

# Understanding the Impact of Key Provisions of COVID-19 Relief Bills on Immigrant Communities

APRIL 1, 2020

**O**n March 27, 2020, the U.S. House of Representatives passed the **Coronavirus Aid, Relief, and Economic Security (CARES) Act**.<sup>1</sup> The CARES Act, a \$2 trillion stimulus bill, builds on **H.R. 6201**,<sup>2</sup> the Families First Coronavirus Response Act (FFCRA), to provide economic relief and health care options amidst the growing COVID-19 pandemic. This global public health crisis has served as an urgent reminder that our collective health and well-being are deeply interdependent and that it is crucial to have inclusive recovery policies in order for all of us to be healthy and safe.

Nevertheless, these bills fall short of meeting the most basic health care and economic needs of millions of Americans, including immigrant workers and families who are on the frontlines of caring for our communities during this pandemic, providing crucial services while others are able to shelter at home.

The purpose of this policy brief is to provide information on the COVID-19 relief package’s impact on low-income immigrants and suggestions for urgently needed improvements in any future relief bills, with a focus on health, public benefits, economic support, and employment protections. Please note that this is not meant to be a comprehensive analysis of the bill.

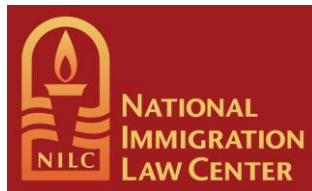
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<sup>1</sup> <https://www.congress.gov/bill/116th-congress/house-bill/748>.

<sup>2</sup> <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.xml>.

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## ACCESS TO HEALTH CARE

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The CARES Act provides the following:

**Expands the availability of free testing for the COVID-19 virus but does not directly cover the costs of treatment.**

- It builds on a [provision of the Families First Coronavirus Response Act](#) that allows states to use their Medicaid programs to provide free testing to uninsured persons.<sup>3</sup>
- The FFCRA does not alter Medicaid eligibility for immigrants; therefore, many immigrants remain excluded under this option.

**Clarifies that the definition of *uninsured individuals* includes people who are enrolled in a Medicaid program or health plan that does not provide the *minimum essential coverage* defined by the Affordable Care Act,<sup>4</sup> as well as low-income adults in states that opted not to expand their Medicaid programs.**

Since the passage of the FFCRA and CARES Act, several states have determined that testing, diagnosis and treatment of COVID-19 would be covered under emergency Medicaid. While this does not negate the need for Congress to act to secure a national policy, it is an important step that states can take.

**Increases and extends Affordable Care Act funding for Community Health Centers (CHCs), augmenting their FY 20 funding by \$1.3 billion and providing over \$668 million for part of FY 21.**

As institutions that provide primary and preventive health care to anyone regardless of their immigration status or ability to pay, CHCs are essential providers for immigrant communities.

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<sup>3</sup> <https://www.congress.gov/bill/116th-congress/house-bill/6201/text>.

<sup>4</sup> <https://www.healthcare.gov/fees/plans-that-count-as-coverage/>.

### **Provides a \$100 billion fund to reimburse eligible health care providers for expenses and lost revenue related to COVID-19.**

Eligible providers include for-profit as well as public and nonprofit providers that offer testing, diagnosis, or care for people with actual or suspected cases of COVID-19.

### **Delays cuts in Disproportionate Share Hospital funding to hospitals that serve a substantial number of indigent patients and provides additional funding for the National Health Service Corps.**

The National Health Service Corps is a program that places health care providers in underserved areas.

ALTHOUGH THIS IS NOT MENTIONED in the bills, it's worth noting that on March 14, 2020, U.S. Citizenship and Immigration Services (USCIS) **issued an alert clarifying** that it will not consider testing, treatment, or preventive care (including the administration of vaccines, if a COVID-19 vaccine becomes available) related to COVID-19 in a "public charge" admissibility assessment, even if the health care services are provided by Medicaid.<sup>5</sup> While this guidance is helpful, it remains uncertain how USCIS would ensure its implementation, including how it will treat COVID-19-related services sought prior to March 14, 2020 (the date it issued the alert). Emergency Medicaid is not factored into the public charge assessment, so COVID-19-related services should not be taken into consideration for purposes of whether an applicant for a visa or adjustment of immigration status is likely to become a public charge.

