 2026. Under the Republicans’ 2017 tax overhaul (Public Law 115-97), taxpayers were allowed deductions for business-related losses up to a certain amount, which was later modified by the CARES Act.
- **Corporate Interest Expenses:** The measure eliminates the ability of companies to allocate interest expenses on a worldwide basis beginning in 2021. The election allows corporations to claim additional foreign tax credits against their U.S. tax liability, according to a Congressional Budget Office [estimate](#).
- **Executive Compensation:** Beginning in 2027, the limitation on deducting compensation for publicly traded companies’ five most highly paid executives will be expanded to include the next five additional highly compensated employees.
- **Small Business Grants Exclusion:** Advance funds provided through the Small Business Administration’s Economic Injury Disaster Loan program and restaurant grants created by the bill will be excluded from gross income for tax purposes.
- **Third Party Transactions:** The measure also lowers the threshold below which third party settlement organizations don’t need to report certain transactions to \$600, from \$20,000.

## LABOR PROVISIONS

**Unemployment Extensions:** The bill extends the extra \$300 Federal Pandemic Unemployment Compensation through Sept. 6. The House-passed version of the package would have increased the payments to \$400 and extended them through Aug. 29. The bill also extends through Sept. 6 other CARES Act jobless benefits slated to expire on March 14, with changes that include:

- Increasing the duration of Pandemic Unemployment Assistance (PUA) benefits to as long as 79 weeks, from 50 weeks, for individuals who don’t qualify for regular benefits.
- Extending to 53 weeks, from 24 weeks, benefits under the Pandemic Emergency Unemployment Compensation program for those who’ve exhausted regular benefits.

**Taxes on Unemployment:** The first \$10,200 of unemployment benefits received will be excluded from certain taxpayers’ adjusted gross income beginning in 2020. The provision applies to taxpayers with income that’s less than \$150,000.

**Other Unemployment Extensions:** The bill extends through September 6:

- Federal payments to nonprofits and government agencies for 75% of the costs of providing unemployment benefits, increased from 50%.
- Interest-free federal loans for state unemployment trust funds.
- Full federal funding to qualifying states for the Extended Benefit and work-sharing programs.



- Full, instead of partial, federal funding for states to provide regular unemployment benefits without a waiting period.

### OTHER NOTABLE PROVISIONS

**Workplace Safety:** The measure provides \$200 million for the Labor Department to carry out worker protection activities related to the Covid-19 pandemic. Of that amount, at least \$100 million will be allocated to the Occupational Safety and Health Administration (OSHA). Funding would support OSHA enforcement in high-risk sectors, such as meat processing and health care, and the Susan Harwood grant program.

**Workers' Compensation:** The measure establishes a presumption that a Covid-19 diagnosis is work-related and authorize benefits, including disability, medical, and survivor benefits, for federal employees. It would cover workers who contracted Covid-19 during a three-year period starting Jan. 27, 2020. The provision doesn't apply to full- or part-time employees teleworking.

**Child Care:** The measure provides about \$24 billion for grants for child care providers to use for payroll, rent, personal protective equipment, mental health support, and other needs. They would have to provide tuition relief to families and couldn't furlough or reduce pay for employees. The Child Care and Development Block Grant, a discretionary program that subsidizes child care for low-income families, will receive about \$15 billion. The bill allows funds to be used for essential workers regardless of income.

**Veterans' Affairs:** The measure includes \$14.6 billion for health care, which includes as much as \$4 billion for veterans to receive care outside the VA.