



March 18, 2020

Honorable Mitch McConnell
Majority Leader
United States Senate

Honorable Charles Schumer
Minority Leader
United States Senate

Honorable Nancy Pelosi
Speaker
United States House of Representatives

Honorable Kevin McCarthy
Minority Leader
United States House of Representatives

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy:

On behalf of pediatric providers and the patients and families we serve, we write to express our commitment to work with government leaders to help all Americans weather the current public health emergency related to the COVID-19 virus. We are actively preparing for the emergence and spread of COVID-19 within our communities.

As you consider policies in response to the current crisis, we urge lawmakers to give special consideration to the needs of children. The health needs of children, particularly those with serious and complex medical conditions, are often dramatically different than those of adults. Likewise, the health care delivery system for children differs in many important ways from that in place for the adult population. Recognizing these differences and tailoring where necessary is incredibly important to developing appropriate public policy.

Although COVID-19 typically causes only mild symptoms in otherwise healthy children, their parents could be affected. We are particularly concerned with the significant challenges COVID-19 is creating for the health care system overall, including changes in practice and major disruptions in our supply chain and workforce. These challenges impact the care we provide to all patients, including the most vulnerable children with complex medical conditions and compromised immune systems. The national emergency has created disruptions to the provision of care, including modified or cancelled ambulatory and outpatient appointments, surgeries and procedures. Furthermore, the public health emergency has led to uncertainty for families and more questions for providers. In considering any COVID-19-related health care system support, we urge Congress to recognize the disruptions and modifications made by practices and hospitals to continue providing high-quality, much-needed care to children.

We urge Congress to commit to protecting those structures and supports critical to providing coverage and care to children, in particular Medicaid. In addition to its longstanding role as the nation's single largest health care first responder, Medicaid is the largest provider of care to America's children. It is crucial that funding for Medicaid be protected and, as necessary, enhanced to allow states and providers the ability to deliver care and manage the increased demands and unprecedented operational challenges resulting from the current emergency. We commend Congress

and the administration for acknowledging Medicaid's critical role and including additional resources for states in the legislative package currently working its way through Congress. We strongly support the provisions designed to increase access to testing and treatment and the supplemental resources designed to support surge capacity for health care and public health systems.

We ask that Congress consider additional important actions for inclusion in any legislative relief packages related to COVID-19 to ensure stability in Medicaid funding during this critical time.

Financial resources to ensure access to care – The full implications of the COVID-19 pandemic are not yet known, but it is clear that the demands on the health care system and the challenges to local, state and national economic stability will exceed all initial estimates. We applaud Congress for including an increase in states' baseline Federal Matching Assistance Percentage (FMAP) in current legislation. State Medicaid programs are facing serious threats with increased health care needs, unanticipated costly care, increases in eligible individuals, and reduced revenue. Even during a recession, many states are required to balance their budgets and cannot carry a deficit forward into the next fiscal year. Taken together, these financial considerations will force states to limit enrollment by removing optional eligibility categories or imposing wait lists, cutting benefits, reducing provider payment rates, or enacting other policies harming patients' access to needed care.

In the American Recovery and Reinvestment Act of 2009 (ARRA), Congress provided an additional 6.2% FMAP with additional federal funding based on states' economic indicators. In most states, the final ARRA FMAP was around 10%. Given the greater impact of the COVID-19 pandemic on the health care system compared to previous recessions, we urge Congress to provide additional federal financial support for state Medicaid programs. In particular, Congress should include H.R. 6159, the Kids' Access to Primary Care Act, in any subsequent COVID-19 relief package. Targeted Medicaid resources like these will support the health care workforce during this crisis.

Relief from Medicaid DSH cuts – As the administration and Congress take steps to provide additional resources to states, it is important to avoid policies that could simultaneously cut valuable resources and limit patients' ability to access care.

At the end of 2019, Congress passed legislation temporarily preventing the onset of devastating cuts to the Medicaid Disproportionate Share Hospital (DSH) payment program until May 22, 2020. Supplemental payments, including DSH, are critical to children's hospitals and their ability to provide health care to all children. We urge Congress to take further action to prevent the Medicaid DSH cuts from going into effect.

