



July 28, 2020

The Honorable Mitch McConnell
Senate Majority Leader
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Nancy Pelosi
U.S. House of Representatives
1236 Longworth House Office Building
Washington, DC 20515

The Honorable Chuck Schumer
Senate Minority Leader
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Kevin McCarthy
U.S. House of Representatives
2468 Rayburn House Office Building
Washington, DC 20515

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

The 29 undersigned organizations, representing millions of patients and consumers across the country who face serious, acute, and chronic health conditions, deeply appreciate the steps Congress took earlier this year to limit the spread of the COVID-19 pandemic. However, it is clear that more needs to be done and we urge Congress to swiftly come to consensus and pass another legislative package that comprehensively addresses the challenges facing our country during the COVID-19 pandemic and meets the needs of people with pre-existing conditions.

As we have shared with you in the past, many people with pre-existing conditions are at increased risk of infection and adverse health outcomes from COVID-19. The House passed the HEROES Act in mid-

May, which reflected this reality and included many of the priorities outlined in our April 14, 2020 letter.¹ We now urge the Senate to similarly pass legislation that meets the needs of people with pre-existing conditions.

It is clear that without strong and effective leadership, the pandemic is likely to continue to threaten the economic and physical wellbeing of Americans across the United States. That is why we ask the House and Senate to work together to **quickly pass legislation that ensures that the health care system has adequate capacity to provide necessary care to patients with pre-existing conditions** and robustly addresses public health needs.

In this letter we outline our priorities, which are as follows:

Medicaid:

- Raise the federal medical assistance percentage (FMAP) increase from 6.2 to at least 14 percentage points and provide additional, dedicated funding for home and community-based services (HCBS). Extend the amount of time states can utilize these funds and preserve maintenance of effort requirements.
- Authorize state Medicaid programs to cover COVID-19 treatment for the uninsured with 100% federal funding and extend this past the public health emergency declaration.
- Promote the deployment of telehealth options for Medicaid enrollees.

Private Coverage:

- Immediately create an open enrollment period on healthcare.gov.
- Clarify that all insurance is required to cover testing at no cost to without restriction and provide robust public health funding for this purpose. Extend this provision past the public health emergency declaration.
- Protect patients from all surprise medical bills.
- Require private insurers to provide similar telehealth access on par with provisions provided under the Medicare program.
- Authorize the administration to allow individuals to extend employer sponsored coverage and provide subsidies to alleviate financial strain after job loss.

Telehealth:

- Congress should consider policies that would expand access to and availability of telehealth services during the COVID-19 pandemic and beyond.

90 Day Supply:

- Require all payers to relax plan restrictions that prevent patients from securing an appropriate amount of essential medications and medical products.

Paid Leave:

- Extend paid and protected leave provisions to workers regardless of their full-time, part-time, or self-employed status and to those who do not otherwise qualify for federal

¹<https://cqrcengage.com/mda/file/bTo0KY4sK7p/04.14.2020%20Coalition%20Letter%20Re%20COVID%204th%20Leg%20Package.pdf>

Family and Medical Leave Act protection due to their employer's size or their short tenure.

Promote Access to Coverage

During this time of crisis, it is critically important that all Americans have access to affordable, quality health care coverage. Congress and the Administration must ensure health care coverage and financial protections are available to all Americans, including those who are currently uninsured, in order to effectively reduce the rate of transmission and reduce adverse health outcomes.

Given the economic impact of the COVID-19 pandemic, programmatic efforts that would create barriers to gaining and maintaining Medicaid eligibility should be immediately halted – including waivers establishing work requirements and eliminating retroactive eligibility.

Congress should compel federal agencies to open a special enrollment period to ensure that all consumers have access to comprehensive coverage that will meet their healthcare needs. Due to the increased availability of plans that are not required to meet federal patient protection standards – including short-term limited duration, association health plans, and health care sharing ministries – many Americans are enrolled in insurance-like products that may not cover testing or treatment for COVID-19, putting them at substantial financial risk. While some states have already taken this step, we call on Congress to require the Administration to immediately re-open HealthCare.gov, to allow un- or under-insured Americans to enroll in comprehensive coverage.

