

March 11, 2020

The Honorable Michael R. Pence
Vice President of the United States
1600 Pennsylvania Avenue, NW
Washington, DC 20501

Dear Mr. Vice President:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) asks **the President to declare the novel coronavirus (COVID-19) outbreak a disaster or emergency under the Stafford Act or the National Emergencies Act. This step is necessary to allow the Department of Health and Human Services (HHS) Secretary Alex Azar the authority to take critical actions, such as providing 1135 waivers, to ensure that health care services and sufficient health care items are available to respond to the COVID-19 outbreak.**

On Jan. 31, 2020, Secretary Azar declared a public health emergency in the U.S. for COVID-19, representing an important first step in combatting this virus. The HHS Secretary's declaration provides certain flexibilities to HHS and providers; however, those flexibilities are inadequate under current circumstances and additional flexibilities are required. Specifically, a presidential emergency or disaster declaration – together with the already-declared public health emergency – will enable Secretary Azar, consistent with section 1135 of the Social Security Act, to temporarily modify or waive certain Medicare, Medicaid or Children's Health Insurance Program (CHIP) requirements. For example an 1135 waiver would allow for:

1. Waiver of the Skilled Nursing Facility (SNF) 3-day qualifying hospital stay requirement for beneficiaries. This would allow SNF coverage in the absence of a hospital stay, making inpatient beds available for more seriously ill patients.
2. Waiver of critical access hospitals' (CAH) limitation of 25 inpatient beds and the 96-hour length of stay limitation. This is crucial for rural areas that may not have other options for inpatient beds.
3. Waiver of requirements that physicians and other health care professionals be licensed in a state in which they are providing services, so long as they have equivalent licensing in another state for Medicare, Medicaid and CHIP participants.

Other important 1135 waiver flexibilities may cover conditions of participation or other certification requirements, program participation, preapproval requirements, Stark self-referral sanctions, and performance deadlines and timetable delays.

America's hospitals and health systems are on the frontlines and stand ready to provide care to those who need it. From intake through discharge, providers place the needs of their patients first and are committed to providing high quality care for patients suspected of or diagnosed with COVID-19. Those patients are relying on quick and effective action from their health care providers in the midst of this emergency. However, to fulfill our commitment to our patients and communities, additional actions such as enactment of 1135 waivers are both necessary and vital. Recent examples of using 1135 waivers under emergencies include Hurricane Katrina (2005), Hurricanes Ike and Gustav (2008), the North Dakota Flooding (2009 and 2010) and the H1N1 pandemic (2009 – 2010).

Communities rely on America's hospitals and health systems to be there in the face of an emergency. Whether that emergency develops in the form of a natural disaster, like a hurricane or tornado, or as a virus, like COVID-19, hospitals and health systems are prepared to fulfill their commitment to patients. While our members continue to do everything they can to address COVID-19 cases, the additional action we request would help them continue to put the well-being, health and safety of patients first by removing barriers that threaten to impede decisive and quick action by providers at a time when agility and flexibility are of utmost importance.

The best way to protect individuals and prevent community spread is to identify and treat all suspected cases of COVID-19. Concerns about cost cannot be a barrier for patients seeking needed care. While the Medicare and Medicaid programs, as well as commercial payers, have agreed to cover screening and treatment for COVID-19, we ask for federal assistance in covering the costs of these services for the uninsured, consistent with responses to several previous emergencies and natural disasters.

We appreciate your leadership and the ongoing work of the White House Coronavirus Task Force. We look forward to continuing to work with you during this critical time to protect the health of our nation.

Sincerely,

/s/

Richard J. Pollack
President and Chief Executive Officer