

Congress of the United States
Washington, DC 20510

June 3, 2020

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

As the chairs and ranking members of the committees of jurisdiction over the Medicaid program, we are concerned that the delay in disbursing funds from the Public Health and Social Services Emergency Fund (PHSSEF) for Medicaid-dependent providers could result in long term financial hardship for providers who serve some of our most vulnerable populations. It could also severely hamper their ability to continue to serve as essential providers amid the COVID-19 pandemic and beyond. We write regarding the need for a dedicated distribution from the PHSSEF for providers who rely on Medicaid and to share our serious concerns with the ongoing delay of funding. In addition, we write to ascertain the timeline for when these funds will be distributed by the Department of Health and Human Services (HHS) and under what parameters.

In an effort to provide critical financial relief to health care providers struggling to respond to the COVID-19 pandemic, Congress acted swiftly to authorize and appropriate \$100 billion for health care providers in the PHSSEF under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136), and provided an additional \$75 billion for the PHSSEF in the Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139). After allocating \$30 billion in funds based on 2019 Medicare reimbursements, and supplementing this with \$20 billion to reflect 2018 total reimbursements, HHS recently announced plans to allocate \$4.9 billion of the PHSSEF for Medicare-enrolled skilled nursing facilities (SNFs). We are concerned, however, that providers that depend on Medicaid for a large source of their payments have not yet received a meaningful allocation from the PHSSEF. Many of these providers are safety net providers that operate on thin profit margins, if at all. The COVID-19 pandemic has strained their already scarce resources, threatening their ability to keep their doors open in the midst of a declared public health emergency.

HHS has, thus far, relied on methodologies that favor providers that receive a larger share of their payments from Medicare or private insurance. While HHS has made public statements regarding a commitment to develop a distribution for Medicaid providers who may not have Medicare claims, we have not yet seen public progress on such a commitment. Providers that rely heavily on Medicaid include home-and-community-based services (HCBS) providers, providers for individuals with disabilities, behavioral health providers, pediatricians, obstetricians and gynecologists, school-based providers, children's hospitals, and many other types of essential providers, such as primary care providers and family practices. While this is not an exhaustive list, these providers represent a foundational element of our health system: care for children, care for the elderly, and care for our most vulnerable.

It is also worth noting the diverse needs of these providers. While some need assistance to help keep their doors open, others need financial assistance to maintain a sufficient workforce to serve those in need. Furthermore, many of these providers work in extremely close proximity to their patients, placing them at risk of COVID-19 transmission without adequate personal protective equipment (PPE). Many Medicaid-dependent providers operate on thin margins and do not have the same reserves as other providers that have received funding under HHS's distributions from the PHSSEF. Accordingly, in order to address the unique needs of Medicaid providers, we urge you to provide a dedicated distribution from the PHSSEF that is commensurate with the needs of these providers and ensures equity for providers, regardless of the payer.

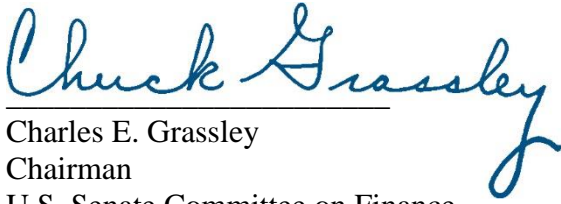
We understand that there may be federal data limitations in Medicaid that do not exist in Medicare. We also understand that some of the delay in formulating an equitable Medicaid distribution was due to both a delay in requesting the data from states as well as in receiving needed information from some states once the data was requested. However, it is our sincere hope that HHS can marshal its resourcefulness, and its relationship with states, to develop a methodology to fairly and robustly allocate funds for Medicaid providers that reflects their costs, the nature of their care, and the financial pressures they face. Medicaid-dependent providers serve some of the frailest and most vulnerable Americans. We must not let their financial insolvency due to the COVID-19 pandemic threaten access to essential care for these individuals.

In order for us to properly oversee the PHSSEF, and the Medicaid program, we ask for your response to the following questions no later than June 10, 2020:

1. What is HHS's timeline to release a dedicated tranche of funds for Medicaid-dependent providers?
2. How does HHS plan to release such funds to Medicaid-dependent providers?
3. What level of funding does HHS plan to dedicate to Medicaid-dependent providers to ensure a meaningful and equitable distribution?
4. What factors contributed to HHS waiting until May 1 to request Medicaid-dependent provider information from states?
5. What factors have contributed to the delays in disbursing funds to Medicaid-dependent providers and how has HHS been working to resolve them as expeditiously as possible to ensure the timely release of funds?

Thank you for your immediate attention to this matter. Please contact Stuart Portman with Chairman Grassley at stuart_portman@finance.senate.gov, Rick Van Buren with Chairman Pallone at rick.vanburen@mail.house.gov, Anne Dwyer with Ranking Member Wyden at anne_dwyer@finance.senate.gov, and Caleb Graff with Ranking Member Walden at caleb.graff@mail.house.gov if you should have any questions.

Sincerely,



Charles E. Grassley
Chairman
U.S. Senate Committee on Finance



Frank Pallone, Jr.
Chairman
U.S. House Committee on Energy & Commerce



Ron Wyden
Ranking Member
U.S. Senate Committee on Finance



Greg Walden
Ranking Member
U.S. House Committee on Energy & Commerce

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