



AMERICA'S ESSENTIAL HOSPITALS

March 17, 2020

The Honorable Mitch McConnell, Majority
Leader
The Honorable Charles Schumer, Minority
Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi, Speaker
The Honorable Kevin McCarthy, Minority
Leader
United States House of Representatives
Washington, DC 20515

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

America's Essential Hospitals is the leading champion for hospitals and health systems dedicated to high-quality care for all, including the vulnerable. Our more than 300 member hospitals fill a vital role in their communities. Typically, they are their community's largest employer, and they often serve important public health functions. Communities rely on essential hospitals, not just for the care they provide and economic activity they generate, but also for their key role during crises. Communities turn to our hospitals for care and comfort in the aftermath of natural disasters and mass-casualty events, and during infectious disease outbreaks.

Essential hospitals already are on the front lines of the Coronavirus Disease 2019 (COVID-19) pandemic. The unprecedented scope of this threat means our hospitals will bear the brunt of the expected surge in people seeking care. This will swell the already high rates of uncompensated care our members provide and further weaken their financial stability. Essential Hospitals struggle with limited resources and, in some cases, minimal cash reserves that will quickly run dry with this intensifying pandemic. This requires a dramatic intervention by Congress. We urge lawmakers to provide essential hospitals with immediate economic relief through direct financial assistance and Medicare and Medicaid policy changes.

Essential hospitals' commitment to serving all people, regardless of income or insurance status, and their diverse patient mix pose unique challenges. They provide an unequal share of the nation's uncompensated care, and three-quarters of their patients are uninsured or covered by Medicare or Medicaid. Our members provide state-of-the-art, patient-centered care while operating on margins one-fifth that of other hospitals—1.6 percent on average compared with 7.8 percent for all hospitals nationwide. A disproportionate number of their patients face sociodemographic challenges to accessing health care, including poverty, homelessness, language barriers, and low health literacy. Ten million people in essential hospital communities have limited access to healthy food, and nearly 24 million live below the poverty line. Essential hospitals are uniquely situated to address these social determinants of health and are committed

to serving these vulnerable patients. These circumstances, however, compound essential hospitals' challenges and strain their limited resources.

We applaud the urgency of congressional leaders to quickly develop and pass emergency legislation to respond to COVID-19. The actions already taken by lawmakers will help our hospitals meet the immediate needs of their communities in preparing for and responding to COVID-19 cases. However, more help is needed. As Congress develops additional legislative measures to address the pandemic, we respectfully ask lawmakers to consider the full impact it will have on hospital operations for mission-driven facilities that commit to serving vulnerable patients and struggle with a resource constraints, including limited available cash on hand.

We urge lawmakers to recognize the direct and indirect costs associated with COVID-19 that essential hospitals incur and consider the following:

- extend access to low-interest loans, similar to Economic Injury Disaster Loans, offered by the Small Business Administration and increase loan limits; and
- provide directed, targeted funding to those hospitals that are treating or preparing to treat COVID-19 patients—especially those with large Medicare, Medicaid, and uninsured patient populations.

We call on lawmakers to implement the following policy changes:

- **Suspend the 2 percent Medicare sequester payment reduction for health care providers.** The sequester was not enacted to help achieve a Medicare policy goal, but rather a budgetary savings target. Suspending the Medicare sequester for the duration of the COVID-19 pandemic would allow for a quick injection of federal dollars for the hospitals most in need of financial assistance.
- **Ensure stable Medicaid funding.** Medicaid plays a significant role in ensuring access to necessary diagnostic testing and treatment for both suspected and confirmed COVID-19 cases. We call on lawmakers to ensure adequate Medicaid funding is available to maintain access to care and ensure provider payments during this pandemic. Now is not the time to implement significant cuts or changes to Medicaid funding—either at the federal or state level. Instead, we urge Congress to:
 - increase the Federal Medical Assistance Percentage (FMAP) while requiring states to maintain current eligibility criteria;
 - temporarily increase Medicaid disproportionate share hospital (DSH) state allotments by at least 3 percent. Congress acted to raise Medicaid DSH state allotments by 2.5 percent for two years during the last economic downturn. The unprecedented nature of COVID-19 justifies a substantial bump in state DSH allotments;
 - stop the impending Medicaid DSH reductions from going into effect for at least two years;
 - block the Centers for Medicare & Medicaid Services (CMS) from finalizing its damaging Medicaid Fiscal Accountability Regulation (MFAR), which will hamstring states' ability to respond to public health threats, such as COVID-19;
 - allow states to suspend any upper payment limit restrictions and Medicaid DSH hospital-specific caps to allow hospitals to receive any new supplemental hospital payments and additional Medicaid DSH funds targeted for COVID-19