## **Resources**

For more information on health care access, see:

- **Overview of Immigrant Eligibility for Federal Programs** (NILC),<sup>6</sup> which provides details on federal Medicaid eligibility
- **Health Care Coverage Maps** (NILC)<sup>7</sup> — maps that show the coverage available to immigrant children and pregnant women, by state
- **Medical Assistance Programs for Immigrants in Various States** (NILC)<sup>8</sup> — a table listing states that opt to cover lawfully residing children under Medicaid, prenatal and postpartum care under Medicaid or the Children's Health Insurance Program (CHIP), and/or to provide state-funded coverage to immigrants who are ineligible for federal Medicaid/CHIP
- **Find a Health Center** (HRSA)<sup>9</sup> — to find the nearest health center

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<sup>5</sup> <https://www.uscis.gov/greencard/public-charge>.

<sup>6</sup> [https://www.nilc.org/issues/economic-support/table\\_ovrw\\_fedprogs/](https://www.nilc.org/issues/economic-support/table_ovrw_fedprogs/).

<sup>7</sup> <https://www.nilc.org/issues/health-care/healthcoveragemaps/>.

<sup>8</sup> <https://www.nilc.org/medical-assistance-various-states/>.

<sup>9</sup> <https://findahealthcenter.hrsa.gov/>.

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## SAFETY CONSIDERATIONS FOR IMMIGRANT ACCESS TO HEALTH CARE

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### Safe Spaces in Health Care Centers

Despite the urgent need, given the COVID-19 public health crisis, for people to be able to visit health care centers without fear of immigration enforcement, there are no provisions in any of the COVID-19 relief bills that prohibit U.S. Immigration and Customs Enforcement (ICE) from conducting immigration enforcement in any of the designated sensitive locations, including health care centers.

Under longstanding policies of the U.S. Department of Homeland Security (DHS), the federal government recognizes that certain locations are “sensitive” in nature such that, except in limited circumstances, immigration agents should avoid or limit enforcement actions at such locations.<sup>10</sup>

Under DHS’s definitions, “sensitive locations” include, but are not limited to, schools, medical treatment and health care facilities, places of worship, religious or civil ceremonies, and public demonstrations.

DHS defines “enforcement action” narrowly and includes apprehending, arresting, interviewing, searching, and surveilling a person.<sup>11</sup>

DHS sensitive locations policies in their current form, are solely instances of guidance that do not carry the force of law, and they exist as internal agency memorandums that could be rescinded or modified at any time. Therefore, DHS sensitive locations policies continue to require compliance enforcement mechanisms to fully protect immigrants, their families, and the community at large.

### Keeping Spaces Safe Is Critical to the Broader Community’s Safety

Despite the country’s state of national emergency since the spread of the COVID-19 public health crisis, ICE has continued to engage in immigration enforcement actions, ignoring state and local stay-at-home orders and strict social-distancing guidelines. At a time when nonessential establishments are closing and people are being urged to stay home, DHS continues to conduct business as usual, exacerbating the fear that immigrant communities already are feeling.

A coordinated advocacy effort to fight COVID-19 must affirm the principle that these locations — spaces that the federal government itself has long designated as “sensitive locations” — are necessary to keep immigrants, their families, and the greater community safe and healthy during this time. During this national emergency, when individuals and communities need the

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<sup>10</sup> Memorandum from David V. Aguilar, Deputy Commissioner, U.S. Customs and Border Protection, “U.S. Customs and Border Protection Enforcement Actions At or Near Certain Community Locations” (Jan. 18, 2013), [https://foiarr.cbp.gov/docs/Policies\\_and\\_Procedures/2013/826326181\\_1251/1302211111\\_CBP\\_Enforcement\\_Actions\\_at\\_or\\_Near\\_Certain\\_Community\\_Locations\\_%7BSigned\\_M.pdf](https://foiarr.cbp.gov/docs/Policies_and_Procedures/2013/826326181_1251/1302211111_CBP_Enforcement_Actions_at_or_Near_Certain_Community_Locations_%7BSigned_M.pdf).

<sup>11</sup> For a list of limited exceptions, see “Enforcement Actions at or Focused on Sensitive Locations” (U.S. Immigration & Customs Enforcement, Oct. 24, 2011), <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

government's help to feel safe, it is patently clear that spaces critical to education, community well-being, civic engagement, and public health and safety must remain safe from and off-limits to immigration enforcement activity. This will help immigrant communities stay home and focused on remaining healthy or able to access crucial spaces such as medical facilities without the added fear of being separated from their families and experiencing an erosion of their communities.

