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Congress of the United States
House of Representatives
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March 22, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

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

Hospitals have been, and will continue to be, on the front lines of the coronavirus response efforts, driving a need for supplies and incurring in extraordinary expenses.

Hospital resources are expected to be outstripped, particularly intensive care units, as the pandemic spreads. According to government planning assumptions based on past flu pandemics, we can expect a demand for intensive care that could range somewhere between 200,000 and 2.9 million patients.

Researchers have learned that older adults and individuals with underlying health conditions may be particularly susceptible to the respiratory illness. Thus, it is more than likely that most patients that will need hospitalization will be covered by either Medicare, Medicare Advantage, or Medicaid.

The latest version of the CARES Act recognizes this reality and funnels additional funding resources for hospitals by means of an increase of 20% in the weighting factor in the hospital's Inpatient Prospective Payment System (IPPS) payments for COVID-19 hospitalizations and by delaying the reduction in Disparate Share Hospital ("DSH") payments.

Because of particularities of the Puerto Rico healthcare system and the disparate treatment in federal social benefits to the Americans who live in Puerto Rico, none of these measures will help hospitals in Puerto Rico survive the financial stresses that this public health emergency is sure to cause.

Increase in weighting factor for Hospitals IPPS

Unlike the mainland, the vast majority (90%) of Medicare beneficiaries with Medicare Part A and Part B in Puerto Rico and almost all dual (97%) eligible beneficiaries receive their care through local Medicare Advantage (MA) organizations. Health care provided through MA organizations account for nearly half of all health care expenses in Puerto Rico.

Payments to providers under MA organizations in Puerto Rico pay as low as 70% and as high as 30% the Medicare rate schedule for the relevant years. Moreover, history has shown that MA organizations in Puerto Rico to do pass on increases in their premiums to providers who will also have to disproportionately bear the additional costs of complying with the new mandatory coverage for COVID-19. Because of these factors, increases in the weighting factor for the Hospitals IPPS will have only a negligible effect in the Puerto Rico health care system.

In light of this, I suggest that provisions should be added to compensate providers, and especially hospitals, with a disproportionate share of patients covered by MA organizations. This could be done, for example, by providing for a direct pass-through payment to providers and hospitals who provide COVID-19 related services to an MA organization patient to bill CMS for the difference between the Medicare rate schedule and the amount for these services to the provider by the MA organization as of a date prior to the declaration of this public health emergency.

Disproportionate Share Hospital Payments

With a median income of less than \$20,000 and approximately 43% of the population living under the poverty level, almost 40% of Puerto Rico's population depends on Medicaid for their healthcare needs. Moreover, about 6% of Puerto Rico's population is uninsured. This means that hospitals in Puerto Rico treat a disproportionate number of low-income patients and, conversely, incur in a disproportionate amount of expenses with a low rate of reimbursement.

Eligible hospitals in the States and Puerto Rico that treat a certain share of low-income patients can receive additional payments—called Medicare Disproportionate Share Hospital (DSH) payments—to offset the financial effects of treating such patients. The factor by which such payments are calculated is based on the share of Medicare inpatient days for individuals entitled to federal Supplemental Security Income (SSI) benefits.

Congress has not extended the SSI program to Puerto Rico and, while hospitals in Puerto Rico may provide care to certain individuals living on the mainland who are eligible for SSI, most Americans living in Puerto Rico are ineligible for SSI. Therefore, using the SSI in the formula to determine DSH payments means that hospitals in Puerto Rico are, for all intents and purposes, excluded from these payments.

To remedy this situation, I suggest that Congress adopt the recommendation by the CONGRESSIONAL TASK FORCE ON ECONOMIC GROWTH IN PUERTO RICO and provide the Secretary of Health and Human Services with increased flexibility to identify data collection and analysis gaps that could be used to improve the accuracy and efficiency of Medicare DSH payments to Puerto Rico hospitals.

The precarious state of the Island's hospitals prior to Hurricane Maria and prior to this public health emergency is well known to Congress. The Americans living in Puerto Rico need their hospitals to be financially strong in order to provide the services that are needed, not just in Puerto Rico, but in the U.S. Virgin Islands and throughout the Caribbean. I ask that you ensure that the 3.2 million Americans living in Puerto Rico are not left behind in this crisis.

Sincerely,



Jenniffer González-Colón
Member of Congress