PHASE FOUR COVID-19 LEGISLATIVE PRIORITIES (CARES 2.0)

PRESIDENT, KENNETH E. RASKE • 555 WEST 57TH STREET, NEW YORK, NY 10019 • T (212) 246-7100 • F (212) 262-6350 • WWW.GNYHA.ORG

Despite incurring staggering financial losses in response to the COVID-19 crisis, hospitals and health systems continue to do whatever is necessary to deliver care to their patients and communities.

The hospitals and health systems in COVID-19 "hot spots" such as the New York region must receive additional funding to continue to care for their communities during this ongoing strain on the health care system. We respectfully request that Congress consider, in future legislative proposals, how the tremendous increase in COVID-19 patients and the necessary efforts of providers are impacting our health care system's ability to respond to this crisis.

As Congress considers a fourth COVID-19 relief package, GNYHA requests the inclusion of the below policy proposals.

CONVERT MEDICARE ADVANCES TO GRANTS

The *CARES Act* enables hospitals to request a six-month Medicare advance, while all other providers and suppliers can request a three-month advance. Under current law, these advances are subject to certain repayment terms beginning 120 days after the advance (hospitals receiving periodic interim payments are subject to different payment terms tied to settlement of their cost report). This means that providers must begin to repay their Medicare advance while they continue to treat COVID-19 patients, or while they are in a precarious financial situation following a COVID-19 patient surge.

Congress should:

- Convert the Medicare advances into a grant/loan forgiveness program so that either no repayment or a partial repayment would occur. Metrics demonstrating financial harm from the COVID-19 pandemic could be used to determine the eligibility for loan forgiveness. This would provide invaluable cash flow assistance to providers that will still be reeling from COVID-19s' financial impact when the Medicare advance repayments will begin.
- At a minimum, modify the advance terms so that repayment does not begin until at least one year from the date of the advance, and provide an option for providers to extend the repayment terms for up to 20 years. In addition, reduce the interest rate to no more than 2% (it is currently set at about 10%, far above market rates).
- Make a technical correction to the *CARES Act* to allow a long-stay neoplastic hospital (defined under Section 1886(d)(l)(B)(vi)) to qualify for a six-month Medicare advance

EXTEND THE MEDICARE ACCELERATED REPAYMENT PROGRAM AND COVID-19 PAYMENT INCREASE TO MEDICARE ADVANTAGE PLANS

While the *CARES Act* expanded the Medicare accelerated payment program, it did not require the participation of Medicare Advantage (MA) plans. In many counties across the US, more than half of local Medicare beneficiaries are enrolled in MA plans. For these hospitals to receive the benefit of the *CARES Act*'s Medicare advance payments, MA plans must also provide advance payments.

Congress should:

- Require MA plans to follow Medicare fee-for-service (FFS) policies in affording hospitals relief and protections during the pandemic
- Include payment advances and the waiver of certain administrative rules such as preauthorization and timeframes for claims submissions and appeals
- Require MA plans to follow Medicare FFS and provide a 20% increase to the diagnostic-related group reimbursement rate for COVID-19 admissions

CRITICAL FUNDING FOR STATE GOVERNMENTS TO AVOID DRASTIC SPENDING CUTS

States have lost significant revenue due to the virtual shutdown of the economy just as their response to COVID-19 has dramatically increased their expenses. Without significant financial help from the Federal government, states (which are required to balance their budgets) may be forced to dramatically cut health care spending in the middle of a pandemic. State funding cuts during an economic downturn will also significantly worsen the economic crisis the pandemic has created.

We therefore urge Congress to support the bipartisan requests in the April 21 letter from the Chair and Vice Chair of the National Governors Association (NGA), Governors Larry Hogan (R-MD) and Andrew Cuomo (D-NY).

Congress should:

- Create a $500 billion fund to help make up for lost revenue and to prevent drastic cuts to essential state-funded services, especially health care
- Increase to 12% the Families First Coronavirus Response Act's temporary 6.2% increase in the Federal medical matching percentages (FMAP). The increase should apply to costs associated with all Medicaid populations, including Affordable Care Act expansion populations, should be retroactive to January 1, 2020, and should last at least through September 30, 2021. The legislation should also provide flexibility to reform Medicaid programs without cutting any current beneficiaries off the rolls or increasing the ranks of the uninsured. In addition, the legislation should increase the state disproportionate share hospital (DSH) allotments to adjust for the increased FMAP. Without such an adjustment, states electing the enhanced FMAP would need to reduce aggregate hospital DSH payments to stay within their DSH allotments, inadvertently requiring cuts to hospitals.