## Resources

- Guidance for schools: [www.nilc.org/sanctuary-school-practice-advisory/](http://www.nilc.org/sanctuary-school-practice-advisory/)
- Guidance for health centers: [www.nilc.org/healthcare-provider-and-patients-rights-imm-enf/](http://www.nilc.org/healthcare-provider-and-patients-rights-imm-enf/)
- California attorney general's guidance for courthouses: <https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/court.pdf>
- Guidance on reporting violations of the sensitive locations policy: [www.nilc.org/wp-content/uploads/2019/01/CRCL-complaint-for-school-sensitive-locations-violations-2019.pdf](http://www.nilc.org/wp-content/uploads/2019/01/CRCL-complaint-for-school-sensitive-locations-violations-2019.pdf)
- Know-your-rights resource: [www.nilc.org/everyone-has-certain-basic-rights/](http://www.nilc.org/everyone-has-certain-basic-rights/)

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## MEASURES TO PROTECT WORKERS

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### Emergency Paid Sick Leave

The FFCRA created a new, temporary national requirement that employers with fewer than 500 employees provide up to two work weeks of job-protected, immediately-available paid sick days for certain COVID-19 related medical and caregiving needs. Emergency paid sick leave is available to all eligible employees regardless of immigration status. These provisions will be in effect from April 1, 2020, until December 31, 2020, after which they will expire. Notably, this is the first time Congress has required federal paid leave for private sector workers, almost 30 percent of whom — an estimated 32.4 million individuals — lacked access to a single paid sick day before the FFCRA. Below are the criteria for eligibility and the specific protections the FFCRA provides.

#### Eligibility

As of the effective date of the FFCRA, April 1, 2020, any employee, regardless of hours of work or length of service with the employer, is immediately eligible for emergency paid sick leave *except* that an employer can deny leave to employees who are health care providers or first responders, and the U.S. Department of Labor can issue regulations excluding these workers from eligibility. The CARES Act subsequently modified this provision to allow the Office of Management and Budget to exclude certain federal executive branch employees.

### **Immigrant workers**

There are no immigration status–related restrictions on eligibility for paid sick leave; employees are entitled to paid sick leave regardless of their immigration status. Because paid sick leave is paid directly to employees by their employers in the same way wages are paid, there is generally no involvement with government agencies unless an employee decides to file a claim alleging violations of a paid sick leave law. The FFCRA emergency paid sick leave provisions will be enforced by the Wage and Hour Division (WHD) of the U.S. Department of Labor, which does not inquire into workers’ immigration status in conducting its enforcement activities.<sup>12</sup>

### **Protections against discrimination and retaliation**

Workers will be protected against retaliation, including job loss, discipline, and/or discrimination, for using their emergency paid sick leave, filing a complaint alleging employer violations of the FFCRA, or testifying in a legal proceeding alleging employer violations.

### **Enforcement**

The FFCRA is enforced under the mechanisms of the Fair Labor Standards Act (FLSA), which includes enforcement by the U.S. Department of Labor’s Wage and Hour Division, as well as through an employee’s right to file a private cause of action in court, with the possibility of monetary and liquidated damages.

### **Interaction with existing state and local paid sick leave laws**

The FFCRA does not preempt existing state and local paid sick leave laws. Currently, 15 states and many more cities have passed paid sick leave legislation, some of which cover leave for public health emergencies, that may offer additional protections.<sup>13</sup>

WHILE THE FFCRA will create an important safeguard during the current public health crisis for many low-income immigrant workers who are concentrated in sectors of the workforce that historically have had the least access to paid sick days, there is still a need to cover all workers and for the protections formed by the law to be expanded and made permanent.

### **Paid Expanded Family and Medical Leave**

The FFCRA also temporarily extends **Family and Medical Leave Act** (FMLA) leave to include leave needed to care for an employee’s minor child whose school or care provider is unavailable due to a COVID-19 public health emergency.<sup>14</sup> Unlike regular FMLA leave, the “Public Health Emergency Leave” created by the FFCRA is paid, although at two-thirds the employee’s regular rate of pay. Unlike Emergency Paid Sick Leave, it cannot be used to care for oneself or another

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<sup>12</sup> For further information regarding WHD’s enforcement and undocumented workers, see “Fact Sheet #48: Application of U.S. Labor Laws to Immigrant Workers: Effect of Hoffman Plastics Decision on Laws Enforced by the Wage and Hour Division,” available at <https://www.dol.gov/agencies/whd/fact-sheets/48-hoffman-plastics>.

