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 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 486
 Finance

(Senator Augustine, *et al.*)

Labor and Employment - Employment Standards During an Emergency
(Maryland Essential Workers' Protection Act)

This emergency bill establishes numerous benefits and protections for essential workers, as defined by the bill, during an emergency, and related responsibilities for each employer of an essential worker. Among other things, the bill requires an employer to provide hazard pay and personal protective equipment (PPE) at no cost to essential workers. The bill also requires the Maryland Health Benefit Exchange (MHBE) to provide a special enrollment period (SEP) during an emergency for an essential worker who is not insured under a group health benefit plan sponsored by the employer. The bill applies prospectively and may not be applied or interpreted to require the payment of hazard pay for work performed in an emergency before the bill is enacted.

Fiscal Summary

State Effect: State expenditures (all funds) increase significantly in FY 2021 and 2022 (and possibly into FY 2023) to provide required hazard pay and other benefits to essential workers during emergencies (not quantified below but *at least* \$37.1 million every three months for hazard pay alone). General fund expenditures by the Maryland Department of Labor (MDL) increase by \$224,100 in FY 2021 to implement and enforce the bill; annualized costs continue for at least two years. MHBE special fund expenditures increase by \$40,000 in FY 2021 only. Revenues may be affected, as discussed below. Any potential impact beyond FY 2023 is not reflected below.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF/FF/NB Revenues	-	-	-	\$0	\$0
GF Expenditure	\$224,100	\$647,500	\$668,100	0	0
SF Expenditure	40,000	0	0	0	0
GF/SF/FF/NB/HE Exp.	-	-	-	0	0
Net Effect	(-)	(-)	(-)	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local government expenditures increase significantly to provide the hazard pay and other benefits required by the bill to essential workers. Revenues are not anticipated to be materially affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: Broadly, the bill establishes the following responsibilities and obligations for each employer of an essential worker:

- provide an essential worker who earns less than \$100,000 per year with hazard pay (of \$3.00 per hour) for each pay period the essential worker works during an emergency;
- provide safe working conditions during an emergency and provide necessary amounts of PPE at no cost to essential workers;
- take proactive steps to minimize the risk of transmission if a worker contracts an infectious disease, as specified;
- provide an essential worker with at least 3 days of paid bereavement leave and at least 14 days of paid health leave for use during an emergency, as specified; and
- prepare, annually review, and display a health emergency preparedness plan – which must also be submitted to the Maryland Emergency Management Agency (MEMA) and other emergency management officials.

An essential employer may not intentionally or unintentionally misclassify an essential worker as an independent contractor or other classification to avoid paying the hazard pay or any other benefits due to an essential worker during an emergency. A more detailed description of these benefits, responsibilities, and obligations and be found below.

The bill also establishes enforcement authority and procedures for MDL, including the authority to (1) issue an order compelling compliance; (2) impose a civil penalty of no more than \$1,000 for any violation of the bill's requirements; and (3) grant compensatory damages and other specified forms of relief. For each violation, the relief authorized must be imposed on a per-essential worker and per-instance basis. A person that alleges a violation may file a complaint for up to two years after that person knew or should have

known about the alleged violation. However, as discussed more below, for an essential worker to receive protection from retaliation (regarding concerns expressed about and/or reporting of unsafe working conditions), MDL must be notified within three days.

Definitions and Applicability

“Emergency” means (1) the imminent threat or occurrence of severe or widespread loss of life, injury, or other health impacts, property damage or destruction, social or economic disruption, or environmental degradation from natural, technological, or human-made causes or (2) an incident, occurrence, or outbreak that is the subject of an executive order, executive declaration, or executive proclamation, as specified.

“Essential worker” means an individual who performs a duty or work responsibility during an emergency that cannot be performed remotely or is required to be completed at the worksite and includes a contractor or subcontractor. “Essential employer” means a person that employs an essential worker and includes a unit of State or local government.

