



Charles N. Kahn III
President & CEO

March 16, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer:

The Federation of American Hospitals (FAH) is the national representative for over 1,000 leading tax-paying hospitals and health systems throughout the United States. FAH members provide patients and communities with access to high-quality, affordable care in both urban and rural America. Our members include teaching and non-teaching, acute, inpatient rehabilitation, behavioral health, and long-term care hospitals and provide a wide range of inpatient, ambulatory, post-acute, emergency, children's, and cancer services.

The FAH commends the U.S. Congress for its expeditious efforts thus far to enact bipartisan legislation to mitigate the impact of the novel coronavirus (COVID-19) in the United States. As Congress turns its attention to the next legislative package to respond to COVID-19, we recommend the inclusion of several vital provisions that will help ensure hospitals are fully prepared and equipped to respond to the coronavirus pandemic.

Hospital Preparedness and Response Resources

The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, signed into law on March 6, was a critical first step in providing hospitals with the resources needed to screen, test, diagnose, and treat patients afflicted with the coronavirus. Prediction models displaying the likely spread of COVID-19 infections across the United States clearly demonstrate that hospitals must have additional resources readily at their disposal to prepare for surge capacity. **To ensure a robust supply of personal protective equipment (PPE) and other necessary equipment, the**

FAH urges Congress to ensure that health care providers have access to stockpiled equipment (including N95 respirators) and to facilitate the expanded domestic production of PPE.

In order to prevent any disruption in operation during this pandemic, all hospitals must have increased access to key medical equipment and supplies (through supply chain and stockpiles), along with the necessary financial support to fully prepare for surge capacity. The FAH recommends that Congress ensure:

- Timely and transparent COVID-19 testing and results
- Protective medical supplies (masks, gowns, etc.) to contain the spread and ensure health care workforce safety
- Mechanisms to counter price gouging on supplies in the event of a shortage
- Ventilators, respirators, medications, and other supplies that are necessary to treat COVID-19 positive patients and could be depleted depending on surge levels¹
- Containment infrastructure, including tents and other temporary structures that can be used for screening and testing and retrofitting or new construction of areas for isolation and surge management
- Appropriate and timely patient access to post-acute care services once acute-care services are no longer indicated.

Hospital Operations and Workforce Safety

As Congress and the Administration consider options to support industries that are negatively impacted by COVID-19, it is imperative that hospitals remain at the forefront of those discussions. In order for hospitals to have and sustain the capacity to respond to this crisis, as well as the next pandemic, and to keep both health care workers and patients safe, **Congress should provide financial resources that ensure the stability and continuity of a healthy workforce and hospital operations.** Such additional funding (or tax credits) could support hospitals and their employees in offsetting the cost of:

- Enhanced staffing needs for the triaging, testing, and treatment of COVID-19 patients
- Furloughed staff, overtime pay, and hazardous duty pay
- Childcare (pending school and daycare closures) and transportation (pending limitation of public transportation).

National Emergency Declaration

On March 13th, President Trump declared a National Emergency, thereby invoking the *Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act)* to expand access to federal financial aid for states and municipalities. The FAH applauds the President's decision, which allows Department of Health and Human Services (HHS) Secretary Azar to implement the flexibilities our government and health care providers need to effectively combat COVID-19.

With the President's declaration, Secretary Azar and Centers for Medicare & Medicaid Services (CMS) Administrator Verma can implement 1135 waivers that offer crucial flexibilities needed

¹ The FAH supports S. 2723, the Mitigating Emergency Drug Shortages (MEDS) Act, which would help address drug shortage and supply chain concerns.

now, while the number of COVID-19 cases is still manageable in the United States. CMS announced the first of these waivers on Friday, and hospitals and health systems are evaluating the current waivers and identifying additional waivers that will be necessary for hospitals to prepare for and respond to what is an escalating situation. These waivers are vital to ensuring that hospitals have the resources and flexibilities necessary to care for those individuals needing hospital care. **We urge Congress to continue to work with the Administration in responding quickly to the needs of providers at the front lines and to find legislative solutions to challenges that cannot be addressed through the 1135 process.**