<sup>13</sup> Arizona, California, Connecticut, District of Columbia, Maine, Maryland, Massachusetts, Michigan, Nevada, New Jersey, New York, Oregon, Rhode Island, Vermont, and Washington have all passed some form of statewide paid sick leave legislation. For additional information, visit <http://familyvaluesatwork.org/> and [www.nationalpartnership.org/psdstatutes](http://www.nationalpartnership.org/psdstatutes).

<sup>14</sup> <https://www.dol.gov/agencies/whd/fmla/pandemic>.

person due to COVID-19 related medical needs. An employee who is sick, or whose family members are sick, may be eligible for traditional *unpaid* FMLA leave, where the employee’s (or their family member’s) complications from COVID-19 meet the FMLA definition for a “serious health condition.”

Expanded paid family and medical leave is available to qualifying employees for up to 12 weeks. Below are the criteria eligibility and protections provided by the FFCRA.

### **Eligibility**

Eligibility for expanded paid family and medical leave (PFML) largely mirrors eligibility for emergency paid sick leave, except that employees must have been employed by their current employer for at least 30 calendar days before going out on PFML. While employees whose employers have shut down due to COVID-19 orders are generally not eligible for expanded PFML, a provision in the CARES Act clarifies that employees who were laid off by an employer on March 1, 2020, or later may be able to use PFML if they are subsequently rehired by their employer.

### **Immigrant workers**

There are no immigration status–related restrictions on eligibility for expanded paid family and medical leave; employees are entitled to PFML regardless of their immigration status. As with paid sick leave, the expanded PFML in the FFCRA is paid directly to employees by their employers in the same way that wages are paid, and employers will subsequently receive a refundable tax credit against payroll taxes to cover 100 percent of the cost of the “qualified family leave wages” required to be paid under the FFCRA.

### **Enforcement**

The PFML mandates in the FFCRA will be enforced under the existing mechanisms of the federal FMLA. This includes enforcement by the U.S. Department of Labor’s Wage and Hour Division as well as through an employee’s right to sue their employer in court, with the possibility of recouping back pay as well as damages. While the FMLA usually provides that employees may seek damages or corrective actions for FMLA violations, the FFCRA disallows such private rights of action for FFCRA violations against small employers with fewer than 50 employees.<sup>15</sup>

IT IS WORTH NOTING that this structure is distinct from the systems in state paid family leave laws. It also differs from longstanding marker bills in Congress, such as **S. 463, the FAMILY Act**,<sup>16</sup> which establish PFML insurance systems funded by employer and/or employee payroll contributions and administered by government agencies that pay out cash benefits to eligible individuals. Unlike these systems, under the FFCRA, eligible employees will be able to use expanded PFML without the need to apply to a government agency. There is generally no involvement with government agencies unless an employee decides to file a claim alleging that their employer violated the law. The FFCRA’s expanded PMFL provisions will be enforced by the

<sup>15</sup> Sec. 3104 of the Emergency Family and Medical Leave Expansion Act

<sup>16</sup> <https://www.congress.gov/bill/116th-congress/senate-bill/463/text>.

U.S. Department of Labor's Wage and Hour Division, which does not inquire into workers' immigration status when conducting its enforcement activities.<sup>17</sup>

## Tax Credits for Self-Employed Workers

The FFCRA creates a new refundable income tax credit for self-employed individuals, including gig workers, who are unable to perform services and must take time away from work for the same reasons covered under the Emergency Paid Sick Leave and Paid Expanded Family and Medical Leave provisions. The limitations on pay and length of leave that apply to employees are the same for self-employed individuals — they may take up to 10 days of paid sick leave, or up to 50 days (10 weeks) of paid family medical leave, with different pay rates depending on the reasons for taking leave. These credits will apply to qualifying leave taken between April 1 and December 31, 2020.

### Documentation requirements

The FFCRA allows the U.S. Treasury Department (of which the Internal Revenue Service is a component) to determine which documentation will be required to establish a self-employed individual's eligibility for these tax credits. The IRS is expected to issue guidance on the documentation requirements and will likely post that guidance at its website here:

<https://www.irs.gov/coronavirus>.

### Immigrant tax filers

Of note for immigrant tax filers, the FFCRA does not restrict access to these tax credits based on the type of taxpayer identification number used by a self-employed individual.

