AMENDMENT #2

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Date: March 17, 2020
Offered By: Councilmember Vincent C. Gray
Title: COVID-19 Response Emergency Amendment Act of 2020

Version: _X_ Introduced
__ Draft Committee Print
__ Committee Print
__ First Reading
__ Amended First Reading
__ Engrossed
__ Enrolled
__ AINS

A new section 315 is added to read as follows:

Sec. 315. COVID-19 Emergency Public Health Protection Program.

Section 8a of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 23-16; D.C. Official Code § 7-771.07a), is amended as follows:

(a) A new subsection (a-3) is added to read as follows:

“(a-3) For Fiscal Years 2020 and 2021, upon the Mayor’s declaration of a public health emergency pursuant to Section 5 of the District of Columbia Public Emergency Act of 1980, effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304), the Mayor shall:

“(1)(A) Establish a COVID-19 Emergency Public Health Protection Program, for which the Mayor is authorized to provide:
“(i) Up to $25 million in grants pursuant to subparagraph (C) of this paragraph; and

“(ii) Supplemental resources to District agencies in response to the public health emergency.

“(B) Fund the Program with moneys from the Emergency Cash Reserve Fund or the Contingency Cash Reserve Fund as defined by District of Columbia Home Rule Act, approved November 22, 2002 (114 Stat. 2440; D.C. Official Code § 1-204.50a).

“(C) Have the authority to:

(i) Issue grants, subject to rules issued by the Mayor, to healthcare providers, including hospitals, skilled-nursing facilities, long-term acute care facilities, and primary care providers, from the fund created pursuant to paragraph (1)(A) of this subsection, to reimburse healthcare provider for services associated with preparing for and treating residents afflicted by the COVID-19 virus, provided that these grants are exempt from the requirements of the Grants Administration Act of 2013, effective December 24, 2013 (D.C. Law 20-61; D.C. Official Code § 1-328.11); and

(ii) Provide supplemental appropriations to District agencies for purposes of combating the COVID-19 virus.

“(2) The amount of any grant issued pursuant to this subsection to a Federally Qualified Health Center shall not be offset against the Federally Qualified Health Center’s expenses for the purpose of determining its allowable costs in accordance with 29 DCMR § 4511.2.”.

Rationale:

Hospitals, skilled-nursing facilities, long-term acute care facilities, primary care providers, and other health care providers may need additional funds to quickly respond to COVID-19. The
COVID-19 Program will be used, in part, to offset the enhanced financial and human resource costs borne by District healthcare providers due to the outbreak of the COVID-19 virus. Funds will be disbursed as grants, pursuant to eligibility criteria developed by the Mayor and approved by the Council.

Over the past few weeks, Congress has initiated certain appropriations aimed at addressing the COVID-19 public health emergency, including the Coronavirus Preparedness and Response Supplemental Appropriations Act and the Families First Coronavirus Response Act. To be sure, these measures will offer invaluable support on a number of fronts to combat this emergency, i.e. food and nutrition services, emergency paid leave and employer-funded sick days, and support for public health agencies.

An indispensable part of our public health response, however, has not received federal assistance, namely local health care providers. With the exception of a small appropriation directed to support Community Health Centers, the federal response is not providing additional direct support for local hospitals, long-term acute care facilities, skilled nursing facilities and primary care providers.

A robust response to the COVID-19 public health emergency in the District will require that its local health care providers to have access to emergency funds to purchase critical equipment and finance operations.

The following represents a sampling of pressing needs:

- **Capacity Surge Tents**. The tents will assist with Emergency Department waiting/patient throughput; they are intended to serve as a “mini-hospital”/ED Expansion unit. In addition, they can be equipped as low-acuity ED Respiratory Centers.