The bill applies to essential employers in the following industries and sectors: (1) the chemical sector; (2) the commercial sector (*e.g.*, arborists, construction companies, and janitorial firms); (3) the communications sector; (4) the critical manufacturing sector; (5) the emergency services sector; (6) the energy sector; (7) the food and agriculture sector (*e.g.*, grocery stores and farms); (8) the government facilities sector; (9) the health care and public health sector; (10) the information technology sector; (11) the motor carrier industry; (12) the service sector; (13) the transportation systems sector; (14) the warehousing and distribution sector; and (15) personnel of any other institution or industry ordered to remain open during the emergency. The industries and sectors listed are substantively similar to the Cybersecurity and Infrastructure Security Agency’s (better known as CISA) [critical infrastructure sectors](#).

Declaration of Emergencies

MEMA and each local emergency management organization must periodically evaluate and determine whether an emergency is occurring or has occurred. If an agency determines that an emergency has occurred or is occurring, the agency must make an announcement, in writing, about the emergency and requiring essential employers to follow the bill’s requirements related to hazard pay, safe working conditions, and bereavement and health leave. Once the emergency has subsided, the agency that made the announcement must announce, in writing, that essential employers no longer need to (1) allow an essential worker to refuse to fulfill work responsibilities or (2) provide specified benefits to essential workers.

Hazard Pay

An essential employer must provide an essential worker with hazard pay for each pay period the essential worker works during an emergency. (Although the bill specifies that “an essential employer is not required to provide an essential worker with hazard pay if the essential *employer* earns \$100,000 or more per year, this analysis assumes the bill intends to limit hazard pay if the essential *worker* earns \$100,000 or more.)

The hazard pay must be \$3.00 per hour, unless a collective bargaining agreement or similar agreement provides for a higher amount. An essential worker is eligible for hazard pay dating back to the start of the emergency, except that hazard pay is not owed for any period of time before the bill goes into effect. An essential employer may not lower an essential worker’s regular rate of pay to accommodate the hazard pay. The hazard pay may not be counted toward an essential worker’s eligibility for any State means-tested benefit programs. An employer must include a written statement of hazard pay earned by an employee for each pay period.

Health Insurance and Health Care Costs

If an essential worker’s health insurance coverage or other benefits do not cover the cost of testing for a contagious illness or disease, during an emergency, the essential employer must pay all costs associated with the testing. Moreover, during an emergency, (1) each essential employer must provide financial assistance, as specified, for unreimbursed health care costs to each essential worker who becomes sick or is injured if the sickness or injury is related to the emergency and (2) if an essential worker does not have health insurance, the essential employer must assist the worker in obtaining and paying for health insurance coverage. As noted above, MHBE must provide an SEP for an essential worker who is not insured under a group health benefit plan sponsored by the employer. Financial assistance provided for health care costs may not be counted toward an essential worker’s eligibility for any State means-tested benefit programs.

Working Conditions

During an emergency, each essential employer must (1) provide safe working conditions as defined by the bill; (2) provide necessary amounts of PPE to essential workers at no cost; (3) create and maintain written protocols to enforce hygienic practices or disease mitigation measures at a worksite; and (4) provide or implement any other measures or requirements to ensure the general health and safety of essential workers. An essential employer must comply with any standards, protocols, or procedures required by MDL, including any emergency or temporary standard.

An essential worker may refuse to fulfill a work responsibility that relates to an unsafe work environment, as defined by the bill. The essential employer must take specified steps to rectify the unsafe work environment and may not retaliate against a worker that witnesses, reports, or files a complaint related to the unsafe work environment. An essential worker must report any unsafe working condition to MDL within three days of discovery in order to receive protections from retaliation under the bill. MDL must then follow specified procedures to ensure the unsafe working environment is remedied, including the assessment of civil penalties against the essential employer. MDL must adopt regulations to carry out these requirements.

Procedures to Mitigate Transmission of Infectious Diseases

During an emergency, if any worker contracts an infectious disease at a worksite, the essential employer must take proactive steps to minimize the risk of transmission, including informing essential workers that they may have been exposed and evacuating the worksite until it has been sanitized. Any such positive test result must be reported to the Maryland Department of Health (MDH), as specified, and MDH must publish the data in a format that is readily accessible to the general public. The Commissioner of Labor and Industry must adopt regulations as necessary to meet these requirements.