Medicaid Stability

Additional federal funds to support state Medicaid programs are needed immediately. State Medicaid programs provide a vital safety net during this national crisis, covering traditionally underserved populations and helping to treat those infected with the virus. In past times of economic downturn, Congress has stepped in to significantly increase the traditional FMAP for Medicaid spending, in order to provide relief for state budgets and mitigate state incentives to respond negatively to revenue shortfalls. Such Congressional action prevents states from making shortsighted changes to Medicaid eligibility, coverage, or reimbursement rates that would negatively impact low-income populations. This targeted support from the federal government is especially critical given the imperative of maintaining and hopefully expanding the role of Medicaid in facilitating the public health response to the current pandemic.

Estimates suggest that nearly 13 million individuals who have lost employer sponsored coverage are eligible for Medicaid, and that number will rise to 17 million by January 2021.² Recognizing the significant impact this increase will have on state budgets, it is critical that increased federal support be made available. Our organizations strongly supported the 6.2 percentage point increase in the federal medical assistance percentage (FMAP) for states in the Families First Coronavirus Response Act (FFCRA) and urge Congress to raise the FMAP increase from 6.2 to at least 14 percentage points and provide additional, dedicated funding for home and community-based services (HCBS).

Our organizations also ask Congress to extend the length of time that states can receive these additional FMAP funds. The economic impact of COVID-19 is likely to last much longer than the public health emergency declaration. In April, CBO estimates that the unemployment rate will be nine percent at the

² Eligibility for ACA Health Coverage Following Job Loss, Kaiser Family Foundation. May 13, 2020. Accessed at: <https://www.kff.org/coronavirus-covid-19/issue-brief/eligibility-for-aca-health-coverage-following-job-loss/>

end of 2021, meaning that states will see an increased need for Medicaid coverage for months and even years to come.³ Our organizations urge Congress to extend the FMAP increase of at least 14 percentage points and provide dedicated HCBS funding through at least June 30, 2021 to ensure that state Medicaid programs can continue to provide coverage to those most in need.

Recognizing the importance of continuous Medicaid coverage, the FFCRA included maintenance of effort requirements for the enhanced FMAP that prevent states from imposing more restrictive eligibility standards or increased premiums and cost-sharing during the public health emergency as well as significantly limit the circumstances in which states can disenroll current or newly enrolled beneficiaries. These protections are critical to ensuring that patients with serious and chronic conditions continue to receive affordable, appropriate and accessible coverage during a period in which there will be enormous pressure on states to reduce costs. Our organizations have deep concerns about efforts to weaken these protections as a whole and in specific states. We strongly urge Congress to preserve these protections in their entirety in any future COVID-related legislation and tie their duration to that of the increased FMAP.

Assistance for People Who Have Lost Employer Sponsored Coverage

As more individuals lose coverage as a result of job loss, it will continue to be critical to retain coverage to adequately combat COVID-19. We therefore encourage Congress to authorize the administration to allow individuals to extend employer sponsored coverage and provide subsidies to alleviate financial strain after termination. This approach, which was last utilized in 2009 during the financial crisis, allowed workers to receive a 65% premium subsidy for six months to retain coverage. We encourage Congress to consider offering this benefit and increasing the generosity of the subsidy beyond 65% to ensure employers and employees are shielded from financial stress.

Furthermore, keeping an employer plan will allow for continuity of provider networks and medications, which is critical for patients and survivors. Patients, particularly those with high-cost conditions, are among the people most likely to have incurred substantial out-of-pocket spending this early in the calendar year. Facilitating the extension of employer coverage relieves such individuals from having to start a new plan, with new cost-sharing amounts and patient out-of-pocket contributions reset to zero.

