



**CALIFORNIA
HOSPITAL
ASSOCIATION**

*Providing Leadership in
Health Policy and Advocacy*

July 24, 2020

Sent electronically

Dear Members of the California Congressional Delegation:

On behalf of the 40 million Californians who rely on our state's hospitals and health systems, thank you for your commitment to supporting our fight against the COVID-19 pandemic, caring for our patients, and protecting our health care heroes. Today, we ask for your continued support as you work with your colleagues to develop another critically important relief package to help our nation cope with this unprecedented public health and economic challenge.

The COVID-19 pandemic has devastated California's economy, and hospitals are no exception. Hospitals answered the call to respond to COVID-19 quickly and with an extraordinary investment. They immediately created additional physical space, purchased protective and clinical equipment, hired more staff, and suspended many non-emergency services. These enormous operational and resource challenges are straining hospitals in unprecedented ways. Without federal aid to offset hospitals' financial losses and forthcoming reductions in the state budget, patients and communities will suffer.

As the summer surge continues, we are implementing lessons learned from the early days of the pandemic. Our patients are benefiting from new COVID-19 therapies and approaches to critical care. It is important progress, but it does not put a dent in the work that remains to protect the stability and long-term financial viability of California's health care delivery system. Early and conservative estimates put California hospitals' losses through the end of 2020 at more than \$14 billion. ([The Financial Impact of COVID-19 to California Hospitals](#), June 2020). Notably, this estimate was developed before this summer surge.

Hospitals are facing not only a financial crisis, but also a public health and pandemic response crisis. They need an additional and substantial financial lifeline. Without it, Californians' access to care is in jeopardy.

In May, the House of Representatives passed the HEROES Act, which includes a significant increase in support for both health care providers and our front-line heroes. It includes several but not all the important steps needed for California's hospitals to continue to care for our communities. As you develop the next COVID-19 federal response package, CHA respectfully requests that legislation include several critical actions to support patient care, sustain our workforce, and preserve our health care infrastructure.

First and foremost, as hospitals are facing not only a financial crisis but also a public health and pandemic response crisis, they need an immediate and substantial lifeline of financial resources. In addition, hospitals need support in the following eight ways:

1. Safeguard front-line providers from legal action
2. Improve the Medicare Accelerated and Advance Payment Program
3. Extend and expand the Federal Medical Assistance Percentage (FMAP) increase
4. Delay Medicaid cuts and program disruption

5. Support our health care workforce
6. Eliminate regulatory and administrative burdens
7. Preserve private negotiations between hospitals and insurers
8. Relieve the tax burden for front-line providers

Support Additional Funding for Hospitals

Hospitals and health care systems need a rapid injection of federal funding to offset massive revenue losses from the suspension of non-urgent surgeries and procedures, at a time when hospitals continue to incur major expenses related to increasing bed capacity, purchasing personal protective equipment (PPE), and hiring needed staff.

The Public Health and Social Services Emergency Fund — known as the Provider Relief Fund (PRF) — was established and funded by the CARES Act and supplemented by the Paycheck Protection Act. It is an important first step toward overcoming these financial challenges. However, it is now increasingly clear that much more will be needed if hospitals are to continue to provide the high-quality care Californians deserve. As an example of the gap between how CARES Act funds are allocated and what's needed, California's hospitals have so far received about 4.8% of the fund distributions — despite the fact that they care for about 12% of the nation's population.

Future distributions from the PRF must account for hospitals' financial losses and investment in preparing for the pandemic along with the direct cost of care for COVID-19 patients. *The future stability of our health care delivery system depends on additional and specifically targeted funding for hospitals.*

Safeguard Front-Line Providers from Legal Action

During this unprecedented emergency, hospitals and health care professionals continue to provide care under extraordinary circumstances — in many cases, having to make challenging decisions about how to allocate scarce medical equipment and PPE due to inadequate supplies, testing kits, ventilators, and more. *Congress should implement a limited waiver of liability for hospitals and health care professionals during the nationally designated COVID-19 emergency that will allow providers to continue delivering the best possible care under less-than-ideal conditions.*

Improve the Medicare Accelerated and Advance Payment Program

Hospitals are grateful for Congress' authorization and the Centers for Medicare & Medicaid Services' (CMS') swift action to implement the Medicare Accelerated and Advance Payment Program. This program, established in the CARES Act, has quickly moved billions in much-needed Medicare funding to hospitals and other providers nationwide. Unfortunately, CMS abruptly suspended the program on April 26.