Bereavement and Health Leave

Each essential employer must provide an essential worker with at least 3 days of bereavement leave and 14 days of health leave during an emergency (this leave is in addition to leave required by the Maryland Healthy Working Families Act (MHWFA)). “Bereavement leave” means paid leave provided to an essential worker due to the death of a family member, as defined by the bill, resulting from the emergency. “Health leave” means paid leave provided to an essential worker due to the worker’s illness or other health needs related to the emergency.

Health Emergency Preparedness Plans

Each essential employer must develop a health emergency preparedness plan, display the most recent plan in a common area, and annually submit the plan to MEMA and the emergency management director in each county in which the employer has an office location. The plan must include specified provisions, and it must be updated annually.

Current Law: Various State and federal laws establish requirements for employers and rights and benefits for employees in the State and nation. The following sections include a short summary of some of the requirements and benefits as they relate to the bill, including federal laws enacted specifically to address labor issues during the COVID-19 pandemic.

For additional information on the COVID-19 pandemic and federal legislation passed to address the pandemic, please see **Appendix – COVID-19**.

Minimum Wage

The Maryland Wage and Hour Law is the State complement to the federal Fair Labor Standards Act, which specifies minimum wage and overtime requirements for employers and employees in the State. Chapters 10 and 11 of 2019 increase the State minimum wage rate for employers with 15 or more employees in six increments until the full phase-in of \$15.00 per hour on January 1, 2025. For employers with 14 or fewer employees, the wage rate reaches full phase-in after eight increments on July 1, 2026. These rates apply unless the federal minimum wage rate is set at a higher level. The Commissioner of Labor and Industry is authorized to enforce payment of the minimum wage.

Maryland Health Benefit Exchange

MHBE was created during the 2011 session to provide a marketplace for individuals and small businesses to purchase affordable health coverage. Through the Maryland Health Connection (MHC), Maryland residents can shop for health insurance plans, compare rates, and determine their eligibility for federal advanced premium tax credits (APTC), cost-sharing reduction plans, and public assistance programs such as Medicaid. MHBE must provide for initial, annual, and special enrollment periods in accordance with the federal Patient Protection and Affordable Care Act (ACA). Outside of the annual open enrollment period, an individual can only enroll in a qualified health plan (QHP) through MHC if the individual qualifies for an SEP (typically due to a qualifying life event such as having a baby, getting married, or losing coverage). However, the ACA permits an individual who experiences an “exceptional circumstance,” such as a serious medical condition, natural disaster, or other national or state-level emergency, to qualify for an SEP.

Under this authority, MHBE opened a Coronavirus SEP, running from March 16, 2020, through December 15, 2020, allowing any uninsured Marylander to apply for coverage. This SEP was later extended through March 15, 2021. As of January 28, 2021, 121,960 individuals have enrolled in coverage through this SEP. Of these enrollees, 67% qualified for Medicaid, 24% enrolled in a QHP with an APTC, and 10% enrolled in a QHP without assistance.

Workplace Safety Measures

At the federal level, the U.S. Centers for Disease Control and Prevention and the federal Occupational Safety and Health Administration (OSHA) within the U.S. Department of Labor have issued guidance on preparing workplaces for COVID-19. The Division of

Labor and Industry within MDL administers the Maryland Occupational Safety and Health (MOSH) program.

The requirements of the MOSH program are codified by the MOSH Act. In general, these requirements parallel safety standards established by OSHA. MOSH is assisting employers and employees during the pandemic by developing targeted COVID-19 resource documents, answering technical questions, providing proper channels to file complaints regarding the Governor's executive orders related to COVID-19, utilizing inspections and investigating complaints to ensure compliance with regulations, and evaluating reports of worker deaths and initiating fatality inspections when warranted.

Sick and Safe Leave

MHWFA requires an employer with 15 or more employees to have a sick and safe leave policy under which an employee earns at least 1 hour of paid sick and safe leave, at the same rate as the employee normally earns, for every 30 hours an employee works. An employer with 14 or fewer employees, based on the average monthly number of employees during the preceding year, must at least have a sick and safe leave policy that provides an employee with at least 1 hour of unpaid sick and safe leave for every 30 hours an employee works.