- require CMS to fast track approval of any state plan amendments necessary for states to access additional funding.
- **Loosen restrictions on telehealth services and technology.** Essential hospitals are expanding the availability of telehealth services in accordance with social distancing strategies to ensure patients are treated in appropriate care settings. Medicare regulations restrict telehealth reimbursement to a defined list of services and limit the originating site—the location where the patient is present while receiving the service—to rural areas. The Department of Health and Human Services (HHS) announced additional flexibility under its Section 1135 waiver authority that lifts these geographic restrictions and allows patients to access services from the comfort of their homes. This is an important step toward limiting the spread of COVID-19. However, Congress should expand the “qualified provider” definition in the supplemental appropriations bill by removing the requirement that providers must have an established relationship with a patient in the past three years. In the bill, Congress gave HHS Section 1135 waiver authority to expand access to telehealth services. In this provision, Congress also imposed a requirement that to receive telehealth reimbursement under the waiver authority, a provider must have an established relationship with a patient such that the provider billed Medicare for any service for the patient in the past three years. This requirement is unnecessarily constraining, in that patients are turning to essential hospitals in this time of crisis—even those who do not have an established relationship with the hospital. In many cases, a provider did treat the patient in the past three years, but the patient was on a source of coverage other than Medicare and only recently transitioned to Medicare. Lifting the three-year requirement will better allow essential hospitals to expand access to all patients in their response to the COVID-19 pandemic.
- **Preserve access to lifesaving drugs by protecting the 340B program.** The 340B Drug Pricing Program is a critical program that allows providers serving the most vulnerable patients to receive discounted drugs and stretch scarce federal resources to reach more patients and provide comprehensive services. As hospitals and patients observe social distancing guidelines and move appropriate appointments to telehealth settings, we urge Congress to extend the 340B benefit accordingly. Ambulatory appointments that transition to telehealth visits to free up capacity for COVID-19 patients should be counted as off-campus hospital outpatient encounters for the purposes of maintaining 340B eligibility. Providers on the front lines of this public health crisis need access to lifesaving drugs to treat patients affected by COVID-19.

The ripple effect associated with COVID-19 will extend far and wide. Essential hospitals are spending money now to reorient clinical services and business functions in response to the major disruptions COVID-19 will cause to day-to-day operations. We urge Congress to pass legislation to provide immediate and direct financial relief to hospitals that serve a disproportionate number of vulnerable patients and that rely on government reimbursements for providing medical services—including non-emergent but medically necessary planned surgical procedures—to Medicaid and Medicare beneficiaries. Our member hospitals are expending upfront costs by:

- canceling planned surgical cases to open up additional capacity to take on COVID-19 cases and to ration surgical supplies, forgoing a crucial source of revenue for hospitals that rely on government payers;
- constructing temporary spaces on their campuses to diagnose and treat COVID-19 patients;
- accommodating child care needs for staff resulting from school closures, such as establishing onsite child care facilities and subsidizing child care services;
- shutting down clinical units due to the lack of available staff;
- purchasing large numbers of laptop computers to ensure employees can work remotely, as appropriate, and while maintaining hospital operations;
- hiring contract workers to back fill frontline positions for caregivers who are quarantined after exposure to COVID-19;
- ensuring an adequate supply of personal protective equipment (PPE) and other supplies are available to protect caregivers and treat COVID-19 cases; and
- accounting for the high-volume of patient cancellations for outpatient appointments and planned procedures resulting from social distancing practices;

We appreciate the opportunity to share the priority needs of essential hospitals during this unprecedented time. If you have questions, please contact Vice President of Legislative Affairs Carlos Jackson at (202) 585-0112 or cjackson@essentialhospitals.org.

Sincerely,

Bruce Siegel, MD, MPH
President and CEO