OUR ADVOCACY ACHIEVEMENTS

STOPPING MEDICAID DSH CUTS
Multiyear advocacy by America’s Essential Hospitals erased $12 billion in looming cuts to Medicaid disproportionate share hospital (DSH) payments and delayed until fiscal year (FY) 2024 another $16 billion in cuts. Repeals came in multiple legislative actions, including the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Consolidated Appropriations Act, 2021. The association’s relentless campaign won broad bipartisan support in both chambers of Congress. Then, last fall, the association averted House-proposed cuts to DSH payments in states that have not expanded Medicaid. By working with Congress, America’s Essential Hospitals protected vital support for essential hospitals as they faced immense fiscal strain and uncertainty caused by COVID-19.

The association also worked with congressional leaders to fix an unintended consequence of a legislative increase in the Medicaid Federal Medical Assistance Percentage that put Medicaid DSH allotments at risk. With this technical fix, hospitals were able to receive their full allotments. The association is building on these efforts by convening stakeholders to seek a technical fix that would protect DSH payments for hospitals unintentionally harmed by the change in the calculation of Medicaid shortfall in the Consolidated Appropriations Act, 2021.

PROTECTING MEDICAID
Association advocacy on multiple fronts drove a groundswell of opposition to the Medicaid Fiscal Accountability Regulation (MFAR) and led the Centers for Medicare & Medicaid Services (CMS) to officially withdraw this damaging proposal in early 2021. The association continues to advocate for a robust Medicaid program, working with CMS on returning to normal program operations after the COVID-19 public health emergency (PHE) ends; submitting comments on access to care; publishing white papers on how to address structural racism in Medicaid; and promoting equity through Section 1115 waivers. We continue to engage stakeholders and congressional offices on the need to strengthen and protect Medicaid, particularly by preserving key Medicaid enhancements linked to the PHE.

WINNING COVID-19 SUPPORT FOR ESSENTIAL HOSPITALS
America’s Essential Hospitals has been a vocal and effective advocate for the support hospitals need to weather the pandemic. We were instrumental in building bipartisan congressional support for the $178 billion Provider Relief Fund (PRF) and, through highly effective regulatory advocacy, targeting $15 billion of the fund toward safety net hospitals. In other wins, we convinced Congress to extend eligibility for employer tax credits to public hospitals, and, through our regulatory work, we pushed for changes to problematic guidance from the Department of Health and Human Services (HHS) that narrowly defined lost revenue related to COVID-19, limiting potential uses of PRF funds. We also secured an extension of the Medicare sequester moratorium, preventing further cuts during 2021.

Hand in hand with advocacy, the association used its extensive media reach to tell the story of essential hospitals’ front-line work, their innovation in the face of adversity, and the financial challenges they face caring for populations and communities hit hardest by the pandemic. Through media outreach, the association arranged numerous interviews with member hospital leaders.

On the regulatory front, we continued engaging with high-level officials and various agencies within the Department of Health and Human Services (HHS) on our members’ pandemic needs. Members of America’s Essential Hospitals also participated in a roundtable with White House vaccine leadership on promoting equitable distribution of the COVID-19 vaccine. The association also worked with the White House on a vaccine equity pledge signed by health systems representing nearly 180 of our
member hospitals. By signing the pledge, these hospitals publicly committed to fight racial and ethnic disparities in care by ensuring equitable distribution of COVID-19 vaccines. Two years into the PHE, America’s Essential Hospitals continues building its rich collection of online COVID-19 resources for members and producing timely member communications about the pandemic.

**PRESERVING 340B DRUG DISCOUNTS**
America’s Essential Hospitals has wielded litigation to complement its legislative and regulatory advocacy for the 340B Drug Pricing Program—including presenting its case to the U.S. Supreme Court last November in its lawsuit challenging cuts to Medicare outpatient drug payments to 340B hospitals. Counsel for America’s Essential Hospitals and other plaintiffs made compelling oral arguments before the court, and we anticipate a decision this summer. The pressure of another association lawsuit prompted the HHS Office of General Counsel to issue an advisory opinion unequivocally stating drug manufacturers must honor 340B discounts to covered entities’ contract pharmacies. The Health Resources and Services Administration (HRSA) then sent letters to seven manufacturers, ordering them to resume 340B discounts through contract pharmacies. After the manufacturers failed to heed HRSA’s warning, the agency referred them to the Office of Inspector General to investigate whether to levy penalties on the manufacturers. We continue these legal battles, and we are confident of more wins.

On Capitol Hill, the association also fought to protect 340B discounts for essential hospitals. Working with key congressional 340B champions and other covered entity stakeholders, the association helped secure temporary protections for 340B hospitals at risk of losing eligibility due to changes to their payer mix caused by COVID-19. We also helped remove a concerning provision from proposed prescription drug pricing legislation that would have effectively eliminated 340B savings for Medicaid managed care drugs.

**EXPANDING ACCESS TO TELEHEALTH**
America’s Essential Hospitals, long an advocate for flexibility to promote greater use of telehealth, encouraged Congress and CMS to expand access to and coverage of telehealth services amid the pandemic. CMS issued several waivers to temporarily expand telehealth services and reimbursement, and the association has urged Congress to pass legislation to make those waivers permanent, support payment parity for telehealth services, and codify reimbursement for audio-only services. As a short-term solution, the association supported a provision in the Consolidated Appropriations Act, 2022, to leave telehealth flexibilities in place for 151 days after the PHE ends.

America’s Essential Hospitals also supported the Federal Communication Commission’s COVID-19 Telehealth Program, which allowed many essential hospitals early in the pandemic to invest in connected care for patients.

