H. R. 11

To direct the Secretary of the Treasury to establish a coronavirus fund to provide hazard payments to high-risk health care workers and essential workers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CARTWRIGHT introduced the following bill; which was referred to the Committee on

A BILL

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coronavirus Frontline Workers Fair Pay Act”.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 2. HAZARD PAYMENTS FOR HIGH-RISK HEALTH CARE WORKERS AND ESSENTIAL WORKERS.

(a) GENERAL RULE.—The Secretary shall make hazard payments in accordance with this section for high-risk health care workers and essential workers.

(b) FUND.—

(1) ESTABLISHMENT.—For the purpose of making payments under this section, not later than 45 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish an account in the Treasury to be known as the “Coronavirus Essential and High-Risk Health Care Workers Hazard Payment Fund” (hereafter in this section referred to as the “Fund”).

(2) APPROPRIATIONS TO FUND.—There is appropriated, out of amounts in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2020, such sums as may be necessary to carry out this Act.

(c) HAZARD PAYMENTS.—

(1) IN GENERAL.—The Secretary shall make hazard payments from the Fund each coronavirus hazard payment quarter in accordance with this subsection.

(2) ENTITLEMENT TO HAZARD PAYMENT.—Individuals who are high-risk health care workers and
essential workers as determined pursuant to this Act are entitled to hazard payments under this Act.

(3) **HIGH-RISK HEALTH CARE WORKER.**—For purposes of this section—

(A) **DETERMINATION OF PAYMENT.**—In the case of a high-risk health care worker, the hazard payment for such worker shall be the aggregate of $18.50 for each hour in which the worker provided high-risk health care services (excluding hours provided as telework hours).

(B) **LIMITATIONS.**—

(i) **AGGREGATE AMOUNT.**—The aggregate amount allowed for all payments to a high-risk health care worker pursuant to paragraph (1) shall not exceed—

(I) $35,000 in the case of a worker whose annual earned income for calendar year 2020 is $200,000 or less; and

(II) $15,000 in the case of a worker whose estimated annual earned income for calendar year 2020 is greater than $200,000.

(ii) **WEEKLY LIMIT.**—The aggregate number of hours taken into account for
purposes of subparagraph (A) shall not exceed 40 hours per week.

(C) HIGH-RISK HEALTH CARE WORKER DEFINED.—

(i) IN GENERAL.—The term “high-risk health care worker” means—

(I) an individual working in a health care occupation, including—

(aa) physicians;

(bb) nurses;

(cc) surgeons;

(dd) surgical assistants;

(ee) physician assistants;

(ff) neurologists;

(gg) cardiologists;

(hh) anesthesiologists;

(ii) obstetricians and gynecologists;

(jj) pediatricians;

(kk) medical and clinical laboratory technologists;

(ll) emergency medical technicians;

(mm) paramedics;
(nn) home health and personal care aides;  

(oo) nursing assistants;  

(pp) orderlies;  

(qq) diagnostic medical sonographers and medical dosimetrists; and  

(rr) cardiovascular, nuclear medicine, radiologic, and magnetic resonance imaging technologists; and  

(II) an individual who is providing or supporting the provision of health care services for the treatment of Covid–19, as determined by the Secretary.

(iii) Occupations Not Included.  

Such term does not include services provided in the practice of the following occupations:  

(I) Veterinarians, veterinary technicians, and veterinary assistants.  

(II) Chiropractors.  

(III) Dentists, dental hygienists, and dental assistants.
(IV) Dietitians and nutritionists.

(V) Optometrists.

(VI) Podiatrists.

(VII) Recreational, occupational, and physical therapists, including the aides and assistants of such therapists.

(VIII) Radiation therapists.

(IX) Speech-language pathologists.

(X) Exercise physiologists and athletic trainers.

(XI) Audiologists and hearing aid specialists.

(XII) Dietetic technicians.

(XIII) Opticians and ophthalmic medical technicians.

(XIV) Medical records and health information technicians.

(XV) Genetic counselors.

(XVI) Medical transcriptionists and pharmacy aides.

(XVII) Orthotists and prosthetists.

(XVIII) Acupuncturists.
(XIX) Occupations under the subcategory “Other Healthcare Support Occupations” specified in the 2018 Standard Occupational Classification System.

(4) ESSENTIAL WORKER.—For purposes of this section—

(A) DETERMINATION OF PAYMENT.—In the case of an essential worker who is not a high-risk health care worker under subsection (e)(3), the hazard payment for such individual shall be the aggregate of $13.00 for each hour in which the essential worker provided essential services (excluding hours provided as telework hours).

(B) LIMITATIONS.—

(i) AGGREGATE AMOUNT.—The aggregate amount allowed for all payments to an essential worker under subparagraph (A) shall not exceed—

(I) $25,000 in the case of an essential worker whose annual earned income from providing essential services for calendar year 2020 is $200,000 or less; and
(II) $5,000 in the case of an essential worker whose annual earned income from providing essential services for calendar year 2020 is greater than $200,000.

(ii) Weekly Limit.—The aggregate number of hours taken into account for purposes of subparagraph (A) shall not exceed 40 hours per week.

(C) Essential Worker.—Not later than 30 days after the date of the enactment of this Act, the Director of the Cybersecurity and Infrastructure Security Agency shall issue a definition of essential worker for the purposes of making payments to essential workers under this section. In defining the term essential worker, the Cybersecurity and Infrastructure Security Agency shall take into consideration its April 17th “Advisory Memorandum on Identification of Essential Critical Infrastructure Workers During Covid-19 Response” and shall solicit public input.

