

MELICK & PORTER, LLP COVID-19 MEMO:

Melick & Porter, LLP provides you with the below update regarding the impact of COVID-19 on issues relating to insurance in the United States. The below is not meant to be all-inclusive, but provides an overview as to the trends in the United States. If you have any questions regarding any of the updates below, please do not hesitate to contact us.

SUMMARY OF IMPORTANT LEGISLATION AND EMERGENCY ORDERS AND DIRECTIVES:

Below we provide an overview as to the types of legislative actions that have been occurring, both on a federal and state level.

- On November 3, 2020, the FDA issued a [letter](#) to clinical laboratory staff and health care providers alerting them of the potential for false positive results from antigen tests used for the rapid detection of SARS-CoV-2. FDA warned that when users do not properly follow the manufacturer's instructions for use for these rapid detection COVID-19 antigen tests, false positive results can occur.
- On October 22, 2020, the FDA [approved](#) the anti-viral drug Veklury (remdesivir) for hospitalized COVID-19 patients, making it the first drug to receive approval for the treatment of COVID-19. Before approving this drug, the FDA issued an Emergency Use Authorization for the use of Veklury in COVID-19 treatment.
- There are at least 9,220,933 coronavirus cases in the U.S. and at least 231,077 people have died from the virus, [according to data](#) from Johns Hopkins University. Thirty-one U.S. states have reported at least one record-high day of new coronavirus cases in the past month.
- On November 6, 2020, the U.S. Treasury Department and IRS, jointly with the Labor Department and Department of Health and Human Services, released for publication in the Federal Register an interim final rule (T.D. 9931) with respect to Medicare coverage concerning a vaccine for the disease caused by the coronavirus.
 - The [interim final rule](#) [describes implementation of a provision of the “Coronavirus Aid, Relief, and Economic Security Act” that established Medicare Part B coverage and payment for a COVID-19 vaccine and its administration.
- On Oct. 31, 2020, the state of New York changed its policy on individuals traveling into New York state from other states. New York determined that the former standard of a seven-day rolling average of over 10% of all COVID-19 tests producing a positive result, or the number of positive cases exceeding 10 per 100,000 residents, is no longer feasible.
 - The new protocol went into effect November 4, 2020, and allows an alternative to the mandatory 14-day quarantine. Travelers from states that are contiguous with

New York will continue to be exempt from the travel advisory (you may continue to travel freely between NY and CT/MA/NJ/PA/VT); however, covered travelers must continue to fill out the [Traveler Health Form](#).

- Massachusetts released new [guidance](#) today for high school and youth winter sports. Some will get to play games, but athletes will have to wear masks at all times. The Executive Office of Energy and Environmental Affairs (EEA) put the sports into three categories – lower risk, moderate risk and higher risk.

INSURANCE AND COVERAGE RELATED NEWS AND ORDERS/LEGISLATION:

Below we provide an update as to regulations, news, and litigation specifically related to insurance and potential coverage.

- The "[Life Insurance Providers Global Market Report 2020-30: COVID-19 Impact and Recovery](#)" reports the global life insurance providers market is expected to decline from \$1700.8 billion in 2019 to \$1612.8 billion in 2020 at a compound annual growth rate of -5.2%. The decline is mainly due to economic slowdown across countries owing to the COVID-19 outbreak and the measures to contain it. The market is then expected to recover and grow at a CAGR of 3% from 2021 and reach \$1728 billion in 2023.

BUSINESS AND COMMERCE NEWS AND LEGISLATION RELATED TO COVID-19:

Below we discuss news regarding the economic impact of COVID-19 and measures being taken to address that.

- The SEC released the [Annual Report](#) of the Enforcement Division on November 2, 2020. In contrast to last year, which saw year-over-year increases in cases filed and relief awarded, 2020 was mixed. The Annual Report describes a workforce that completely moved to remote work, and a division that focused resources on COVID-related misconduct.
- The FDA announced on November 3, 2020, that it published a list of 223 drug and biological product essential medicines and medical countermeasures, as well as 96 device medical countermeasures; the list is online [here](#).
- Last week the Board of Governors of the Federal Reserve [announced](#) changes to the terms of the Main Street Lending Program aimed at boosting small business participation in the Program.
- Amid the unprecedentedly large move to mail-in-vote due to COVID-19, the USPS reported its third consecutive day of fewer on-time ballot [deliveries](#) in swing states this past weekend.
- U.S. manufacturing picked up in October, with new orders climbing to their highest level in nearly 17 years, Reuters reports The Institute for Supply Management [reported](#) its index of national factory activity rose to 59.3 last month.

LITIGATION/CIVIL JUSTICE SYSTEM UPDATES AND ORDERS:

Below we, highlight additional judicial orders related to the COVID-19 pandemic.

- The Massachusetts Supreme Judicial Court and Trial Court today announced that the gradual resumption of jury trials will now begin the week of November 30, 2020. However, Phase 1 of the plan previously approved by the SJC order of September 17, 2020, has been scaled back due to the current situation in the Commonwealth with respect to COVID-19. [Click here to learn more.](#)
- All NHJB courts are open during regular business hours. However, due to the COVID-19 pandemic, public access to courthouses and/or clerk's offices remains restricted. With narrow exceptions, only individuals who are filing for emergency relief or who are scheduled for in-person court proceedings may be admitted.