
LEGISLATIVE UPDATE

August 31, 2020

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FEDERAL

The Centers for Medicare and Medicaid Services (CMS)

Last week, CMS issued an [interim final rule](#) that would require hospitals- including children's hospitals- to report COVID-19 data as required by HHS Secretary Azar during the public health emergency (PHE). The requirement is effective upon publication of the interim final rule, Tuesday, Sept. 2.

The interim final rule would also require each laboratory that performs a SARS-CoV-2 test to report results in the format and frequency prescribed by the Secretary. Failure to submit test results may result in the imposition of a civil monetary penalty or other penalties.

Medicaid and CHIP Payment and Access Commission (MACPAC)

MACPAC [sent a letter](#) to the HHS Secretary requesting more transparency in determining the extension or termination of the public health emergency (PHE). Under the PHE, states like Nebraska have adopted various flexibilities to assist in meeting the health needs of Nebraskans, e.g. telehealth relaxed guidance on location of patient/ provider, additional service lines, etc.

With limited notice and planning for the extension or end of a PHE, states will be required to rescind those flexibilities which can be disruptive and costly. MACPAC urges HHS to consider these challenges and be deliberate and transparent in their process going forward.

Meanwhile, many State Legislatures are considering a permanent adoption of these provisions, but the process takes time and a gap in services would be likely.

Congress

Both the House and Senate returned home for a four week August recess unable to overcome the impasse on a possible relief bill. It is likely that Congress will use a Continuing Resolution (CR) to advance a short or long-term budget bill (due by Sept. 30) and any relief measures.

Children's Hospital & Medical Center continues to urge our Congressional leaders to:

- Secure further provider relief funding;
- Stabilize Medicaid by increasing the FMAP and defer the Disproportionate Share Hospital (DSH) payment cuts.

STATE

Department of Health and Human Services (DHHS)

[Phase 3](#) directed health measures (DHMs) that are in effect until Aug. 31 have been extended through Sept. 13. Pending hospitalization availability, it is likely that all 66 counties in Phase 3 will move to Phase 4 on Sept. 14 through October.

Phase 4 [guidance](#) removes bars, restaurants, sports and child care from the DHM while still encouraging social distancing. Indoor gatherings can be increased to 75% capacity while outdoor functions are up to 100% capacity pending the approval of the local public health department.

Omaha City Council

While counties may move to Phase 4 mid-September, the Omaha City Council will consider extending the city's mask mandate until Oct. 20. The current mask mandate was adopted Aug. 11 and is set to expire Sept. 15. On Tuesday, Sept. 1,

the City Council will discuss Councilman Pete Festersen's proposal to extend the mandate without gaps to mitigate the spread of COVID-19 with a few minor changes:

- Extend the exception for those engaged in exercise to also include anyone engaged in a sport;
- Guidance for businesses to post signage relative to the mask mandate- must be at least 8.5 x 11 and in size 12font.

Only four votes are needed to approve the ordinance. The original ordinance passed 7-0.

2020 Election Highlights

- Incumbent Douglas County Commissioner Chris Rodgers may have a challenger in the November election- longtime state Senator Ernie Chambers. With well over the required number of signatures (2,800), Chambers will officially be on the ballot as a petition candidate.
- After extensive review, Secretary of State Bob Evnen confirmed the ballot initiative for medical marijuana will be on the ballot.

The firm, which did not disclose its clients, argued that the proposal “cases confusion” and “creates doubt about what will be authorized after the election.” But Evnen—despite having recently kicked three gambling-related initiatives off the ballot because of a single-subject challenge—did not accept the legal argument and is letting the cannabis measure proceed to be decided on by voters.

- Former Omaha Rep. Brad Ashford has decided against running as a write-in candidate for U.S. Senate to challenge Sen. Ben Sasse (R-NE).

Nebraska Legislature

[Children's Final 2020 Priority Bill Watch List](#)

[Children's Master Copy of the 2020 Nebraska Legislature](#)

Child Health Champion Advocacy Team

Please join Children's Child Health Champion Advocacy Team every Friday at 7:30am for a 30 minute call.

Advocating for children is extremely important at all stages and this internal group of stakeholders- comprised of providers and experts across the continuum of care at Children's- meets weekly to ensure we are leading the discussion on child advocacy in the region. If you are interested in joining the movement, contact Liz Lyons for more information.

(Sources: CHA, CMS, HHS, Nebraska Legislature, Peetz & Co., Omaha World Herald, LJS)