### Accessing the credit

Self-employed individuals can claim the credits on their income tax return and reduce estimated quarterly tax payments in the meantime.

## Unemployment Insurance

Both the FFCRA and the CARES Act make significant changes to unemployment insurance (UI) programs in light of the massive employment disruptions caused by the response to the current public health crisis. The CARES Act:

- extends regular unemployment insurance benefits by an additional 13 weeks beyond what states currently offer (via "Pandemic Emergency Unemployment Compensation")
- institutes a completely new program designed to cover workers left out of regular state UI programs or who have exhausted their state UI benefits (called "Pandemic Unemployment Assistance"), which will last until December 31, 2020, unless otherwise extended

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<sup>17</sup> For further information regarding WHD's enforcement and undocumented workers, see "Fact Sheet #48: Application of U.S. Labor Laws to Immigrant Workers: Effect of Hoffman Plastics Decision on Laws Enforced by the Wage and Hour Division," available at <https://www.dol.gov/agencies/whd/fact-sheets/48-hoffman-plastics>.



- adds a \$600 boost to the weekly payments that individuals will receive under both programs through July 31, 2020 (via “Pandemic Unemployment Compensation”)

The new program described in the second bullet above, Pandemic Unemployment Assistance (PUA), will provide income support to self-employed workers, including independent contractors and freelancers, workers seeking part-time work, and workers who do not have a work history that is long enough to qualify them for state UI benefits. Congress created this new program in recognition of the fact that many workers do not qualify for regular unemployment assistance. PUA will also cover a series of situations in which applicants are unable or unavailable to work due to the COVID-19 public health crisis. Both PUA and Pandemic Emergency Unemployment Compensation will last until December 31, 2020, unless otherwise extended.

### **Immigrant eligibility for unemployment insurance**

To receive regular unemployment insurance benefits, immigrants must be work-authorized at the time they file for benefits and during the entire period they are receiving benefits (the “benefits period”). This is required in order to meet the requirement that UI recipients be “able and available” to work. Immigrants must *also* have been permanently residing under color of law (“PRUCOL”) during the “base period” used to calculate the benefit amount. In this context, PRUCOL generally means work-authorized, though there may be some very slight variations between states with regard to the interpretation of PRUCOL. Thus, anyone with a valid work permit, or whose immigration status allows them to work, and who was work-authorized during the base period should be eligible to receive regular unemployment insurance.

The U.S. Department of Labor has not yet clarified the eligibility criteria that will apply to the new programs created by the CARES Act. It is possible that the Department of Labor will apply a more restrictive set of eligibility criteria to these programs, such as those used in the Disaster Unemployment Assistance Program (DUA).<sup>18</sup>

UI is an earned benefit, not a public benefit. So, under the DHS’s “public charge” rule, receiving it shouldn’t be a negative factor in the assessment of whether a visa or adjustment-of-status applicant is likely to become a public charge.

### **Worker Protections in Aid to Businesses**

Under the CARES Act, a series of conditions have been placed on loans that will be made available to businesses. This is designed to keep employees on payroll and receiving income, even when the businesses have been closed or their income is significantly reduced. These types of conditions are important for immigrant workers who may not have access to unemployment, health care, or other safety-net programs if laid off from their employment. There are also conditions related to neutrality during union organizing drives, meaning that employers are required to refrain from activities intended to dissuade employees from joining a union or supporting a union drive. This provision could benefit immigrant workers seeking to organize their workplaces if their employer has received a loan from these programs.

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<sup>18</sup> For further information regarding Disaster Unemployment Assistance, see <https://www.nilc.org/issues/economic-support/disaster-help/>

The new Paycheck Protection Program will allow businesses with fewer than 500 employees the ability to secure access to loans that cover eligible payroll costs as well as employer group health plans, rent, mortgage interest and utility payments. Borrowers are eligible to have loan amounts forgiven to the extent that they are used to cover payroll expenses, interest on covered mortgage obligations, covered rent obligations, and utilities — but loan forgiveness would be reduced if the borrower fires employees or cuts their pay.

Similarly, the Treasury’s Exchange Stabilization Fund for larger businesses would require that borrowers agree to retain 90 percent of their workforces as of March 24, 2020, with full compensation and benefits through September 30, 2020, to the extent practicable. They would also need to agree to respect existing collective bargaining agreements until two years after the loan term ends. In addition, borrowers would remain neutral on any union organizing efforts during the loan term.