**LEADING ON SOCIAL DETERMINANTS, EQUITY**
America’s Essential Hospitals makes social determinants of health (SDOH) and equity central to its legislative and regulatory agendas and educates policymakers about how member hospitals confront social risk factors. In Congress, we support the Social Determinants Accelerator Act and the Improving Social Determinants of Health Act, and we have shared expertise with the Rural and Underserved Communities Health Task Force, which is examining SDOH and other barriers to health in underserved communities. We also engage with the new bipartisan SDOH Caucus in the House, providing essential hospitals another platform to elevate their work in this area.

The association continues its role as a leading advocate for health equity and disparities legislation, especially regarding maternal health. We supported the “Momnibus,” a suite of bills to counter the unconscionable disparity Black mothers experience in health outcomes and supported key maternal health grant programs and training initiatives included in the Consolidated Appropriations Act, 2022. America’s Essential Hospitals also was an early and ardent supporter of a resolution introduced in the Senate declaring racism a public health crisis.

In March 2022, CMS asked America’s Essential Hospitals to speak at a roundtable on safety net provider participation in CMS Innovation Center (CMMI) models. The event focused on ways CMS can increase the number of patients from historically underserved populations and safety net providers in its models. The association also published a white paper with recommendations to CMMI on ways to engage essential hospitals in value-based care models.
MEASURING EQUITY
The Biden administration is moving quickly to advance its goals related to health equity. This includes examining equity measurement and how measures can be applied to existing and future policies and federal programs. Over the past year, we have engaged members on the equity measures under consideration, through discussions with the association’s combating structural racism interest group, a newly formed equity measurement work group, the policy committee, and the board. Based on these discussions, the association gave CMS initial written comments with considerations for measuring equity and engaged with agency leadership, alongside our members, on this topic. Future advocacy will include a response to specific CMS proposals in the FY 2023 fee schedule rules.

COVID-19 AND QUALITY MEASUREMENT
The association reached out to CMS leaders to ensure our members were not penalized in pay-for-performance programs due to the impact of COVID-19. In the FY 2022 Inpatient Prospective Payment System final rule, CMS finalized a cross-program suppression policy for quality measures impacted by COVID-19. As hospitals continue to fight the pandemic, we urge CMS to consider COVID-19’s large-scale disruption to the health care system as the agency measures providers’ quality in coming years.

FOSTERING INNOVATION IN MEDICAID DELIVERY
America’s Essential Hospitals helps its members assess and participate in waivers and other evolving opportunities to foster Medicaid innovation. Through our deep in-house technical expertise, we connect members to resources and experienced peers to drive Medicaid financing innovation in states. For example, we published content on emerging Medicaid trends, including maternal health and telehealth flexibilities. We educate our members through webinars, publications, and meetings, such as our annual Medicaid Summit, and we connect members with federal policymakers to position essential hospitals for success in this evolving environment.

ENSURING IMMIGRANT ACCESS TO COVERAGE AND BOLSTERING PUBLIC HEALTH
America’s Essential Hospitals is leading outreach to the Biden administration to craft a favorable definition of public charge under immigration law. Immigration officials use the public charge definition to determine whether noncitizens applying for a green card or entry into the United States are likely to become dependent on the government for benefits. A problematic 2019 final rule had included short-term, non-emergency Medicaid benefits, housing benefits, and nutritional benefits in the public charge definition, which deterred immigrants from using Medicaid and other federal aid. This public charge rule caused immigrants to forgo or delay care, raised uncompensated costs for essential hospitals, and hampered the public health response to COVID-19.

Our advocacy included an amicus brief in support of lawsuits to block the rule from taking effect, as well as outreach to the administration supporting a more favorable public charge definition that would not deter individuals from seeking health care. The Biden administration later rescinded the rule and ended support for it in the courts. Seeking to codify a more favorable public charge definition, the Biden administration issued a new proposed rule with a narrower definition of public charge that does not include short-term Medicaid benefits, nutritional benefits, or housing benefits. We look forward to working with the administration to roll back the damage the rule caused and rebuild trust in immigrant communities.

TRACKING STATE POLICY DEVELOPMENTS
The association continues to expand its advocacy footprint by tracking state-level policy issues important to members. Since the beginning of the COVID-19 public health emergency, our state policy work has focused on how states are responding to the COVID-19 crisis, and we have published to our website weekly updates on COVID-19 state policy trends. In addition, we continue to monitor and report on state developments in workforce initiatives, LGBTQ health policy trends, and maternal health. We also have released two State Policy Snapshot summaries of 340B related to mandatory carve-in and carve-out policies and states transferring the Medicaid pharmacy benefit from managed care to fee-for-service, both of which have implications for 340B providers’ savings.

ESSENTIAL HOSPITAL DESIGNATION
For more than a decade, America’s Essential Hospitals has worked to formally define essential hospitals through a federally recognized designation that can be leveraged for public policy protections and incentives. 2021 brought a renewed focus to this work, given new leadership within the federal government, and we continue to advance this
concept with champions on Capitol Hill and in the Biden administration. Additionally, we are working with several external stakeholders who are also interested in defining this classification of hospitals.

**RAISING THE VISIBILITY OF ESSENTIAL HOSPITALS**
Policymakers and the media turn to America’s Essential Hospitals as the nation’s foremost voice on Medicaid, 340B, and other issues important to hospitals that care for underrepresented people and underserved communities. Through regular interviews of association staff and member leaders by major national media and health care trade publications, we tell the story of the vital services essential hospitals provide and the support they need. We also raise our members’ visibility in Washington, D.C., through the Essential Hospitals Political Action Committee, Federal Action Network, Policy Assembly, and Government Relations Academy.

**LEARN MORE**
Learn more about our work in Washington on behalf of essential hospitals and their patients. Visit essentialhospitals.org or contact us at 202-585-0100 or gov.admin@essentialhospitals.org.