An employee is eligible to use sick and safe leave under specified circumstances, including to care for or treat the employee's mental or physical illness, injury, or condition; to obtain preventive medical care for the employee or employee's family member; and to care for a family member with a mental or physical illness, injury, or condition. Several of the authorized reasons for taking leave align with potential usage needs during the pandemic. An employer may not require an employee to exhaust leave provided under MHWFA before taking leave granted under the Families First Coronavirus Response Act (FFCRA).

FFCRA helps combat the workplace effects of the pandemic by reimbursing, in the form of tax credits, private employers with fewer than 500 employees for the cost of providing employees with paid leave taken for specified reasons related to COVID-19. FFCRA also requires certain employers to provide their employees with paid sick leave under the Emergency Paid Sick Leave Act (EPSLA) and expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act (EFMLEA) for specified reasons related to COVID-19.

Under EPSLA, employees of covered employers are eligible for two weeks (up to 80 hours) of paid sick leave for specified reasons related to COVID-19. EFMLEA requires specified employers to provide up to 10 weeks of paid and 2 weeks unpaid expanded family and medical leave. The leave is paid at a rate of two-thirds of the employee's regular rate of pay and is available if an employee has been employed for at least 30 calendar days and is

unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19. EFMLEA only provides leave for reasons related to COVID-19.

Maryland Emergency Management Agency

Generally MEMA, which is part of the Military Department, is responsible for coordinating the State response in any major emergency or disaster. This includes supporting local governments as needed or requested and coordinating assistance with the Federal Emergency Management Agency and other federal partners. MEMA manages many of the federal grants that fund a broad range of initiatives leading to enhanced protection from and responses to the full range of natural and man-made disasters that could threaten the State's citizens.

Political subdivisions of the State (*i.e.*, local governments) are required to establish local organizations for emergency management in accordance with the State's emergency management plan and program and participate in federal programs for emergency management. Among other things, these organizations must implement programs and positions recommended by MEMA to meet federal and State standards.

State/Local/Small Business Effect:

Costs for Essential Employers

All employers of essential workers, including the State, local governments, and small businesses, must provide additional benefits to those workers during an emergency and meet the bill's other requirements. Thus, all essential employers experience significant increased costs during an emergency, including during the current and ongoing COVID-19 pandemic. Small businesses have greater difficulty in meeting the duty to remain open and absorbing the costs involved to do so. The precise cost for each of the effects discussed below and total cost for any essential employer cannot be predicted, as it depends wholly on (1) the length of an emergency; (2) how the bill's requirements differ from the employer's existing practices; (3) how many of the employer's workers are considered essential workers; (4) the extent to which any such worker is able to telework; and (5) whether additional industries are deemed to be essential (*e.g.*, educational institutions are not specifically enumerated as essential employers but could be ordered to remain open). For example, Anne Arundel County is already providing hazard pay at a rate of \$2.50 per hour to certain employees in forward-facing positions and, as a result, the bill's hazard pay requirement has a less pronounced (but still significant) effect on the county.

Even so, each subsection listed below has a description of the fiscal impact with illustrative examples when applicable and calculable. The examples are based on data provided by the

Department of Budget and Management (DBM) on essential employees in the State Personnel Management System (SPMS), data provided by the Maryland Department of Transportation (MDOT) (whose staff are not in SPMS), and grocery store workers in the State. There are approximately:

- 16,700 essential workers (out of about 46,494 total employees) in SPMS;
- 6,870 essential workers (out of about 9,057 total employees) who work for MDOT; and
- 55,900 grocery store workers in the State (as estimated by the U.S. Bureau of Labor Statistics in December 2020), all of whom are assumed to be essential during an emergency for purposes of this analysis.

