

September 30, 2020

Alex M. Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW 200
Washington, D.C. 20201

Dear Secretary Azar:

The National Alliance of Safety-Net Hospitals (NASH) appreciates everything you and the administration are doing to help many private safety-net hospitals continue serving their predominantly low-income communities during our national fight against COVID-19.

One important tool you have wielded during these challenging times is the CARES Act's Provider Relief Fund, which has provided much-needed resources to hospitals as they encountered the dual challenge of drastically reduced revenue at the same time they were incurring unusually high costs both preparing for incoming COVID-19 patients and then treating those patients, whose care has proven especially costly. Both the general and targeted distributions have provided timely and much-needed support to our nation's hospitals, including many private safety-net hospitals.

At this time, however, NASH is concerned about newly released reporting requirements that include a major change in how the Department of Health and Human Services (HHS) wishes to quantify the revenue hospitals lost and the additional expenses they have incurred over the past eight months. In June, HHS published an FAQ that told hospitals they could define lost revenue as "any revenue that...a health care provider lost due to coronavirus" and "use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared." Hospitals provided such information to HHS, and attested to it, as required as a condition of receiving Provider Relief Funds, with this understanding.

On September 19, however, HHS announced that it was changing how it wanted hospitals to quantify lost revenue so that it would be "a negative change in year-over-year net patient operating income." This new definition meant that after accounting for their COVID-19-related expenses, hospitals would only be able to apply Provider Relief Fund payments toward lost revenue up to the amount of their 2019 net patient operating income. As a result, it appears many hospitals will be required to return some – and in some cases, much – of their Provider Relief Fund money to the federal government.

NASH and private safety-net hospitals are troubled by this because it will result in many hospitals being forced to return Provider Relief Fund payments, which could put the future of such hospitals and health systems in serious financial peril.

The new approach is especially disadvantageous to many underendowed private safety-net hospitals. At the time COVID-19 struck, many private safety-net hospitals – and others like them – were already in a disadvantaged financial position, with limited resources, thin margins, and especially large numbers of



low-income, uninsured, and government-insured patients. While most hospitals have lost a great deal of money during this challenging period as they continued to remain open and serve their COVID-19 patients, many safety-net hospitals were forced to take major, sometimes drastic steps to ensure their ability to continue serving their communities both in the midst of the pandemic and when it is over. All of the hospitals that lost so much money during this period need the resources they were given through the Provider Relief Fund to help with their recovery, but those resources are especially critical for private safety-net hospitals, and others like them, because of the disadvantaged financial condition they were already in when the pandemic struck. If the new approach means they will be required to return some of these resources, the ability of such hospitals to continue serving their communities in the future will be in jeopardy and the disparity between these safety-net hospitals and others, and the disparity in access to care in the communities such hospitals serve, will continue to grow in the coming years.

NASH does not believe this is the administration's intention, so we respectfully request that you withdraw the September changes, return to the June methodology, and take the steps necessary to ensure that these essential safety-net providers continue to be able to serve their predominantly low-income communities now and in the future. We also ask you to clarify the guidelines governing whether organizations may share Provider Relief Fund payments with their related entities that qualify for such payments. Our impression is that HHS's desire is to permit such sharing, and we hope the guidelines can make this clearer to providers working to serve their communities through this crisis.

We appreciate your consideration of this request.

Sincerely,

Ellen Kugler, Esq.
Executive Director