



Charles N. Kahn III
President and CEO

October 24, 2022

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

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

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

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

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

As we look back on the 117th Congress, we thank the bipartisan, bicameral Members of Congress for their diligent work to enact historic legislation in support of hospitals and frontline caregivers over the past two years. Now, as we near the adjournment of the session, there are several remaining issues impacting hospitals and our patients that call for Congressional action before the end of the year. This letter outlines our legislative priorities as you prepare for the final weeks of the session.

The FAH is the national representative of more than 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 areas across 46 states, plus Washington, DC and Puerto Rico. Our members include 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.

Waive Statutory Pay-As-You-Go (PAYGO)

Hospitals and providers across the country face a mandatory, across-the-board four percentage point cut to Medicare payments under pending statutory Pay-As-You-Go (PAYGO) sequester requirements.

We thank Congress for its decisive bipartisan action at the end of 2021 to pass the *Protecting Medicare and American Farmers from Sequester Cuts Act* which deferred PAYGO cuts from taking effect until the end of 2022. However, as hospitals continue to face historic fiscal and operational challenges from record inflation and the ongoing COVID-19 pandemic to unprecedented workforce shortages, Congressional action is again needed before the end of the year to prevent these destabilizing and unsustainable reductions from taking effect. We call on Congress to work together again, on behalf of providers and the patients we serve to fully waive PAYGO.

Reauthorize Key Rural Hospital Payment Programs

Rural hospitals play an essential role in providing local access to high quality, affordable care to over 60 million Americans who live in underserved communities.

We thank Congress for stepping up and extending support to rural providers in the September Continuing Resolution (CR), which temporarily, through December 16, 2022, reauthorized two long-standing, essential Medicare payment programs - the Medicare-dependent Hospital (MDH) program and the current Low-Volume Hospital (LVH) program.

It is critical that Congress reinforce fragile rural hospital finances by preventing those programs from expiring and making them permanent or, at a minimum, reauthorizing them for an extended number of years. This action would help ensure hospitals can sustain their crucial role serving patients in rural communities across America.

Medicare Physician Fee Schedule Fix

In July, CMS issued its 2023 Medicare physician fee schedule proposed rule, which failed to include an adequate annual update to physician payment rates. Congress stepped in last year to provide relief from CMS' 2022 fee schedule, but without intervention from Congress, physicians and primary care providers again face a dramatic payment decrease. When combined with the current 2% Medicare sequester, the threat of PAYGO cuts, and other expiring provisions, clinicians across the country find themselves in an untenable position.

We encourage lawmakers to intervene again, and to also look beyond recurring patchwork legislation to a permanent policy solution. Updating the Medicare physician payment system to include annual increases that account for inflation would offer financial stability and predictability to providers across the country.

Protect Patients from Medicare Advantage (MA) Prior Authorization Obstacles to Care

The Medicare Advantage (MA) prior authorization system needs vast improvement and oversight in order to ensure patients have appropriate and timely access to care. A recent HHS OIG report¹ identified patterns by which MA plans apply utilization controls to improperly withhold coverage and care from patients.

¹ <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>

Specifically, the report found repeated instances of:

- Improper prior authorization denials
- Improper denials for lack of documentation
- Improper payment request denials

We were encouraged by the House's overwhelming bipartisan passage of the *Improving Seniors' Timely Access to Care Act*, which addresses many of these shortcomings by reducing unnecessary delays and denials of patient care while giving health care providers and clinicians greater ability to treat patients in a timely manner.

We urge the Senate to follow suit and pass its companion legislation before the end of the year to modernize MA prior authorization processes and better ensure beneficiary access to care.

Additional Bipartisan Legislation – Telehealth, Behavioral Health, Pandemic Preparedness

In addition to the priorities outlined above, we are encouraged by bipartisan legislative progress made on a host of other health issues, including telehealth, behavioral health, and pandemic preparedness. We encourage Congressional leaders to take up unfinished business in these policy areas and further extend bipartisan momentum to enact legislation before the end of the year.

During the ongoing pandemic, telehealth has proven to be a critical and value-added component of our health care delivery system. As the COVID-19 Public Health Emergency (PHE) - and the highly successful regulatory flexibilities it enabled - may be nearing expiration in early 2023, we urge Congress not to allow temporary telehealth waivers to expire, but to instead deliver a pathway to long-term extensions and, as appropriate, permanency of these critical advances in health care delivery. It is clear that telehealth has changed the landscape, for the better, of how we treat patients in the modern era.

The COVID-19 pandemic revealed our nation's struggle with unmet behavioral health needs and a lack of access to mental health services. An estimated 43.7 million Americans experience a mental health issue each year, yet only one in five get the treatment or help they need. We applaud progress made to address and improve behavioral health in the United States, and we hope to see appropriate legislation become law before the end of the year.

Finally, we urge Congress to not let pandemic preparedness, response, and recovery become an afterthought as we eventually emerge from the COVID-19 pandemic. We appreciate efforts to pinpoint lessons learned and proposals to invest in resources to confront future pandemics. Along those lines, we urge Members to complete their consideration of critical legislation to update and modernize our national response system, so that we are best equipped to handle future pandemics and public health emergencies.

Again, we deeply appreciate your bipartisan leadership to support hospitals and health care providers throughout the 117th Congress, and we look forward to working with you during the sprint to the finish line in the remaining weeks of 2022. Addressing the aforementioned

legislative priorities will help provide long-term stability to hospitals across America and ensure we can continue to fulfill our mission of providing patients with access to the quality care they need 24/7.

Please feel free to contact me or any member of my staff to discuss further these important issues at (202) 624-1534.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Hanft". The signature is fluid and cursive, with a prominent initial "A" and a stylized "H".