## Resources

### For further details on emergency paid sick leave, see:

- [Families First Coronavirus Response Act: Questions and Answers](#) (Wage and Hour Division, U.S. Department of Labor)<sup>19</sup>
- [Families First Coronavirus Response Act: Implications for Workers Affected by Covid-19](#) (CLASP)<sup>20</sup>

### For further details on paid expanded family and medical leave, see:

- [Families First Coronavirus Response Act: Questions and Answers](#) (WHD)
- [Families First Coronavirus Response Act: Implications for Workers Affected by Covid-19](#) (CLASP)

### For further details on tax credits for self-employed workers, including guidance on calculating lost wages, see:

- [Title-By-Title Summary of H.R. 6201, Families First Coronavirus Response Act](#), prepared by the Democratic staff of the House Committee on Appropriations and the House Committee on Education and Labor <sup>21</sup>
- [Coronavirus Tax Relief](#) (Internal Revenue Service)<sup>22</sup>

### For further details on unemployment insurance, including recent changes, see:

- [Immigrant Workers’ Eligibility for Unemployment Insurance](#) (NELP)<sup>23</sup>

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<sup>19</sup> <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.

<sup>20</sup> <https://www.clasp.org/publications/fact-sheet/families-first-coronavirus-response-act-implications-workers-affected-covid>.

<sup>21</sup> [https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Families First Summary FINAL.pdf](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/Families%20First%20Summary%20FINAL.pdf).

<sup>22</sup> <https://www.irs.gov/coronavirus>.

<sup>23</sup> <https://www.nelp.org/publication/immigrant-workers-eligibility-unemployment-insurance/>.

- [Unemployment Insurance Provisions in the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act \(NELP\)](#)<sup>24</sup>
- [Unemployment Insurance Provisions in the CARES Act \(H.R. 748, as Amended\) \(Congressional Research Service\)](#)<sup>25</sup>
- [Section by Section Summary of Unemployment and Tax Provisions in H.R. 748, the Coronavirus Aid, Relief, and Economic Security \(CARES\) Act \(Senate Finance Committee\)](#)<sup>26</sup>
- [Provisions Related to Unemployment Compensation in the Senate-passed CARES Act \(House Committee on Ways & Means\)](#)<sup>27</sup>

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## ECONOMIC SUPPORT

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### The 2020 Recovery Rebate

The CARES Act provides for the issuance of an advanced Recovery Rebate to help taxpayers recover from the economic impacts of the coronavirus crisis. The maximum rebate amount is \$1,200 for individuals and \$2,400 for taxpayers filing taxes jointly. The rebate amount is reduced by five percent (or \$5) of the taxpayer's Adjusted Gross Income (AGI) for every \$100 above the following thresholds:

- \$75,000 for single (or married-filing-separately) taxpayers
- \$150,000 for married-filing-jointly taxpayers
- \$112,500 for head-of-household taxpayers

An additional \$500 rebate is available per child claimed as a dependent on the eligible taxpayer's return. The Recovery Rebates will not be counted as income for the purposes of determining eligibility for means-tested public benefits programs such as Medicaid, Temporary Assistance for Needy Families (TANF), or the Supplemental Nutrition Assistance Program (SNAP or food stamps). However, bear in mind that unemployment insurance benefits *are* included in a person's adjusted gross income.

Below are the criteria eligibility for the CARES Act's Recovery Rebate.

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<sup>24</sup> <https://www.nelp.org/publication/unemployment-insurance-provisions-coronavirus-aid-relief-economic-security-cares-act/>.

<sup>25</sup> <https://crsreports.congress.gov/product/pdf/IF/IF11475>.

<sup>26</sup> [https://www.finance.senate.gov/imo/media/doc/CARES%20Act%20Section-by-Section%20\(Tax,%20Unemployment%20Insurance\).pdf](https://www.finance.senate.gov/imo/media/doc/CARES%20Act%20Section-by-Section%20(Tax,%20Unemployment%20Insurance).pdf).

<sup>27</sup> <https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/UC%20FAQ%20CARES%20Act.pdf>.

