# COMMITTEE ON WAYS AND MEANS

## U.S. HOUSE OF REPRESENTATIVES

## WASHINGTON, DC 20515

May 8, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Ave., S.W.
Washington, DC 20201

Re: Allocation of Funds to Skilled Nursing Facilities

Dear Administrator Verma:

Since the first days the public became aware of the COVID-19 crisis in America, nursing homes have been the epicenter of viral spread and death. This unfortunate phenomenon began at the Life Care Center of Kirkland, Washington, where 37 staff and residents died, and has quickly emanated outward – yielding stories of body bags piled up in a New Jersey nursing home and other death tallies in the dozens in single facilities.[1][2] Data suggest that more than 16,000 residents and staff of long-term care facilities have perished from COVID-19 – representing nearly a quarter of all deaths nationwide – and that is likely an underestimate, given the paucity of adequate testing.[3] In Massachusetts, 2,428 have died in long-term care facilities since March 24, 2020. Staff in nursing homes continue to report that they do not have access to enough tests and, furthermore, that personal protective equipment (PPE) is still completely unavailable in many cases.[4] This is a travesty – and it is an inexcusable reality for the professionals working in these homes, and the countless individuals who rely on them for care.

Given these alarming trends, I urge you to provide any funding to nursing homes from the Provider Relief Fund, to ensure that these facilities receiving funding are not using it for stock buybacks, dividends and capital disbursements, or increases in executive compensation but instead use it to support staffing and care in these facilities, for example:

- ***PPE*** – Nursing homes still do not have adequate access to N95 masks or gowns. Many nursing home staff members have been forced to use lower grade masks

[1] https://www.huffpost.com/entry/covid-nursing-homes-hazard-pay_n_5eac66d3c5b626fdfbc0bba9?guccounter=1
[2] https://www.nytimes.com/2020/04/19/nyregion/coronavirus-nj-andover-nursing-home-deaths.html
[3] https://www.usatoday.com/story/news/investigations/2020/05/01/coronavirus-nursing-homes-more-states-pressured-name-facilities/3062537001/
[4] https://www.huffpost.com/entry/covid-nursing-homes-hazard-pay_n_5eac66d3c5b626fdfbc0bba9?guccounter=1

over and over, risking not only their own lives but the lives of vulnerable nursing home residents.[5]

- ***Testing kits*** – The shortage of test kits has hampered the work of nursing homes to quarantine residents with COVID-19 to prevent the spread of the virus across the entirety of the facility. From the beginning, nursing homes have been playing catch-up – with deadly consequences. Nursing homes need more resources to carry out more tests.
- ***Staff wages and paid sick leave*** – Nursing home staff, many of them working in low-paying jobs, must be receiving hazard pay for their difficult and dangerous work. Given that nursing homes have traditionally been understaffed, it is imperative that these facilities have the flexibility to pay staff more to incentivize their continuing to provide necessary care to residents. Additionally, as these workers are on the front lines of exposure, facilities should ensure they are afforded paid sick leave for those who are isolating, have symptoms, or are COVID-19 positive.
- ***Additional supports for the workforce*** – Another area for HHS to encourage nursing facilities to use this additional funding would be to support health care workers with emergency needs like family care, temporary housing, and other costs to enable them to stay on the job and perform their work safely.
- ***Additional staff to manage infection control*** – Given the rampant spread of the disease and the fact that most facilities were understaffed *before* the COVID-19 crisis, many facilities need funds to hire new staff, particularly those with expertise in infection control procedures.

HHS must ensure that nursing homes receiving money from the provider fund spend these dollars on these specific high-need areas that will ultimately protect both patients and staff from harm.

To further support staff, I also request that HHS consider two programs Massachusetts has created to bolster staffing and response in nursing homes that I discussed in my April 17th letter to the Administration. First, Massachusetts has created a Long-Term Care (LTC) Portal to match registered health professionals with the staffing requests facilities have submitted. This portal bolsters nursing homes facing significant staffing shortages and protects both the residents and the staff that are working there. I would encourage HHS to look closely at this model as another means for supporting long-term care staff during this difficult time.

Second, Massachusetts – as well as a few other states – has also started offering crisis management support "strike teams" to long-term care facilities, contracting with a firm specializing in nursing home crisis management to provide facilities with on-site management and operational support. Given the proportion of COVID-19 deaths that have occurred in nursing homes, this approach is one that ought to be considered for a nation-wide roll-out. Thus, I would encourage you to also consider adopting some form of these "strike teams" to further boost the capacity of nursing homes to respond to COVID-19 outbreaks that threaten the lives of their residents.

[5] https://www.huffpost.com/entry/covid-nursing-homes-hazard-pay_n_5eac66d3c5b626fdfbc0bba9?guccounter=1

Finally, I would like to raise another troubling trend I have been hearing about that I request you investigate in full. I have learned of instances where nursing home residents in a Medicare Part A-covered stay hit their 100-day cap on Medicare-covered days and are being discharged, in some circumstances with known COVID-19 diagnoses. While some of these cases may be appropriate discharges (e.g., the patient has a stable home to return to and will be able to appropriately quarantine with family support), there are other instances where these residents may lack stable homes or have inadequate housing.

In such instances, not only will these patients' health suffer from such a discharge, but they will contribute to the risk of exposure by bringing known COVID-19 cases into the community – homeless shelters, for example. I ask that you first clarify that facilities may not discharge a patient at the end of their Medicare-financed stay that either has a COVID positive diagnosis or is exhibiting COVID symptoms. The facility must make accommodations to either keep the resident until no longer contagious or place the resident in a setting that does not risk transmission or exposure to others. Medicare has an important role to play in ensuring that COVID-19 is not only managed appropriately within the walls of our nation's nursing homes but also across our communities.

Thank you for your prompt attention to these important matters. If you have additional questions, please contact Rachel Dolin at Rachel.Dolin@mail.house.gov or 202-225-3625.

Sincerely,

Richard E. Neal
Chairman
Committee on Ways and Means