Enactment of MACPAC language related to Medicaid DSH Third-Party Payments – It is extremely important that Congress enact a key Medicaid and CHIP Payment and Access Commission (MACPAC) recommendation on "Medicaid shortfall/third party payment." The language recommended by MACPAC would address a CMS policy regarding the treatment, for purposes of calculating DSH, of Medicaid-eligible individuals who have another source of coverage, such as private insurance or Medicare. This policy has eliminated or significantly reduced children's hospitals' DSH payments, threatening their ability to continue to serve their communities and undermining patient access. MACPAC recommends Congress change the definition of "Medicaid shortfall" in statute to exclude costs and payments for all Medicaid-eligible patients for whom

Medicaid is not the primary payer. This policy, if enacted by Congress, can ensure further damage to children's hospitals is minimized and protect patient access. We are grateful to Sens. Grassley and Wyden for including MACPAC's recommended language on the third party/shortfall issue in the revised bipartisan drug pricing proposal released in late 2019; we urge its inclusion in any legislative package.

Protect states against harmful effects of MFAR regulation - We urge Congress to protect state Medicaid programs against the harmful fiscal affects that would result from the pending Medicaid Fiscal Accountability Regulation (MFAR). As Medicaid stakeholders, we support the goals of accountable, transparent public programs that deliver care optimally. However, as written, the MFAR would take effect upon publication of a final rule and impose drastic financial and administrative burdens on states. In its current form, the regulation goes well beyond improving transparency and has the potential to dramatically reduce the resources available to states—at a time when they have never been more needed. Pursuing this policy threatens to restrict access to care for individuals and impede states' ability to support care at this crucial moment. It would negate much of the beneficial impact of other policies intended to strengthen the health care safety net. We have urged that the administration to delay or otherwise modify these pending regulations—once we make it through the current public health emergency—to focus on those aspects related to transparency and halt the implementation of broader policies impacting state financing. We similarly urge congressional leaders to do everything possible to provide support for states at this time. States are currently locked in a desperate struggle to meet the needs of Americans—now is not the time arbitrarily remove critical support.

Streamline telehealth coverage – Congress took an important step to ensure Medicare beneficiaries can access telehealth care by expanding eligibility beyond patients in rural areas. The current public health emergency requires drastic social distancing to protect population health. Expanded use of telehealth services can protect children, families and health care workers from unnecessary exposure, and can ensure health care settings are available for patients who need them. This can also enable continuity of care in the medical home, where children and families can rely on trusted relationships and care teams who know their medical history. We ask Congress to require that all health insurance plans—including employer-sponsored plans regulated by the Employee Retirement Income Security Act and all Medicaid Managed Care Organizations—be required to modify their benefit, coverage and payment policies to facilitate greater use of virtual care options.

We also ask Congress to follow Medicare's example of expanding access to telehealth options by increasing flexibility for clinicians to provide the service. For example, a patient's place of residence should be an accepted originating site, and covered telehealth services should include synchronous audio-video visits, virtual check-ins, and e-visits. Patient cost sharing for these services should also be eliminated. Additionally, Congress could allow telehealth via a wide range of non-HIPAA-compliant communication channels, including FaceTime, Skype, Facebook Messenger, and Google Hangouts Video during an emergency.

All providers who could bill for face-to-face visits should be able to render telehealth services during the pandemic. Particularly during this time of crisis, payers should not be disincentivizing telehealth care by providing less than appropriate payment. To ensure clinicians can provide telehealth visits to

the same extent as in-person visits, payment for telehealth care should be set at least at parity with that of in-person visits.

Reduce and eliminate administrative barriers for states and families – The health care needs driven by COVID-19 and the complexity introduced by voluntary and mandatory social distancing is stressing the financial stability of state Medicaid programs. To prioritize state resources on the delivery of needed care, we urge Congress and the administration to eliminate administrative barriers that states, providers and individuals face within Medicaid. For example, ensuring continuous coverage without eligibility redeterminations for at least the duration of the public health emergency frees up state resources and imposes fewer burdens on families. Similarly, using presumptive eligibility and retroactive coverage ensures children and families can get needed care in a timely way, without waiting on paperwork processing.

We thank you for your consideration of these requests. We look forward to working with Congress to ensure access and care for children.

Sincerely,



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President
American Academy of Pediatrics



Mark Wietecha
President and CEO
Children's Hospital Association

SHG/sag

CC: Chairman Grassley
Ranking Member Wyden
Chairman Alexander
Ranking Member Murray
Chairman Pallone
Ranking Member Walden
Chairman Neal
Ranking Member Brady