Congress should reinstate and improve the program. This summer has brought an escalation of both the public health and economic crisis. The Medicare Accelerated and Advance Payment Program has been a vital lifeline to California's health care providers. The HEROES Act included improvements to the program, but now that we have a better understanding of the depth of the pandemic, these loans must be forgiven.

Extend and Expand the Federal Medical Assistance Percentage Increase

The Families First Coronavirus Response Act included a much-appreciated 6.2% temporary boost in the FMAP to support states and the health care delivery system. *The HEROES Act rightfully expands and*

continues this increase to assist both states and providers during this period of extreme financial duress, and we support that effort.

Delay Medicaid Cuts and Program Disruption

Hospitals appreciate that the CARES Act included a delay in the steep Medicaid disproportionate share hospital (DSH) reductions that were scheduled to go into effect in May. However, the short-term delay does not help hospitals with the task at hand, which is to continue to be ready to serve vulnerable communities during this crisis — and be there for them after the crisis subsides. *Congress should eliminate the Medicaid DSH cuts set to go into effect December 1, 2020, through September 2021, to allow for more certainty during these difficult times for providers focused on our most vulnerable patients.*

Now that we know more about the longevity of the pandemic, *Congress must go further than the HEROES Act to prevent implementation, at least until the spring of 2021, of the Medicaid Fiscal Accountability Rule.* Finalizing the rule would have a profound impact on California's ability to finance its Medicaid program and would undermine supplemental payments to hospitals.

Support our Health Care Workforce

Health care workers across the state have responded to the call of duty in unprecedented ways. Some are coming out of retirement. Others are traveling to hospitals in other parts of the state to assist in areas that are surging with COVID-19 positive patients. These front-line and essential employees put themselves and their families at risk of exposure to COVID-19 every day. *Congress should support our health care heroes with funds for childcare, meals, housing, transportation, and protection for their retirement benefits.*

Eliminate Regulatory and Administrative Burdens

As the current PPE supply chain remains spotty at best, it is simply not feasible at this time to adhere to an even higher standard, as proposed in previous bills. Unfortunately, a provision in the HEROES Act would mandate certain PPE criteria and create a scenario where hundreds of hospitals could be out of compliance each day. *Congress should avoid adding to hospitals' burden as they work to procure supplies and protect all who work in hospitals.*

Preserve Private Negotiations Between Hospitals and Insurers

While we share the desire to protect patients from surprise medical bills, now is not the time to impose payment cuts to providers. *Importantly, COVID-19 patients are protected from surprise bills.* Hospitals in California continue to work closely with insurers to secure appropriate payments for out-of-network care while limiting patients' exposure. Setting a benchmark or other rate would eliminate hospitals' ability to negotiate and secure fair payment.

Relieve the Tax Burden for Front-Line Providers

Funds from the PRF were designed to support hospitals and front-line caregivers during the COVID-19 pandemic. Unfortunately, these grants are considered taxable for tax-paying providers. In California, tax-paying hospitals are often the front-line providers for underserved populations and need these funds as much as any hospital. *Congress should ensure the grants from the PRF are not taxable.*

As our state labors to climb out from under the economic and societal devastation wrought by COVID-19, it is vital that its hospitals — and the critical community care they deliver — are secure. We cannot

reignite our state's economy, the largest in the nation, without the health care safety net that hospitals provide.

Thank you for your continued support and attention to the needs of California's hospitals and the patients they care for.

Sincerely,



Carmela Coyle
President & CEO