



# AMERICA'S ESSENTIAL HOSPITALS

Oct. 11, 2024

The Honorable Mike Johnson  
Speaker of the House  
U.S. House of Representatives  
418 Cannon House Office Building  
Washington, DC 20515

The Honorable Charles Schumer  
Senate Majority Leader  
U.S. Senate  
322 Hart Senate Office Building  
Washington, DC 20510

The Honorable Hakeem Jeffries  
House Minority Leader  
U.S. House of Representatives  
2433 Rayburn House Office Building  
Washington, DC 20515

The Honorable Mitchell McConnell  
Senate Republican Leader  
U.S. Senate  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Speaker Johnson, Leader Jeffries, Leader Schumer, and Leader McConnell:

On behalf of our more than 300 member hospitals, America's Essential Hospitals appreciates the federal government's actions related to the devastating impact of hurricanes Helene and Milton. However, we urge further action to manage the nationwide impact of the temporary closure of Baxter International Inc.'s North Cove plant, in Marion, N.C., which was damaged by Hurricane Helene. Baxter is the largest supplier of IV and peritoneal dialysis solutions in the country. Thus, this closure is leading to a nationwide shortage that likely will have significant and lasting repercussions, especially for essential hospitals and the patients they serve.

America's Essential Hospitals is the leading association and champion for hospitals dedicated to equitable, high-quality care for all, including those who face social and financial barriers to care. Since 1981, America's Essential Hospitals has advanced policies and programs that promote health, health care access, and equity. We support our members with advocacy, policy development, research, education, and leadership development.

Our members provide a disproportionate share of the nation's uncompensated care, and three-quarters of their patients are uninsured or covered by Medicare or Medicaid. Our members also provide a disproportionate share of trauma and emergency department care that often requires access to IV and peritoneal dialysis solutions. Essential hospitals provide this state-of-the-art, patient-centered care while operating with an average loss of -8.6 percent, compared with -1.4 percent at other U.S. hospitals.<sup>1</sup>

## Need to Increase IV Solution Supply to Avoid Disruptions to Patient Care

Because the Baxter North Cove plant produces approximately 60 percent of the IV solutions used in the United States, its temporary closure prompts a nationwide rationing of this critical, lifesaving product. This shortage is particularly challenging for level I trauma centers that need reliable access to IV solutions to respond to local emergencies. In addition, many of our

members, including those in regions not directly affected by Hurricane Helene, have begun delaying elective procedures because of IV shortage concerns.

We appreciate the Biden administration's initial efforts to work with Baxter and other companies on remediation efforts. However, as Health and Human Services Secretary Xavier Becerra noted in his Oct. 9 letter to stakeholders, a federal government-wide response is needed to mitigate this critical supply chain disruption.<sup>2</sup>

To that point and despite these initial efforts, shortfalls are projected to persist for several months, which could continue to disrupt patient care. Essential hospitals are already doing all they can to conserve IV fluids, and the only way to preserve full access to care is to increase the supply of IV solutions.

**American's Essential Hospitals urges the federal government to use all available tools to increase the IV solution supply, including:**

- Directing the Food and Drug Administration (FDA) to issue additional guidance to providers about flexibility available to respond to IV solution shortages, including clarifying the situations under which hospitals can prepare sterile IV solutions in their own pharmacies and distribute them among facilities in their system without a patient-specific order. We further ask the FDA to extend the shelf life of sterile IV and peritoneal dialysis solutions and use imports from international manufacturers, as needed.
- Declaring a national emergency under the National Emergencies Act and/or the Stafford Act
- Requesting that Secretary Becerra declare a national public health emergency related to IV solution availability that extends beyond states directly affected by Hurricane Helene
- Invoking the Defense Production Act to:
  - Require manufacturers to prioritize and accept contracts for materials and services necessary to produce sterile IV solutions and their containers
  - Require manufacturers to prioritize trauma hospital contracts for IV solution delivery
  - Incentivize manufacturers to expand the production and supply of materials and goods needed to produce sterile IV solutions and their containers

## **Need to Address Financial Challenges of Care Disruptions for Essential Hospitals**

Because essential hospitals operate on such thin margins, they have limited ability to offset the increased financial costs of disruptions to care. Hospitals may experience increased costs as they seek out additional sources and resources for procuring needed IV solutions.

Essential hospitals also might experience a decrease in reimbursement if they delay certain surgeries due to a lack of available IV solution. As the shortage continues, it will be increasingly important for policymakers to use all available tools to mitigate these financial challenges.

As a starting point, Congress should instruct the Centers for Medicare & Medicaid Services (CMS) to allow accelerated payments to essential hospitals to help minimize their cash flow challenges. In doing so, CMS can build upon the flexibility it provided in response to care

disruptions during the COVID-19 pandemic and the recent Change Healthcare cybersecurity attack.

In Medicare, Congress should instruct CMS to use its authority under Section 1815(e) and Section 1842(c) of the Social Security Act to make accelerated payments to hospitals that are experiencing significant cash flow problems because of unusual operational circumstances. Although CMS already has made accelerated payments available for providers in states affected by Hurricane Helene, it also should expand this flexibility to hospitals nationwide affected by the IV solution shortage.

In Medicaid, Congress should instruct CMS to provide additional guidance and flexibility to expedite advance payments from states to providers. For example, during the Change Healthcare cybersecurity attack, CMS increased state flexibility to make interim fee-for-service payments and expedited the timeline of the Medicaid state plan amendment process.<sup>3</sup> In addition to reminding states of these existing flexible options, CMS can describe ways states can direct their contracted managed care organizations to make advance payments subject to subsequent reconciliation (including advance payments of state directed payments).

As this crisis unfolds, policymakers also should consider additional policy levers to help essential hospitals offset the increased costs of procuring IV solutions and the lost revenue from deferred care because of the shortage. Medicaid supplemental payments and managed care state directed payments are potential existing tools that can help support essential hospitals facing financial challenges. At a minimum, CMS should ensure that any disruptions in care patterns caused by the IV solution shortage do not affect the amount of funding essential hospitals are eligible to receive through these important safety net financing programs.

Congress also should recommend that CMS consider the added costs hospitals may face if they need to prepare sterile IV solutions in their own pharmacies and to consider the interactions of any changes in IV solution procurement processes on the 340B Drug Pricing Program, which is going to House & Senate leadership also a critical source of financial savings for essential hospitals.

We appreciate your consideration of our recommendations and look forward to continuing to work with Congressional leaders to ensure essential hospitals have the support they need during this critical time. If you have questions, please contact Vice President of Legislative Affairs Jason Pray at [jpray@essentialhospitals.org](mailto:jpray@essentialhospitals.org)

Sincerely,

Bruce Siegel, MD, MPH  
President and CEO