- **Critical and Scale Limiting Resource Purchases**. Needed equipment includes, but is not limited to:
  - Ventilators,
  - HEPA Air Scrubbers,
  - Lab Testing Equipment, permitting the fastest evolving assay panels to be run at District hospitals for COVID-19 testing,
  - ECMO (Extracorporeal Membrane Oxygenation) Machines/related supplies, which are needed for patients with heart and lung respiratory issues. These conditions are exacerbated by COVID-19, and
  - CVVH (Continuous Veno-Venous Hemofiltration) Machines for patients with acute renal failure.

- **Patient Protective Equipment (PPE) Expenses**. Ample quantities of PPE must will be purchased for patients and staff to keep a safe environment for screening possible COVID-19 patients. This is a significant issue. If shortages occur, staff will not feel comfortable in healthcare environments.
- **Telehealth Costs.** Additional expenses associated with expanded staff support, which will permit greater capacity for critical screening and care support.

- **Staffing Expenses.** District healthcare providers will be required to pay a premium to meet the increased patient demand. This situation will be further complicated by the expected staffing impact from school closings and related quarantines associated with staff exposure to COVID-19. Under the circumstances, District healthcare providers must be prepared to (i) provide childcare for some employees, (ii) contract for more expensive travel agency nurses, and/or (iii) offer premium pay to existing staff to work overtime/extra shifts/etc. These costs will weigh heavily across all provider.
MEMORANDUM

TO: Councilmember Vincent C. Gray
FROM: Nicole L. Streeter, General Counsel
DATE: March 17, 2020
RE: Legal Sufficiency Determination for Amendment #2 to Bill 23-718, the COVID-19 Response Emergency Amendment Act of 2020 and Bill 23---, Response Temporary Amendment Act of 2020

The measure is legally and technically sufficient for Council consideration.

This amendment adds a new section 315 to the legislation. It amends section 8a of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 23-16; D.C. Official Code § 7-771.07a), to establish a COVID-19 Emergency Public Health Protection Program ("Program"), whereby the Mayor may issue grants of up to $25 million to health care providers to reimburse health care providers for services associated with preparing for and treating residents afflicted by the COVID-19 virus. The Program may be funded with moneys from the Emergency Cash Reserve Fund or the Contingency Cash Reserve Fund as defined by section 45A of District of Columbia Home Rule Act, approved November 22, 2002 (114 Stat. 2440; D.C. Official Code § 1-204.50a).

I am available if you have any questions.
FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson
   Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director

DATE: March 17, 2020

SHORT TITLE: COVID-19 Response Emergency Amendment Act of 2020

TYPE: Amendment #1 and Amendment #2

REQUESTED BY: Councilmember Vincent C. Gray

Conclusion
There are no costs to the District’s FY20 budget and financial plan to implement these amendments.

- Amendment 1 removes the Fiscal Management Board trigger for the Not-for-Profit Hospital Corporation, also known as United Medical Center (UMC). There are no costs associated with removing this trigger as it does not require the Mayor to appropriate any additional funds to UMC.
- Amendment 2 establishes a COVID-19 Emergency Public Health Protection Program, which authorizes the Mayor to provide grants and additional resources to healthcare providers for services associated with preparing for, and treating residents afflicted by COVID-19. While this amendment authorizes the creation of this program for up to $25 million, it does not require funding. Accordingly, there are no costs associated with the authorization provided in this amendment. If the Mayor chooses to implement this program, the Mayor will need to utilize available resources to address any costs associated with this program.

Background
Current law requires the board of UMC to adopt a revised budget for FY2020 that is balanced with an operating subsidy from the District of $22.14 million or less. If the subsidy exceeds that amount, a financial control board is triggered to takeover operations of UMC. Amendment 1 removes that triggering language for FY2020.
Amendment 2 adds a new section to the bill authorizing, but not requiring, the Mayor to issue grants to healthcare providers and provide supplemental appropriations to District agencies for the purposes of combating the COVID-19 virus. The amendment makes further conforming amendments if grants are issued under the authority of this new program.