As the additional benefits for essential workers and responsibilities for essential employers are required only during emergencies, such as the current and ongoing COVID-19 pandemic, it is assumed for purposes of this analysis that some additional costs terminate at the end of fiscal 2023; even if the COVID-19 emergency ends before that, there may still be lingering enforcement proceedings and related costs through fiscal 2023. Employers experience similar costs during any future emergency that prompts the bill's benefits and responsibilities to come into effect; however, any such incidence cannot be predicted.

Hazard Pay: Payroll costs for essential employers increase significantly to provide hazard pay (of \$3.00 per hour) for essential workers during an emergency. Costs are likely to vary significantly among employers, depending on the number of affected essential workers and how many hours those workers work each week. *For illustrative purposes*, assuming that each SPMS worker, MDOT worker, and grocery store worker works an average of 40 hours per week during an emergency:

- affected State agencies would pay an additional \$26.1 million every three months (averaging \$104.2 million per year) to essential workers in SPMS;
- MDOT would pay an additional \$10.2 million every three months (averaging \$40.9 million per year) to its essential workers; and
- grocery stores would pay an additional \$87.2 million every three months (averaging \$348.8 million per year) to essential workers.

Nevertheless, costs to essential employers could be significantly higher than those illustrated above, since essential workers are often required to work additional overtime hours during emergencies to ensure the safety and well-being of Marylanders.

Health Care Costs: The bill requires each essential employer to pay for certain emergency-related health care expenses (such as testing for a contagious disease or illness) for essential workers, if those expenses are not covered by the worker's health insurance. Essential employers experience potentially significant increased costs to do so; however, any such impact depends on a worker's illnesses or injuries sustained during an emergency and, thus, cannot be reliably estimated.

Personal Protective Equipment: Expenditures by essential employers increase to purchase and provide PPE for essential workers during emergencies. Costs could vary significantly depending on the nature of the emergency, the type of PPE needed, and the number of employees who need PPE. *For illustrative purposes*, DBM estimates the cost of a single-use N95 or KN95 face mask, to protect from aerosol infectious diseases such as COVID-19, at \$2.00 per mask. Providing only this type of PPE for essential workers in SPMS (*i.e.*, one mask per essential worker per workday) costs approximately \$2.2 million every three months for affected agencies (averaging \$8.7 million per year). Assuming the same cost for grocery stores in the State, those employers would experience costs of \$7.3 million every three months (averaging \$29.1 million per year). Additionally, MDOT advises that, during the COVID-19 pandemic, it has experienced monthly PPE costs of about \$551,000 (averaging \$1.65 million every three months and \$6.6 million per year).

Workplace Safety: Expenditures by essential employers may also increase to implement the workplace safety requirements specified by the bill; however, the bill primarily requires essential employers to follow other State and federal health and safety standards related to the emergency. As such, any significant cost experienced by an employer may instead be due to those laws and standards and not the bill. For example, the U.S. Department of Labor recently issued [new workplace guidance](#) to ensure the protection of workers from COVID-19. The guidance emphasizes the importance of face coverings and the importance of COVID-19 prevention programs that engage workers and unions in the program development, and many employers are likely to follow this guidance absent the bill.

For illustrative purposes, MDOT advises that, during the COVID-19 pandemic, it has experienced an average cost of about \$575,200 per month (averaging \$1.7 million every three months and \$6.9 million per year) for enhanced cleaning and disinfecting and for modifying its facilities to ensure worker safety.

Bereavement and Health Leave: Expenditures by essential employers may increase to provide emergency-related paid bereavement leave and paid health leave to essential workers in the manner required by the bill. Since MHWFA already requires employers with 15 or more employees to provide paid sick and safe leave to workers, expenditures only increase for an essential employer to provide health leave if (1) the worker uses more paid leave than the worker otherwise would have, absent the bill or (2) the employer has 14 or fewer employees and, therefore, does not provide paid health leave for workers. Even

so, all essential employers experience increased costs to the extent that workers use the paid bereavement leave required by the bill, since no equivalent type of leave is required by State law. Costs may be greater for employers (including public safety employers) that require 24/7 coverage due to having to pay for overtime and/or temporary employees to cover shifts for employees taking leave.