## Eligibility for the Rebate

Unfortunately, the CARES Act includes a Social Security number (SSN) requirement that will exclude many immigrant and mixed-immigration status families from receiving this financial assistance. Eligibility for the \$1,200/\$2,400 Recovery Rebate is as follows:

- Individual filers and couples filing jointly must have been issued SSNs that are valid for employment by the time they file their qualifying return. (There is an exception if at least one spouse filing jointly was in the armed forces last tax year, as long as one spouse has a valid SSN.)
- Children claimed as dependents for the \$500 rebate must also have valid SSNs.
- If both partners in a married couple used an Individual Taxpayer Identification Number (ITIN) to file their taxes, no one in the household is eligible for the return, regardless of whether they file jointly.
- For mixed-immigration status married taxpayers (where one taxpayer has an SSN and the other taxpayer has an ITIN), the couple would need to file separately in order to claim the rebate for any eligible household members. However, filing separately may render a person ineligible for Affordable Care Act subsidies that may be larger than the Recovery Rebate. Taxpayers should consult professional tax preparers about the best options for their unique household situation.
- To receive the rebate, taxpayers and any children claimed will also need to be “**resident aliens**,” which basically means that if they are not a U.S. citizen or lawful permanent resident, they reside primarily in the United States.

## Accessing the Rebate

The rebate is issued automatically — people don’t need to apply for it. It will be estimated based on a person’s most recent tax returns. There is currently no way to “apply” for the rebate if someone does not file tax returns or receive Social Security benefits, which excludes many low-income and homeless people who either are *not required* to file tax returns because they earn too little or *have not been able* to file tax returns. Taxpayers should note the following:

- If you have not yet filed a FY 2019 tax return, your eligibility will be based on your earnings, SSN status, and the number of eligible child dependents on your FY 2018 return.
- If you have not filed a tax return recently but do receive Social Security benefits, your rebate will be estimated based on your SSA-1099 Social Security Benefit Statement or form RRB-1099 Social Security Equivalent Benefit Statement. This process only applies to Social Security Retirement or Social Security Disability Insurance (SSDI) beneficiaries and not to recipients of other programs such as Supplemental Security Income (SSI) for low-income seniors or people with disabilities.
- If you were not eligible for a benefit in the FY 2018 tax year, but became eligible in FY 2019 or FY 2020, there will be a future process to reconcile the payments based on updated eligibility. If you were ineligible in FY 2018 because you filed jointly with your

spouse and one of you does not have a valid SSN, you can file separately in FY 2019 to claim the credit.

- If you were paid less than the rebate amount for which you were eligible based on your FY 2020 tax return, you will receive a check for or deposit for the adjusted amount.
- If you received more than your FY 2020 eligible amount based on your previous returns, you will not need to repay the excess amount to the Internal Revenue Service.
- As a reminder, the IRS has extended the deadline to file FY 2019 taxes and pay any amounts due to *July 15, 2020*.

## Timing

The U.S. Treasury Department aims to issue these checks as quickly as possible, beginning in mid-April. As soon as your eligibility is calculated, the IRS will deposit your rebate into bank accounts listed for 2019 (or 2018) automatic refund deposit authorizations or mail you a check to the address on file. Advance Recovery Rebates will not be issued after December 31, 2020. Any rebate issued after this date will be issued as part of the reconciliation process when you file your FY 2020 tax returns.

A tax rebate or a one-time economic stimulus payment is not monthly cash assistance for income maintenance purposes and also won't count in an assessment of whether the recipient is likely to become a "public charge."

## Resources

### Volunteer Income Tax Assistance (VITA) Sites

The Volunteer Income Tax Assistance (VITA) program offers free tax help to people who generally make \$56,000 or less, people with disabilities, and taxpayers who speak limited English who need assistance in preparing their own tax returns. IRS-certified volunteers provide free basic income tax return preparation with electronic filing to qualified individuals. See [Free Tax Return Preparation for Qualifying Taxpayers \(IRS\)](#).<sup>28</sup>

### Tax Counseling for the Elderly (TCE)

The TCE program offers free tax help for all taxpayers, particularly those who are 60 years of age and older, specializing in questions about pensions and retirement-related issues unique to seniors. The IRS-certified volunteers who provide tax counseling are often retired individuals associated with nonprofit organizations that receive grants from the IRS. See [Free Tax Return Preparation for Qualifying Taxpayers \(IRS\)](#).

VITA AND TCE SITES are generally located at community and neighborhood centers, libraries, schools, shopping malls and other convenient locations across the country. To locate the nearest VITA or TCE site near you, use the [VITA Locator Tool](#) or call 800-906-9887.<sup>29</sup> *Note that many VITA sites are closed now in response to COVID-19, but some are developing online services to provide support.*

<sup>28</sup> <https://www.irs.gov/individuals/free-tax-return-preparation-for-you-by-volunteers>.

