

# Congress of the United States

## Washington, DC 20515

July 20, 2020

The Honorable Alex M. Azar  
Secretary  
U.S. Department of Health & Human Services  
Hubert H. Humphrey Building  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma,

Throughout this pandemic, we have spoken with health care providers across our districts, states, and country. Many are concerned that, due to a change in the funding allocation formula change by HHS and CMS, hospitals and health providers will be forced to pay back money that HHS has now determined is overpayment. We are writing to seek clarity on if you will require hospitals, health clinics, and health providers to return their funding, and request you issue a statement ensuring health providers do not need to repay this funding.

As you know, Congress has passed legislation to providing direct funding for our health care facilities, because we know that health provider are in dire need of assistance to deal with the increased costs associated with COVID-19. We heard from providers who feared, without Congressional action, they would not have been able to pay their staff or keep their doors open. The Coronavirus Aid, Relief, and Economic Security (CARES) Act appropriated \$100 billion in relief for providers under the Provider Relief Fund. The recent Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139) appropriated an additional \$75 billion for the CARES Act Provider Relief Fund. This funding is aimed at supporting healthcare-related expenses or lost revenue attributable to COVID-19 and ensured that uninsured Americans can get testing and treatment for COVID-19.

HHS determine that they would allocate \$30 billion in immediate relief funding to our health providers based on 2019 Medicare fee-for-service (FFS) rates. HHS then distributed an initial \$30 billion between April 10 and April 17 to ensure that hospital and health providers around the country would have funds to ensure they remained in service. We appreciate that HHS moved quickly to help providers.

HHS then began to release the remaining \$20 billion of remaining funding within the Provider Relief Fund on April 24<sup>th</sup>. However, HHS announced a change in funding allocation formula. Instead of using Medicare FFS, HHS determined funding would be allocated proportional to providers' share of their 2018 net patient revenue.

This change in funding distribution methodology is concerning to us, because it resulted in some of our providers receiving less funding than they expected in the second allocation of Provider Relief Funds. Now, even more concerningly, some health providers have been informed that they may have to repay HHS if they received more funding under the Medicare FFS than they would have received under net patient revenue.

HHS has left open the possibility that at some point our health providers would need to return money they were assured was for immediate financial relief. Our health providers have not told how much funding they were given that was believed to be in excess, nor when they might be expected to pay this funding back. Our health providers are being held responsible for a decision made by HHS that was entirely out of their control. It is not the fault of our providers they may have had more Medicare FFS in 2019 than they had net-patient revenue in 2018, nor should they be held financially responsible for this HHS decision to change the allocation methodology.

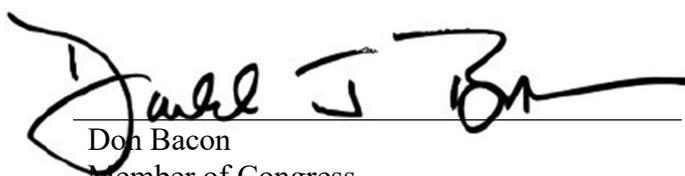
We are all acutely aware that our healthcare providers are struggling to care for COVID-19 patients while facing financial insolvency because of safety precautions they must take against COVID-19. Many of our health care providers have been forced to pay steep prices for personal protective equipment (PPE) and testing supplies which, due to lack of supply, have skyrocketed in cost. Our health providers are also struggling to cover the costs of adding personnel and overtime pay.

We applaud HHS quick action to get funding to our health providers, but our hospitals and health care providers should not have to return relief funds due to the Department's change in methodology. That is why we are asking you to issue a statement, ensuring they will not have to repay any funding received under the \$50 billion allocated for general distribution.

Sincerely,



Cindy Axne  
Member of Congress



Don Bacon  
Member of Congress