Other Implementation Costs

Maryland Department of Labor – Enforcement: The bill creates additional responsibilities for MDL, which is responsible for enforcing the bill’s requirements during emergencies. MDL cannot carry out enforcement activities with its existing staff and resources and, therefore, requires additional staff during any future emergency to do so. Additionally, MDL needs additional staff immediately to carry out enforcement activities during the current and ongoing COVID-19 pandemic. For purposes of this analysis, it is assumed that the bill takes effect on April 1, 2021.

Thus, general fund expenditures for MDL increase by \$244,119 in fiscal 2021. The estimate reflects the cost of hiring 13 temporary contractual staff (including investigators, administrative staff, legal staff, and a hygienist) to implement and enforce the bill. This estimate assumes a high-level of enforcement activities for MDL, as MDL anticipates a significant number of complaints and questions from workers and employers during any emergency.

Contractual Positions	13.0
Salaries and Fringe Benefits	\$166,995
Start-up Expenditures	66,170
Operating Expenses	<u>10,954</u>
FY 2021 MDL Enforcement Expenditures	\$244,119

Costs are assumed to continue in fiscal 2022 and 2023 as well, with full salaries with annual increases and employee turnover and ongoing operating expenses. As MDL’s responsibilities and enforcement activities take place during emergencies – such as the current and ongoing COVID-19 pandemic – and for up to two years after their conclusion, it is assumed for purposes of this analysis that the additional staff, and the associated costs, are no longer necessary beginning in fiscal 2024. MDL is likely to need similar additional contractual staff during any future prolonged emergency that prompts the bill’s benefits and responsibilities to come into effect; however, any such incidence cannot be predicted.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the ACA.

Special Enrollment Period: MHBE special fund expenditures increase by \$40,000 in fiscal 2021 for one-time-only information technology system modifications to allow for an SEP during an emergency for essential workers. These expenditures can likely be funded with the existing \$35.0 million annual appropriation for MHBE as the mandated appropriation has not been fully spent in recent years. MHBE advises that, generally, it is more operationally efficient to open an SEP for *all* uninsured individuals in an affected area rather than a specific subpopulation, especially if verification is required.

Revenues

The bill impacts State revenues in four ways:

- Any revenues due to assessment of penalties against employers for noncompliance are assumed to be minimal and are assumed to accrue to the general fund.
- Net general fund tax revenues may increase minimally from providing hazard pay beginning in fiscal 2021. Any increase in personal income tax revenue from the bill is likely largely offset by diminished revenues from businesses deducting their higher payroll expenses from their taxable income and potentially from a decrease in demand for labor.
- Nonbudgeted revenues likely increase as well. The Maryland Environmental Service (MES), a nonbudgeted agency, operates on a fee-for-service basis. Under the bill, MES would be deemed an essential employer with nearly 500 essential workers. Additional costs incurred for hazard pay (at least \$780,000 every three months based on a five-day work week, although operations are often continuous, particularly during a state of emergency), leave and health care, PPE, and other mitigation measures would have to be covered with higher fees.
- Presumably, additional federal fund revenues would be drawn down to help cover the costs associated with essential workers whose salaries are paid with federal funding – this amount is assumed to be a negligible portion of the costs noted above for SPMS.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 581 (Delegate D.E. Davis) - Economic Matters and Appropriations.

Information Source(s): Department of Budget and Management; Maryland Department of Transportation; Judiciary (Administrative Office of the Courts); University System of Maryland; Department of Juvenile Services; Maryland Department of Labor; Department of Public Safety and Correctional Services; Department of State Police; Maryland Health Benefit Exchange; Maryland Insurance Administration; Maryland Environmental Service; Public Service Commission; Anne Arundel, Frederick, and Montgomery counties; Maryland Association of Counties; Maryland Municipal League; Washington Suburban Sanitary Commission; U.S. Department of Labor; Department of Legislative Services

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Appendix – COVID-19

In December 2019, a novel strain of coronavirus known as severe acute respiratory syndrome coronavirus 2 emerged in Wuhan, China. Coronavirus disease (COVID-19) is an infectious disease caused by this virus. As the number of cases spread globally by March 2020, the World Health Organization declared COVID-19 a pandemic.