(D) Coronavirus Hazard Payment Quarter.—
(i) In general.—The term “coronavirus hazard payment quarter” means 90-day periods in calendar year 2020 beginning on the date of the enactment of this Act, except for the last 90-day period (which will end on the last day of the 90-day period in calendar year 2020 or on December 31, 2020, whichever occurs first).

(ii) Special rule before enactment.—For purposes of making payments under this section, the period beginning on or after January 27, 2020, and ending with the date of the enactment of this Act shall be treated as one quarter and payments shall be made a lump sum.

(5) Process.—

(A) Submission to Secretary.—Beginning not later than 60 days after the date of the enactment of this Act, each employer shall submit to the Secretary for each coronavirus hazard payment quarter—

(i) a projection of payments of the regular rate of pay for such quarter for
employees who are high-risk health care
workers or essential workers;

(ii) a certification of such payments
for the preceding quarter;

(iii) the rate of pay for each employee
who is a high-risk health care worker or an
essential worker; and

(iv) the number of hours each em-
ployee provided health care service or es-
sential service each week.

(B) DEVELOPMENT OF PROCESS AND
EVALUATION CRITERIA.—For purposes of this
section, the Secretary shall develop—

(i) a process for submitting applica-
tions under this section, including a proc-
ess for correcting such applications; and

(ii) a criteria for evaluating each such
application.

(d) DISTRIBUTION OF PAYMENTS.—

(1) PAYMENTS TO EMPLOYER.—Beginning not
later than 75 days after the date of the enactment
of this Act, the Secretary shall make coronavirus
hazard payments under subsection (c)(1) on the
basis of projections under subparagraph (A)(i)(I) of
such subsection and shall make appropriate adjust-
ments for any surplus or deficit certified for the previous quarter under subparagraph (A)(i)(II) of such subsection.

(2) PAYMENTS TO EMPLOYEE.—

(A) IN GENERAL.—From amounts paid to the employer under paragraph (1), the employer shall make the appropriate hazard payment to each employee who is a high-risk health care worker or an essential worker not later than 14 days after the date the employer receives such amounts, taking into account the appropriate adjustments for any surplus or deficit certified for the previous quarter.

(B) REQUIREMENT TO PROVIDE HAZARD PAYMENTS.—The requirement to make the appropriate hazard payment under subparagraph (A) shall apply to an employer after the employer receives the amounts paid to the employer pursuant to paragraph (1).

(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this section, an individual with net earnings from self-employment (as defined in section 1402(a) of the Internal Revenue Code of 1986) shall be treated as an employer, except that an employer (within the meaning of section
401(c)(5) of the Internal Revenue Code of 1986) may make an election (in such manner as the Secretary may provide) to be the employer for such purposes.

(4) TREATMENT OF EMPLOYERS.—An employer may not receive a payment under this section unless the employer has entered into an agreement in writing with the Secretary—

(A) to make the payments described in paragraph (2); and

(B) to be bound by such other terms and conditions as the Secretary may prescribe.

(e) SPECIAL RULES RELATING TO PAYMENTS.—For purposes of this section—

(1) PAYMENTS NOT TREATED AS COMPENSATION.—Payments made under subsection (e) shall not be—

(A) treated as compensation with respect to wages, overtime, or any other form of remuneration under the Fair Labor Standards Act of 1938; and

(B) taken into account for purposes of determinations with respect to benefits provided by the employer.
(2) *Coronavirus hazard payments disregarded in administration of federal programs.*—Notwithstanding any other provision of law, a coronavirus hazard payment made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

(f) *Protections.*—

(1) *In general.*—With respect to an employee who is a high-risk health care worker or an essential worker, an employer may not—

(A) reduce the regular rate of pay of the employee because the employee received a hazard payment under this section; or

(B) discriminate against the employee because the employee received a hazard payment under this section, including terminating the employment of the employee with the intent to reinstate the employee at a regular rate of pay that is lower than the previous rate of pay.
(2) ENFORCEMENT UNDER FAIR LABOR STANDARDS ACT.—An employer shall be treated as violating section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) if the employer—

(A) does not make a hazard payment under subsection (d)(2);

(B) violates a provision under paragraph (1); or

(C) does not abide by a term, condition, or regulation imposed by the Secretary under subsections (c), (d), and (h).

(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) EARNED INCOME.—The term “earned income” has the meaning given such term by section 32(c) of the Internal Revenue Code of 1986.

(2) EMPLOYEE.—The terms “employee” has the meaning given the term under section 3 of the of the Fair Labor Standards Act of 1938 (29 U.S.C. 203), which includes Federal employees employed by the Transportation Security Administration of the Department of Homeland Security.

(3) EMPLOYER.—The term “employer” has the meaning given the term under section 3 of the of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).
(4) **REGULAR RATE.**—The term “regular rate” has the meaning given the term under section 7 of the of the Fair Labor Standards Act of 1938 (29 U.S.C. 207).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(h) **REGULATIONS.**—The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out this section, including—

(1) guidance with respect to maintaining employee records;

(2) applying this section with respect to individuals who are compensated on other than an hourly basis;

(3) a procedure for ensuring that former employees are entitled to payments under this section; and

(4) beginning after December 31, 2020, a procedure for resolving any overpayments and underpayments under this section to individuals by the return of tax due for taxable years beginning in 2020.