

December 2, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

RE: Additional COVID-19 Flexibilities for Providers

Dear Secretary Azar:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) asks the Department of Health and Human Services (HHS) to take additional steps to increase flexibilities for providers responding to the COVID-19 pandemic.

The brave women and men who serve the nation's hospitalized patients have been leading the fight against this pandemic since the first COVID-19 patients appeared in this country, and their efforts have been nothing short of heroic. Their fight has been long and emotionally draining, and now they face the significant challenge of yet another spike in hospitalizations. They need and deserve help to continue to care for those who are suffering from COVID-19. **We urge HHS to take action to make it possible for more clinicians to devote their time, knowledge and compassion to caring for patients. You can do this by providing flexibility around health care staffing, provider resource allocation and accessibility to care. Our specific requests are outlined below.**

In response to the initial challenges presented by the COVID-19 pandemic, your office took a number of steps to waive certain regulatory requirements and provide necessary flexibilities allowing for a swifter and more agile response. We deeply appreciated these efforts. **However, this summer the Centers for Medicare & Medicaid Services (CMS) began to reinstate some previously waived requirements, including allowing states and private accreditors with deeming authority to resume in-person routine compliance surveys, and requiring hospitals to resume reporting quality data for display on the website Hospital Compare beginning July 1.**



These regulatory requirements are taking caregivers away from patients. These and other regulatory relief efforts will be critical to continue as our members respond to this emergency. And, while the recent good news around several vaccine candidates is encouraging, we cannot lose sight of the difficulties that lie ahead in the upcoming weeks and months. Prior to widespread distribution and administration of an effective vaccine or vaccines, providers need more assistance in managing and responding to the public health emergency.

America's hospitals and health systems remain wholly committed to combatting this pandemic on the front lines, but difficulties and challenges are mounting rapidly. Emergency departments are overflowing with waves of new patients; intensive care units are at or over capacity across the country; community transmission is occurring at record levels; hospitals are canceling non-emergent procedures to manage the current and expected future surges; and health care workers are overworked and staffing shortages persist.

Increased community transmission coupled with the arrival of colder weather have our members and public health experts across the country anticipating additional case spikes in all geographic locations. To continue managing these surges as best as possible, further support for our already over-strained health care system is of utmost importance.

We urge HHS, and specifically CMS, to consider taking the following actions:

- **CMS should suspend several requirements**, including its routine survey process and quality data reporting requirements. Further, it should remove the threat of enforcement action on hospitals that do not send in the daily COVID-19 data reporting requirements. These steps would allow providers to focus resources entirely on the pandemic response.
- **CMS should expand the physician supervision requirement waiver** to include all nurse practitioners providing care within the scope of their license and privileges to help mitigate widespread staffing shortages across the country.
- **CMS should finalize certain proposals from the Medicare physician fee schedule rule**. Specifically, the agency should allow for direct supervision flexibility and the retention of additional approved telehealth services until the end of the public health emergency.
- **CMS should delay implementation of the price transparency rule's provisions** that are resource-intensive and very costly so that providers can focus those resources on the COVID-19 response.
- **CMS should remove administrative and financial barriers to coverage for COVID-19** to ensure coverage for all individuals. Specifically, we urge CMS to

require commercial plans serving the Medicare Advantage and federal Health Insurance Marketplace to cover all approved or authorized COVID-19 therapies and reimburse them at appropriate rates that cover the cost of drug acquisition, handling and administration. In addition, we ask that CMS require that such therapies be available without any kind of medical management requirements, such as prior authorization.

Further, we urge HHS to take the following actions:

- **HHS should coordinate with the Department of Defense (DoD) and other relevant agencies in an effort to provide necessary staffing relief for especially hard hit hospitals.** The DoD previously provided assistance to communities struggling to manage and control overwhelming surges, and it is in a position to do so again. DoD has skilled nurses and doctors capable of offering necessary assistance, as well as the resources and equipment, such as navy medical ships and field hospitals that can provide critical relief where appropriate. HHS should work closely with DoD to determine where and when deployment of these resources would be most effective.
- **HHS should end drug manufacturer actions that pull critical resources from 340B hospitals** in the form of illegal and unconscionable restrictions on access to 340B discounts on some drugs dispensed through contract pharmacies. As a lifeline for hospitals serving the most vulnerable communities, financial resources protected by the 340B Drug Pricing Program often are the difference between caring for patients and closing hospital doors.
- **HHS should direct the Health Resources and Services Administration and other relevant agencies to encourage and use cross-training opportunities for health care workers.** Due to the COVID-19 response, certain types of health care personnel have been relied on more heavily than others. Cross-training opportunities have the potential to allow currently underutilized health care workers to fill personnel needs across the COVID-19 response. For example, cross-training can prepare clinicians to work in different settings and can be used to prepare administrative support staff to meet the increased demands associated with COVID-19 patients.
- **HHS should coordinate an approach to support child care and other expenses to assist health care workers on the front lines.** Our nation's health care workers and first responders continue to risk their safety and well-being on behalf of others, and the toll is significant. More can be done to lighten their load and recognize their daily sacrifices. Specifically, child care and reliable transportation, like ride-sharing services, are necessary. HHS should take action to ensure those services are available to safeguard essential staff are able to show up to work. Some staff may need housing near the hospital or other care delivery site to reduce the risk of exposure as they transit to work or to reduce

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the fear that they might carry the virus home to their loved ones. To attract and retain health workers, hospitals may need to be able to offer bonuses and/or educational benefits to help individuals advance their careers. HHS should publish specific instructions or a frequently asked questions document that explicitly states that hospitals can use Provider Relief Funds to cover the increased costs associated with each of these types of expenses to help address the workforce shortages. Further, HHS should consider an additional targeted distribution to hospitals specifically to help offset these costs.

On behalf of our members and all of the hospitals and health systems in America, we thank you for considering these actions. Please let me know if you need additional details, and feel free to contact me or have a member of your team contact Nancy Foster, vice president for quality and patient safety policy, at nfoster@aha.org.

Sincerely,

/s/

Richard J. Pollack
President and Chief Executive Officer

Cc: Seema Verma, Administrator, Centers for Medicare & Medicaid Services