Testing, Cases, and Deaths in Maryland

Maryland's first three confirmed cases of COVID-19 were recorded on March 6, 2020, with the first two deaths occurring March 16, 2020. As of January 27, 2021, Maryland reported a total of 346,559 confirmed cases, 31,468 individuals ever hospitalized, and 6,821 confirmed deaths. The jurisdictions with the highest number of cases have been Prince George's, Montgomery, and Baltimore counties and Baltimore City. Statewide, 8.4% of cases (28,954) and 45.9% of COVID-19 deaths (3,130) occurred in congregate living settings (*i.e.*, nursing homes, assisted living, and group homes). Updated data on COVID-19 in Maryland is available on the Maryland Department of Health (MDH) dashboard: <https://coronavirus.maryland.gov>.

Vaccines

In December 2020, the U.S. Food and Drug Administration approved both Pfizer-BioNTech and Moderna's COVID-19 vaccines for emergency use. Due to limited quantities, distribution began with priority groups as determined by states. Maryland began distribution in January 2021 with Phase 1A, which includes health care workers, residents and staff of nursing homes, first responders, public safety, corrections staff, and front-line Judiciary staff. Phase 1B began January 18, 2021, and includes residents of assisted living facilities and other congregate settings, adults age 75 and older, staff of K-12 schools and child care facilities, high-risk incarcerated individuals, and those involved in continuity of government. As of January 27, 2020, the State is in Phase 1C, which includes adults aged 65 and older, additional public safety and public health workers, and essential workers in food/agriculture, manufacturing, public transit, and the postal service. Phase 2 will include individuals aged 16 to 64 at increased risk of severe illness, incarcerated adults, and remaining essential workers. Phase 3 will include the general public. As of January 27, 2021, 852,625 doses of the vaccine have been distributed, and 419,579 doses have been administered (363,282 first doses and 56,297 second doses). Updated data is available on the MDH dashboard: coronavirus.maryland.gov/#Vaccine.

Declaration of a State of Emergency and Initial Executive Orders

On March 5, 2020, Governor Lawrence J. Hogan, Jr. declared a state of emergency and the existence of a catastrophic health emergency to deploy resources and implement the emergency powers of the Governor to control and prevent the spread of COVID-19. The declaration, which has been renewed several times (most recently January 21, 2021), initiated a series of executive actions, including moving the Maryland Emergency Management Agency to its highest activation level, activating the National Guard, and closing all public schools. The Governor then ordered the closure of in-house dining at bars and restaurants and banned mass gatherings of more than 50 people. This action was followed by a more extensive stay-at-home order on March 30, 2020, requiring closure of all nonessential businesses. This order remained in effect until May 15, 2020.

Emergency Legislation

Chapters 13 and 14 of 2020 (the COVID-19 Public Health Emergency Protection Act of 2020) authorized the Governor, for the duration of the emergency, to take actions relating to health insurance, Medicaid, retailer profits, employer actions, and personnel at State health care facilities as a result of the state of emergency and catastrophic health emergency. The Acts also authorize the Secretary of Labor to determine certain individuals eligible for unemployment insurance (UI) benefits due to COVID-19. The Acts terminate April 30, 2021.

Subsequent Executive Orders and Advisories

Since March 2020, the Governor has issued numerous executive orders relating to COVID-19, including (1) closing Maryland ports and harbors to passenger vessels; (2) expanding child care access; (3) expanding the scope of practice for health care practitioners, activating the Maryland Responds Medical Reserve Corps, controlling and restricting elective medical procedures, closing adult day care centers, and providing additional health care regulatory flexibility; (4) augmenting emergency medical services; (5) prohibiting price gouging; (6) fast tracking lab testing processes; (7) authorizing expanded telehealth services; (8) delegating authority to local health officials to control and close unsafe facilities; (9) extending certain licenses, permits, and registrations; (10) authorizing remote notarizations; (11) prohibiting evictions of tenants suffering substantial loss of income due to COVID-19, additionally prohibiting certain repossessions, restricting initiation of residential mortgage foreclosures, and prohibiting commercial evictions; (12) regulating certain businesses and facilities and generally requiring the use of face coverings; (13) establishing alternate health care sites and authorizing regulation of patient care space in health care facilities; and (14) implementing alternative correctional detention and supervision.