<sup>29</sup> <http://irs.treasury.gov/freetaxprep/>.

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## RECOMMENDATIONS

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Below are recommendations on how to improve these initiatives in future legislation.

### Access to Health Care

Neither the Families First Act nor the Senate bill addressed the restrictive eligibility requirements that will prevent many immigrants from obtaining testing through Medicaid. In contrast, the House-introduced [Take Responsibility for Workers and Families Act](#),<sup>30</sup> which was not voted on but included many immigrant-inclusive provisions that were left out of the CARES Act, would have allowed states to provide COVID-19 testing, treatment, and vaccines (when available) through emergency Medicaid. Including these services under emergency Medicaid would ensure that:

1. uninsured individuals, regardless of their immigration status, would be covered for COVID-19-related services; and
2. COVID-19-related services would not be taken into consideration for purposes of a public charge determination, because emergency Medicaid is not factored into the public charge assessment.

### Halt Implementation of New Public Charge Rules

The Trump administration's relentless attacks on immigrants have taken a toll on immigrants and their U.S. citizen family members, who have been deterred from seeking health, nutrition assistance, or other critical services. Its public charge rules took effect on February 24, 2020, after the U.S. Supreme Court lifted preliminary injunctions put in place by lower courts. Congress should:

1. Halt implementation of the DHS and U.S. State Department public charge rules and continue implementing the longstanding policy clarified in the 1999 field guidance, retroactive to February 24, 2020. This would include requiring USCIS and the State Department to set aside the revisions to policy manuals and forms and retrain their officers to comply with the 1999 Field Guidance and Foreign Affairs Manual instructions. This would also block USCIS from considering past use of public benefits (not included in 1999 Field Guidance) as a factor in a public charge determination.
2. Stop any further action by federal agencies to alter longstanding policies on public charge.

### Safety Considerations for Immigrant Access to Health Care

A coordinated advocacy effort to fight COVID-19 must affirm the principle that health care locations — spaces that the federal government itself has long designated as “sensitive locations” — are necessary to keep immigrants, their families, and the greater community safe and healthy during this time. During this national emergency, when individuals and communities need the

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<sup>30</sup> <https://www.congress.gov/bill/116th-congress/house-bill/6379/text>.

government's help to feel safe, it is patently clear that spaces critical to education, community well-being, civic engagement, and public health and safety must remain safe from and off-limits to immigration enforcement activity. This will help immigrant communities stay home and focused on remaining healthy or able to access crucial spaces such as medical facilities without the added fear of being separated from their families and experiencing an erosion of their communities.

## Measures to Protect Workers

Although some immigrant workers and businesses will receive important protections under these new bills, many gaps remain. Specifically, policymakers should prioritize:

1. **Federal workplace safety standard.** Currently there is no Occupational Safety and Health Administration (OSHA) standard that covers preparation for or response to the COVID-19 public health crisis in the workplace. Congress should quickly pass a law requiring OSHA to issue an Emergency Temporary Standard to ensure that all frontline workers are protected from the spread of COVID-19.
2. **Automatic extension of work authorization.** Congress should automatically extend work permits for individuals with Deferred Action for Childhood Arrivals (DACA) or temporary protected status (TPS) and nonimmigrant visas for the same time period that their work permit would normally be renewed for.
3. **Improvements to paid sick leave (PSL) and paid family and medical leave (PFML).** Congress should build upon the FFCRA by passing H.R. 6379, the Take Responsibility for Workers and Families Act, which would extend PSL and PFML to all employers regardless of size, include individuals caring for themselves or a family member experiencing symptoms of COVID-19, and require full wage replacement for all days used.

Finally, states and localities should do what they can to address those left out of federal protections and assistance, such as unemployment insurance, in order to protect the health and well-being of everyone in the community during this crisis.

## Economic Support

Policymakers should prioritize the following:

1. Removing the Social Security number requirement for the Recovery Rebate.
2. Establishing an application process for the Recovery Rebates for those who, because they have not earned enough income to be required to file taxes, have not filed in 2018 or 2019.
3. Developing an automatic eligibility assessment and payment process for recipients of means-tested public benefits who have not earned enough income to file taxes but who qualify for the Recovery Rebate.
4. Funding public education for immigrant communities about the Recovery Rebate through the Volunteer Income Tax Assistance program.