For example, while the national emergency declaration will significantly assist all hospitals with 1135 waivers, the FAH membership, comprising more than 1,000 hospitals across 45 states, is currently ineligible to receive any federal funding from the *Stafford Act* due to our hospitals status as tax-payers. **We strongly urge Congress to amend the *Stafford Act* to permit all Medicare participating hospitals to have access to coronavirus preparedness and response funding.** We must ensure that all the nation's hospitals, as they serve their patients and communities, are eligible to receive any hospital-allocated emergency funding to mitigate the spread of coronavirus and address the needs of patients requiring health care resources.

The FAH further recommends that the Federal Emergency Management Agency (FEMA) and/or the U.S. Department of Defense (DoD) coordinate on the enhancement and expansion of the nation's health care infrastructure, including the establishment of mobile screening and treatment centers and isolation facilities for individuals that do not require hospital-level care.

Uninsured and Underinsured Patients

Individuals who may be infected with COVID-19 should not delay testing and/or care due to concerns about potential costs or cost-sharing. The FAH appreciates the work of Congress to ensure that insurance companies will not make enrollees responsible for cost-sharing associated with COVID-19 testing. Testing, however, is only one small piece of the potentially extensive list of services necessary to effectively treat patients with COVID-19. While FAH members have longstanding charity care and discount care policies to assist patients, the FAH is concerned that uninsured or underinsured individuals may delay or forgo testing and/or care until their condition is significantly worse and requires high-intensity hospital-level care.

With nearly 28 million non-elderly uninsured individuals in the United States in 2018,² the stakes are simply too high to have individuals who are reticent to utilize the health care system. **We urge Congress to bring to bear all federal and local public health resources so that alternative sites for triage and testing can be set up at no cost or low cost to uninsured patients. And to encourage individuals to sign up for health insurance coverage through the Marketplace, Congress should consider a special enrollment period as well as enhanced eligibility for premium subsidies.**

For already insured individuals, Congress should require that all insurance plans:

- **Provide coverage for COVID-19-related testing, treatment, and post-acute treatment**
- **Waive cost-sharing for COVID-19-related services**

² KFF, *Key Facts about the Uninsured Population*, December 13, 2019, <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>.

- **Remove prior authorization requirements related to COVID-19 care to ensure patients receive timely services**
- **Remove prior authorization requirements related to post-acute care to preserve inpatient hospital resources.**

For patients who require acute care, hospitals' first and foremost priority is and always has been to provide high quality care to any individual who comes through their doors – whether insured or uninsured, in-network or out-of-network – and FAH members will continue to uphold these high standards. In addition, the FAH and our members will work with insurance companies to address billing concerns for out-of-network, uninsured, and underinsured patients seeking COVID-19 testing and treatment.

In addition to addressing patient cost-sharing, the FAH urges Congress to recognize the extensive, and potentially overwhelming, costs that hospitals and health care systems will face in identifying and providing comprehensive care for COVID-19 patients. **The federal government can support hospitals and health care systems by: (1) ensuring that insurance plans do not deny claims for COVID-19 patients, including out-of-network patients, and that they promptly, directly, and appropriately reimburse hospitals and providers, and (2) addressing uncompensated care costs for the treatment of uninsured patients.**

The FAH urges Congress to consider all avenues for addressing these uncompensated care costs and ensure any such reimbursements are available to all health care providers regardless of tax-paying status. As highlighted above, unless funding through FEMA is made available to all Medicare participating hospitals, the FAH recommends exploring alternative means, including activating and further expanding access to reimbursements through the National Disaster Medical System (NDMS) Definitive Care Reimbursement Program, as this will ensure access to care for patients who are treated at all hospitals, including in rural communities where a tax-paying hospital may be the sole source of care.