Federal Legislation Regarding COVID-19

Five federal emergency bills have been enacted to address the COVID-19 pandemic:

- the **Coronavirus Preparedness and Response Supplemental Appropriations Act**, which provided \$8.3 billion in emergency funds for federal agencies (including \$950 million through the U.S. Centers for Disease Control and Prevention for state and local response);
- the **Families First Coronavirus Response Act**, which addressed emergency family and medical leave and paid sick leave, specified insurance coverage of COVID-19 testing, and provided additional funding for nutrition assistance programs and unemployment benefits;
- the **Coronavirus Aid, Relief, and Economic Security (CARES) Act**, which included a Coronavirus Relief Fund for state and local governments; an Education Stabilization Fund for states, school districts, and institutions of higher education; a Disaster Relief Fund for state and local governments; additional funding for public health agencies to prevent, prepare for, and respond to COVID-19; funding for transit systems; an expansion and extension of eligibility for UI benefits, and additional temporary unemployment compensation of \$600 per week; \$349 billion for the establishment of the Paycheck Protection Program (PPP); a \$500 billion lending fund for businesses, cities, and states; and Economic Impact Payments to American households of up to \$1,200 per adult and \$500 per child;
- the **Paycheck Protection Program and Health Care Enhancement Act**, which provided an additional \$310 billion to PPP, \$75 billion for health care providers, \$60 billion for small business disaster loans, and \$25 billion for increased testing capacity; and
- the **Consolidated Appropriations Act, 2021, and Other Extensions Act**, which included \$908 billion in relief, including another \$284 billion for PPP, \$82 billion for schools, \$45 billion for transportation, \$25 billion in emergency assistance to renters, \$20 billion for vaccine distribution, \$13 billion for a major expansion in Supplemental Nutrition Assistance benefits, \$13 billion for agriculture and rural programs, \$10 billion for child care assistance, extended federal unemployment benefits of up to \$300 per week, extended the federal moratorium on evictions through January 31, 2021, and provided a second stimulus payment of up to \$600 per person.

Federal Funding for Maryland to Address COVID-19

The CARES Act and the Families First Coronavirus Response Act provided Maryland with a significant amount of federal aid. More than \$6 billion in assistance has been made available to the State and local governments, including an enhanced federal matching rate for Medicaid. More than \$900 million was directly provided to local governments. The largest and most flexible portion of CARES Act funding is the Coronavirus Relief Fund, which totals \$2.3 billion, \$691 million of which was allocated directly to Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties.

CARES Act funding also included \$800 million for the Disaster Recovery Fund; \$696 million for transit grants; \$575 million in enhanced Medicaid matching funds (through December 2020); \$239 million in CDC grants; \$108 million for airports; \$74 million for community development block grants; \$50 million for homelessness assistance; \$46 million for grants for local education agencies and higher education institutions; \$46 million for child care and development block grants; \$36 million for public housing and rental assistance grants; \$24 million for community health centers; \$20 million for senior nutrition; \$19 million for energy assistance; \$18 million for justice assistance grants; \$17 million for administration of the UI program; \$14 million for community service block grants; \$13 million for emergency food assistance; \$8 million for Head Start; \$8 million for the Women, Infants, and Children program; and \$7 million for election security.

The Consolidated Appropriations Act is estimated to provide Maryland with \$1.2 billion for education (including \$869 million for K-12 education, \$306 million for higher education, and \$57.7 million for the Governor's Fund); \$1.1 billion for transportation (including \$830.3 million for transit in the Washington, DC area, \$149.3 million for highways, \$76.2 million for transit in Baltimore, \$22.5 million for airports, and \$9.1 million for rural area grants); more than \$475 million for health (including \$335.6 million for testing, \$75.3 million for vaccines, \$32.6 million for mental health assistance, and \$31.9 million for substance use assistance); \$402.4 million for rental assistance; and \$140.6 million for human services (including \$130.4 million for child care).