GRADUATE MEDICAL EDUCATION FUNDING: ENSURING TEACHING HOSPITALS ARE SUPPORTED TO ADDRESS PUBLIC HEALTH CRISES

Teaching hospitals are on the front lines of the COVID-19 crisis. They are deploying every available physician and rapidly increasing their bed capacity and intensive care units to care for vastly more inpatients. Unfortunately, these COVID-19 preparedness and response activities financially disadvantage teaching hospitals due to Medicare policies that ignore the critical need for adequate resources.

Indirect medical education (IME) payments, which support teaching hospitals' unique role in their communities, are based partly on an institution's intern- and resident-to-bed ratio. Because of this formula, under current law, some teaching hospitals could see their IME payments go down as a direct result of adding inpatient beds in response to the COVID-19 crisis. The crisis has also highlighted the nation's physician shortage and public policies that obstruct the development of more doctors in preparation for future public health crises. Teaching hospitals are capped in the amount of funding they can receive for the training of resident physicians who will become part of the front line response to any future crisis.

Congress should:

- Ensure that Medicare IME payments aren't reduced because teaching hospitals increased bed availability in response to the COVID-19 crisis or any other public health crisis
- Enhance Medicare support for physician training programs and lift outdated caps on the number of reimbursable residency slots by passing the Resident Physician Shortage Reduction Act of 2019 (H.R. 1763/S. 348)

MODIFY FINANCING TERMS TO PROVIDE FINANCIAL RELIEF

In response to hospitals' massive COVID-19 challenges, Congress should consider waiving or modifying payment terms to help them preserve cash flow and sustain operations.

Congress should:

- Require lenders to provide relief from debt covenants on hospital loans to prevent the triggering of financial penalties
- Extend the interest rate relief under the Bipartisan Budget Act of 2015 for defined benefit pension plans (it is due to phase out beginning in 2021)
- Waive 2020 Pension Benefit Guaranty Corporation fees

DELAY UPCOMING HOSPITAL REIMBURSEMENT CUTS

Now is not the time to cut reimbursement rates to states or hospitals that are being stretched thin by the COVID-19 crisis. Cuts to safety net hospitals and programs for low-income individuals would be particularly harmful.

Congress should:

- Eliminate the Medicaid DSH cuts, which are set to go into effect on December 1, 2020
- Pass legislation that would stop implementation of the pending Medicaid Fiscal Accountability Rule for at least two years

INFRASTRUCTURE FUNDING FOR HOSPITALS

The nation's hospital infrastructure is deteriorating, and the COVID-19 crisis has made it worse. The lack of access to capital funding makes it extremely difficult for hospitals to make long-overdue infrastructure improvements, including converting their hospitals back into full-service entities post-pandemic. The crisis has also demonstrated why the United States must bolster its telehealth and health information technology (HIT) infrastructure.

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Congress should:

- Increase capital access for hospitals that need infrastructure improvements, particularly those that dipped into their capital reserves to treat COVID-19 patients
- Improve the nation's telehealth infrastructure by helping to fund provider startup costs, such as purchasing videoconferencing equipment and reliable connectivity, and loosening rules and regulations, particularly around geographic, service type, and provider restrictions
- Free up additional capital for providers to make it easier to comply with Federal electronic health record and other HIT standards, which hospitals nationwide have already invested billions in to comply with, and to make other necessary improvements

CRISIS PAY FOR HEALTH CARE WORKERS

Health care workers on the front lines of the COVID-19 crisis are working increased hours and risking exposure to the virus. Many have made significant personal sacrifices such as quarantining themselves from their immediate family members and migrating to hot-spot cities to provide vital care during this emergency.

Congress should:

- Pass legislation to fund significant "crisis pay" payments that could be used to fund increased wages, bonuses, and/or benefits for health care workers

LIMITED LIABILITY FOR PROVIDERS TREATING COVID-19 PATIENTS

The COVID-19 crisis has forced health care providers and their workforces to make difficult decisions on how to best allocate limited resources and care for COVID-19 patients. Hospitals and other health care providers, particularly those in hot spots, have asked their nurses, physicians, and other health care workers to serve under incredible stress on the front lines of the COVID-19 crisis.

Congress should:

- Ensure that health care entities and workers are protected from all forms of legal exposure and liability as they carry out their jobs in support of Federal and state COVID-19 response efforts