In addition, Congress should direct the administration to undertake a robust public education and notification campaign to guarantee there is adequate uptake of this benefit. Congress should also direct the administration to ensure that those who are Medicare-eligible and who time out of COBRA coverage have access to a special enrollment period for Medicare coverage.

Access to COVID-19 Testing

Our organizations were grateful that the CARES Act and the FFCRA included provisions that would provide testing to patients at no cost. It is critical that anyone who needs diagnostic testing related to COVID-19 is able to receive testing at no cost.

However, HHS' recent interpretation of the statute limits access to these services to specific circumstances and does not accommodate testing for public health or occupational safety reasons.⁴ This

³ Updating CBO's Economic Forecast to Account for the Pandemic, Congressional Budget Office. April 2, 2020. Accessed at: <https://www.cbo.gov/publication/56314>

⁴ FAQs About FFCRA and Coronavirus Aid, Relief, and Economic Security Act Implementation, Part 43. CMS. June 23, 2020. <https://www.cms.gov/files/document/FFCRA-Part-43-FAQs.pdf>

interpretation means many patients are receiving significant medical bills for testing and creates loopholes that will make it harder for patients in a variety of different circumstances to obtain the tests they need. We encourage Congress to clarify the language that was included in the CARES Act to mandate that all insurance, including ERISA regulated plans and non-compliant plans, be required to cover testing at no cost to individuals regardless of the reason the test is needed.

These mandates must be matched with robust public health funding to help ensure community based access to testing for un- or under-insured individuals, workers who require testing to remain safe at their place of work, immunocompromised individuals, and others who may need routine access to testing in order to protect their own or others' health. Recent news reports indicate that the Administration may move to further reduce funding and services that are critical to delivering these tests. This is deeply concerning to our organizations and we ask you to move swiftly and decisively to allocate robust funding for COVID-19 testing.

Financial Protection for Patients & Consumers

Our organizations continue to be concerned about the impact of surprise medical bills on our patients. While surprise bills have been commonplace for many years, recent media reports indicate that the pandemic could be exacerbating the problem.⁵

Patients with serious and chronic conditions that routinely require medical treatment to maintain their health are being asked to shift their care to different providers and facilities as a result of the COVID-19 pandemic. These shifts, while necessary to contain the virus, may result in out-of-network care – increasing consumers' risk of receiving a surprise bill. Fear of exorbitant costs and surprise medical bills should not keep patients and consumers away from care for treatment of COVID-19 or an underlying medical condition.

It is urgent that Congress act now to enact bipartisan, bicameral legislation to protect patients from all surprise medical bills. Our patients are frustrated that they continue to be exposed to this predatory practice at a time when they are extremely concerned about their physical and financial wellbeing. During this period of uncertainty, patients and their families need peace of mind that they will not receive unexpected medical bills when seeking treatment for COVID-19 or other medical conditions.

Similarly, we cannot allow affordability of treatment for COVID-19 to become a barrier that prevents people from taking appropriate action if they show symptoms. As a result, our organizations urge Congress to authorize state Medicaid programs to cover COVID-19 treatment for the uninsured with 100% federal funding. Our organizations are also concerned by the fact that not all states have taken up the option to provide no-cost testing. As a result, we ask Congress to consider extending both of these provisions past the public health emergency declaration, as they will encourage greater uptake by states if consistently available as long as needed.

Effective Social Distancing

A core component of the public health strategy to combat the spread of COVID-19 is 'social distancing' — dramatically reducing instances in which individuals share the same physical spaces as others outside their families, caregivers, or other essential interactions. Social distancing has proven to be a valuable

⁵ Trump Wrongly Said Health Insurance Will Pay for All Coronavirus Treatment, Kaiser Health News. March 13, 2020. Accessed at: <https://khn.org/news/trump-wrongly-said-health-insurers-will-pay-for-all-coronavirus-treatment/>

method of slowing the spread of COVID-19 in other countries, and the United States has already begun to make extraordinary investments and sacrifices to facilitate it. Therefore, it is important for Congress to ensure that government actions maximize the success of this strategy.