Medicare, Medicaid, and CHIP

The FAH further recommends that the Congress take additional steps to ensure that there are no disruptions in care for patients being treated for COVID-19 with health coverage provided through Medicare, Medicaid, and CHIP. Such actions include:

- Place a moratorium on the 2 percent Medicare sequester for at least the duration of the emergency, which would immediately provide relief for hospitals and health care providers, as detailed in the attached March 15 letter from the FAH, the American Hospital Association (AHA) and the Association of American Medical Colleges (AAMC)
- Ensure that Medicare and Medicaid payment for COVID-19 patients, particularly for severely ill patients, covers the full cost of care
- Provide incentives for states that have not yet expanded Medicaid to do so promptly and increase the Federal Medicaid Assistance Percentage (FMAP) during the period of the emergency
- Place a moratorium on CMS' recently proposed Medicaid Fiscal Accountability Regulation (MFAR), which would only further threaten state Medicaid programs in this time of crisis and vitiate the very action the House just took, and that the Senate is considering, to increase the FMAP

- Ensure Medicare Advantage (MA) plans suspend prior authorization and other forms of medical management, which delay access to care and discharges from hospitals to post-acute care providers
- Ensure access to presumptive and retroactive eligibility for potential Medicaid enrollees.

Telehealth

Telehealth will continue to play a critical role in our nation’s ability to effectively respond to COVID-19, especially in expanding the capacity to triage individuals for screening and treat infected individuals with mild symptoms that do not require hospitalization. While we commend Congress for waiving certain Medicare telehealth restrictions in the first supplemental package, we urge Congress to take further steps during the COVID-19 public health emergency period by:

- Ensuring all Americans can access care via telehealth, not just those within the Medicare program, by removing originating site, geographic, and licensure restrictions
- Enabling the establishment of a new Medicare provider-patient relationship via telehealth (thus removing requirement of an existing service within the prior three years)

Thank you for the opportunity to provide our recommendations on how Congress can support hospitals and the patients we serve in response to the coronavirus pandemic. We appreciate Congress’ engagement and consideration of these recommendations and look forward to partnering with you to address the challenges ahead. If you have any questions or wish to speak further, please do not hesitate to reach out to me or a member of my staff at 202-624-1534.

Sincerely,

- cc: House Appropriations Committee
 House Education and Labor Committee
 House Energy and Commerce Committee
 House Homeland Security Committee
 House Ways and Means Committee
 Senate Appropriations Committee
 Senate Finance Committee
 Senate Health, Education, Labor and Pensions Committee
 Senate Homeland Security and Governmental Affairs Committee



March 15, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-222, US Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
S-230, US Capitol
Washington, DC 20510

Dear Speaker Pelosi and Majority Leader McConnell:

America's hospitals deeply appreciate Congress's swift and effective efforts to combat the COVID-19 crisis. Your recent bipartisan action provides much needed assistance for patients and hospitals, especially our workforce on the front lines of this pandemic, and reassures all Americans of Congress's unwavering commitment to take the actions needed to ensure their health and safety.

As you work towards the next legislative package and consider additional actions to assist hospitals and other health care providers and caregivers, we strongly recommend that you suspend the Medicare sequester for at least the duration of the pandemic. This action alone will provide immediate, significant relief across-the-board, and will signal continued Congressional support for the hard work that lies ahead for all of us.

As MedPAC has documented, most recently with its March Report to Congress issued last week, Medicare payments to hospitals fall far below the cost of care and have been deeply negative for well over a decade. The Medicare sequester, which reduces payments for most benefits by two percent, is a major contributor to these underpayments. Indeed, MedPAC has argued against the Medicare sequester, "because it reduces payments for all sectors by 2 percent without regard to payment adequacy."

Suspending the sequester and restoring those payments will provide a much-needed jolt of confidence not just for hospitals, but for physicians, post-acute providers, Medicare Advantage plans and so many others who rely on Medicare as a trusted partner. It would replace an arbitrary cut with the flexibility desperately needed to respond to the evolving demands of this pandemic, and would help assure our patients, especially seniors, of Congress's commitment to their needs.

Sincerely,

American Hospital Association
Association of American Medical Colleges
Federation of American Hospitals