



**CALIFORNIA
HOSPITAL
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

May 7, 2020

Sent electronically

Dear Members of the California Congressional Delegation:

On behalf of the 40 million Californians who rely on our state's hospitals and health systems, thank you for your commitment to supporting our fight against the COVID-19 pandemic and protecting patients and health care workers.

Hospitals answered the call to respond to COVID-19 quickly and with an extraordinary investment. They immediately stood up additional capacity, purchased protective and clinical equipment, hired additional staff, and suspended many non-emergency services. Very conservative estimates put California hospitals' short-term losses over the first few months at more than \$10 billion. These enormous operational and resource challenges are straining hospitals in unprecedented ways — and without additional support, Californians' access to care is already in jeopardy.

The COVID-19 pandemic has devastated California's economy. Without federal aid to offset hospitals' revenue losses and forthcoming reductions in the state budget, patients and communities will suffer. As you develop the next COVID-19 federal response package, CHA respectfully requests Congress take several critical actions to support patient care, sustain our workforce, and preserve our health care infrastructure.

First and foremost, as hospitals are facing not only a financial crisis, but also a public health and pandemic response crisis, they need an immediate and substantial lifeline of financial resources. In

addition, hospitals need support in the following eight ways:

1. Safeguard frontline providers from legal action
2. Improve the Medicare Accelerated Payment Program
3. Implement an additional FMAP increase
4. Protect teaching hospitals
5. Preserve 340B eligibility
6. Further address reimbursement cuts
7. Support our health care workforce
8. Eliminate regulatory and administrative burdens

Support additional funding for hospitals

Hospitals and health care systems need a rapid injection of federal funding to offset massive revenue losses from the suspension of non-urgent surgeries and procedures, at a time when hospitals continue to incur major expenses related to increasing bed capacity, purchasing personal protective equipment, and hiring needed staff.

The Public Health and Social Services Emergency Fund, established and funded by the CARES Act and supplemented by the Paycheck Protection Act, is an important first step toward overcoming these financial challenges. However, it is now increasingly clear that much more will be needed if hospitals are to continue to provide the high-quality care Californians deserve. As an example of the gap between

how CARES Act funds are allocated and what's needed, California's hospitals have so far received about 4% of the fund distributions — despite the fact that they care for about 12% of the nation's population.

Existing and subsequent funding models must account for hospitals' massive loss of revenue, hospitals' direct cost of care for COVID-19 patients, and the enormous costs of preparing for the pandemic.

The future stability of our health care delivery system depends on additional and specifically targeted funding for hospitals.

Congress should direct additional relief funds to hospitals, which are not only coping with a public health crisis but also a financial crisis.

Ensure provider protections

During this unprecedented emergency, hospitals and health care professionals continue to provide care in extraordinary circumstances — in many cases having to make challenging decisions about the allocation of scarce medical equipment and personal protective equipment due to inadequate supplies of PPE, testing kits, ventilators, and more. **Congress should implement a limited waiver of liability for hospitals and health care professionals during the nationally designated COVID-19 emergency that will allow providers to continue delivering the best possible care under less-than-ideal conditions.**

Improve the Medicare Accelerated/Advance Payment Program

Hospitals are grateful for Congress' authorization and the Centers for Medicare & Medicaid's (CMS') swift action to implement the Medicare Accelerated/Advance Payment Program. This program, established in the CARES Act, has quickly moved billions in much-needed Medicare funding to hospitals and other providers nationwide. Unfortunately, CMS abruptly suspended the program on April 26.

Congress should reinstate and improve the program in the following ways, as the uncertainty of a second wave of the virus and the economic recovery make the current terms impractical:

- The interest rate (currently 10.25%) must be brought in line with standard lending rates.
- The repayment schedules must be extended to at least a full 12 months.
- Loan forgiveness must be considered, as many hospitals will simply not be able to make repayments after this public health and economic crisis.

Implement additional FMAP increase

The Families First Coronavirus Response Act, signed into law last month, included a much-appreciated 6.2% temporary boost in the Federal Medical Assistance Percentage (FMAP) in order to support states and the health care delivery system. **Congress should boost this funding source while hospitals are under extreme financial duress and are in need of additional financial assistance from states.**

Protect teaching hospitals

California's teaching hospitals face penalties through the Medicare Graduate Medical Education Program as they continue to maintain readiness for a second wave of COVID-19 positive patients. Medicare Indirect Medical Education funding includes a calculation of residents to available bed days. As available beds increase, CMS resident funding decreases. **Congress should hold teaching hospitals harmless due to having to increase bed capacity to respond to the COVID-19 crisis.**

Preserve 340B eligibility

For more than a month, in response to the COVID-19 pandemic in California, elective procedures have been halted and people have generally been more inclined to stay home than seek non-urgent health care services. As a result, Medicaid patient volume has decreased, compromising hospitals' eligibility for the 340B Drug Pricing Program. **Congress should hold 340B hospitals harmless due to lower Medicaid patient volumes in their recertification until the COVID-19 pandemic subsides.**

Further address reimbursement cuts

Hospitals appreciate that the CARES Act included a delay in the steep Medicaid disproportionate share hospital (DSH) reductions that were scheduled to go into effect in May. However, the short-term delay does not help hospitals with the task at hand, which is to continue to be ready to serve vulnerable communities during this crisis and be there for them after the crisis subsides. **Congress should eliminate the Medicaid DSH cuts set to go into effect Dec. 1, 2020, for at least two-and-a-half years.**

Support our health care workforce

Health care workers across the state have responded to the call of duty in unprecedented ways. Some are coming out of retirement. Others are traveling to hospitals in other parts of the state to assist in areas that are surging with COVID-19 positive patients. These frontline and essential employees put themselves and their families at risk of exposure to COVID-19 every day. **Congress should suspend the retirement earnings test for retired health care workers and first responders who choose to assist in the COVID-19 response effort to ensure they continue to receive their Social Security benefits as they would have before this crisis.**

Don't impose unworkable PPE standards

As the current supply chain for personal protective equipment remains spotty at best, it is simply not feasible at this time to adhere to an even higher standard as proposed in previous bills. Adding a provision to mandate certain PPE usage would create a scenario where hundreds of hospitals could be out of compliance each day. **Congress should avoid adding to hospitals' burden as they work to procure supplies and protect all who work in hospitals.**

Address regulatory concerns

CMS and HHS have supported hospitals during this pandemic with tremendous regulatory flexibility, and hospitals are grateful. These important efforts will continue to be needed as the pandemic persists, even after the expiration of the national emergency declaration. **Congress should prevent implementation of the Medicaid Fiscal Accountability Rule, which would have a profound impact on California's ability to finance its Medicaid program and would undermine supplemental payments to hospitals.**

As our state works to climb out from the economic and societal devastation wrought by COVID-19, it is vital that its hospitals — and the health care safety net they provide — are secure. We cannot reignite our state's economy, the largest in the nation, without the health care safety net that hospitals provide.

Thank you for your continued support and attention to the needs of California's hospitals and the patients they care for.

Sincerely,

/s/

Carmela Coyle

Attachments:

Federal Funding Chart

Hospital Revenue Loss

OSHA Standards Graphic