Congress should immediately explore opportunities for workers to take paid and protected time off from their work. The leave provisions included in the FFCRA cover workers who are symptomatic, in quarantine, caring for an at-risk family member who is quarantined, or caring for a child due to school or daycare closure. Congress should expand the paid and protected leave provisions in the FFCRA to all workers regardless of their full-time, part-time, or self-employed status and to those who do not otherwise qualify for federal Family and Medical Leave Act protection due to their employer's size or their short tenure. These paid and protected leave provisions are essential to providing workers with the income and job security necessary to take appropriate social distancing measures. These measures also help provide the insulation from exposure that vulnerable populations, like people with pre-existing conditions, rely on during public health crises.

Maximize Access to Health Care and Treatment via Telehealth

During the current COVID-19 Public Health Emergency (PHE), telehealth rules have been modified to offer an opportunity for many patients to access health care services from the safety of home. Congress should carefully consider how to ensure access to and availability of telehealth services during the COVID-19 pandemic and beyond to ensure that patients with pre-existing conditions can more easily access health care services while simultaneously practicing safe social distancing—allowing patients to avoid being exposed to COVID-19 in provider waiting rooms, exam rooms, and through associated travel.

Specifically, Congress should expand the scope of telehealth services. As it has done in Medicare, Congress should also require private insurers to establish similar access to telemedicine and promote the deployment of telehealth options for Medicaid enrollees. Congress should permanently remove Medicare's geographic and originating site restrictions that outside of the current PHE, will be significant barriers to expanded telehealth access. Data should drive future decisions on telehealth so that we can better understand telehealth utilization, ensure quality care is provided, and positive health outcomes are achieved. To this end, Congress should require a comprehensive report evaluating the changes that have been made to enable telemedicine access during the PHE in both the Medicaid and Medicare programs.

Ensure access to Essential Medications and Medical Products

Insurance plan restrictions on when a patient can obtain a prescription refill or purchase essential medical supplies can present challenges to appropriate care in circumstances in which drug and product supply chains may experience brief but meaningful disruptions. These restrictions on life-sustaining medications and products can require frequent trips to a physical pharmacy location, needlessly putting patients at risk of COVID-19 exposure while attempting to pick up their supplies.

In the CARES Act, Congress required Part D plan sponsors to provide a 90-day supply of medications in most cases during the COVID-19 pandemic. We urge Congress to take bold action to require all payers to relax plan restrictions that prevent patients from following the recommendations of the CDC to secure an appropriate amount of backup supplies of essential medications and medical products. Congress should ensure that any new requirements carefully balance the ability for patients to access additional prescriptions and supplies with the potential for major stockpiling to avoid drug shortages.

These policies should apply to all plans, including Medicare, Medicaid, employer sponsored coverage and commercially available plans.

For more information or to discuss further, please direct your staff to contact Katie Berge of the Leukemia & Lymphoma Society at katie.berge@lls.org. Thank you for your consideration.

Sincerely,

ALS Association
American Cancer Society Cancer Action Network
American Kidney Fund
American Liver Foundation
American Lung Association
Arthritis Foundation
Cancer Support Community
CancerCare
Chronic Disease Coalition
Cystic Fibrosis Foundation
Epilepsy Foundation
Family Voices
Hemophilia Federation of America
Leukemia & Lymphoma Society
March of Dimes
Mended Hearts & Mended Little Hearts
Muscular Dystrophy Association
National Alliance on Mental Illness
National Health Council
National Hemophilia Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Pulmonary Hypertension Association
Susan G. Komen
The AIDS Institute
United Way Worldwide
WomenHeart: The National Coalition for Women with Heart Disease