National Alliance of Safety-Net Hospitals

May 14, 2021

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue SW
Washington DC 20201

Dear Secretary Becerra:

As the Department of Health and Human Services (HHS) plans the distribution of additional CARES Act Provider Relief Funds, the National Alliance of Safety-Net Hospitals would like to bring to your attention how some safety-net hospitals have been left behind in some past distributions with the hope that you and your colleagues will address that problem in upcoming distributions.

The Provider Relief Fund has been a true lifesaver for private safety-net hospitals. Unfortunately, the methodologies used to determine eligibility and grants for hospitals failed in some cases to provide an appropriate amount of aid to many deserving safety-net hospitals.

Some struggling hospitals received far less funding from the Provider Relief Fund than their wealthier counterparts because of how those grants were calculated. That calculation favored high-revenue providers that serve higher proportions of commercially insured patients because all payers are not equal: commercial insurers pay more than Medicare and Medicaid, so if two hypothetical hospitals serve identical numbers of patients with identical medical conditions, the hospital that serves more privately insured patients would have far more revenue and its Provider Relief Fund grants would be larger. Consequently, safety-net hospitals, which already had less than comparably sized hospitals with more advantageous payer mixes, started out with fewer resources and then received less assistance through the various distributions of Provider Relief Fund grants.

To its credit, HHS attempted to remedy this by making separate safety-net hospital distributions, but in so doing it again omitted many safety-net hospitals, this time because its criteria did not consider the cost of subsidizing community services, such as physician practices, in the low-income communities safety-net hospitals serve. As a result, hospitals that barely break even looked "too profitable" on paper when in fact they were anything but. This methodology also failed to consider Medicaid losses when calculating hospitals' uncompensated care, which is typically a significant amount for safety-net hospitals.

To help ensure that providers receive a more equitable distribution, HHS announced Phase 3 Provider Relief Fund distributions. It based this distribution on providers' net patient revenue loss for the first two quarters of 2020 minus any Provider Relief Fund distributions they already received. To calculate net patient revenue loss, the chosen methodology compared hospital financial performance for the first two quarters of calendar year 2020 to the first two quarters of 2019. This, however, only exacerbated the

21351 Gentry Drive, Suite 210, Sterling, VA 20166
Phone: 703-444-0989
www.safetynetalliance.org

inequity for already-struggling providers, leaving those that suffered losses during the first two quarters of 2019 at an extreme disadvantage for the receipt of any of this distribution.

To give you an idea of how this methodology failed to identify and help the hospitals with the greatest needs, a theoretical hospital with a higher proportion of commercially insured patients that had $20 million in positive net patient revenue during the first two quarters of 2019 and then lost $50 million during the first two quarters of 2020 saw its Provider Relief Fund grant calculated based on a $70 million loss of revenue. Meanwhile, an already-struggling safety-net hospital that lost $20 million during the first two quarters of 2019 and then suffered the same $50 million loss during the first two quarters of 2020 as its wealthier counterpart had its distribution calculated based on a loss of $30 million in net patient revenue: the difference between the $20 million it lost in 2019 and the $50 million it lost in 2020. In this manner, prosperous providers with strong revenue received far more assistance from the Provider Relief Fund than struggling safety-net hospitals, leaving already-struggling hospitals to struggle even more.

We believe HHS can correct this problem in the following ways.

- *Ensure that all safety-net hospitals receive a safety-net distribution*. Some of the highest Medicaid providers in the country were left out of the safety-net distribution because the eligibility and grant methodologies failed to capture hospitals that serve the most Medicaid patients. NASH urges HHS to review its previous eligibility criteria and distribution formulas to ensure that they capture and provide appropriate resources to all DSH-eligible safety-net hospitals.

- *Recalculate Phase 3 distributions*. HHS can modify its calculation methodology for Phase 3 applicants – but only for those that met the Medicaid criteria for targeted safety-net hospital distributions *and* had losses for the first two quarters of 2019. This is appropriate, NASH maintains, because high-volume Medicaid providers, more than any other hospitals, were harmed by the methodology employed. You can do this by recalculating the Phase 3 grants of these eligible hospitals with their first two quarters of 2019 losses reduced to zero. Thus, in the example noted above, the hospital that lost $20 million during the first two quarters of 2019 and then lost $50 million during the first two quarters of 2020, previously treated as a $30 million net patient revenue loss, would see that $20 million loss reduced to zero and instead receive a Phase 3 distribution based on the full $50 million loss the hospital experienced during the first two quarters of 2020. HHS should do this both for individual hospital Phase 3 applicants and for Phase 3 applicants that filed under a combined health system that includes a hospital that meets the criteria cited above.

- *Apply this methodology to future distributions*. NASH urges the federal government to use the methodology described above when attempting to quantify the impact of COVID-19 on hospitals for future distributions. It should be used in whatever other calculations are made to determine future distributions as a way of compensating for the shortcomings of the Phase 3 methodology.

- *Take into consideration hospitals' first quarter 2021 performance*. NASH believes that future distributions should take into consideration eligible hospitals' first-quarter 2021 COVID-19-related revenue losses and additional expenses because the surge of COVID-19 cases during that period resulted in new hotspots, renewed medical hesitancy as people stayed away from providers, and unprecedented high hospital staffing costs.

Many community safety-net hospitals received much smaller Provider Relief Fund grants than other providers that were in far better financial condition. The recent acknowledgment that there will be future distributions of remaining Provider Relief Fund money offers an opportunity to address this problem, so

for the reasons outlined above, we hope you will ensure that safety-net hospitals receive the funding they so desperately need.

We appreciate your attention to this request and welcome any questions you may have about the problem we have outlined and the solutions we have suggested.

Sincerely,

Ellen Kugler, Esq.
Executive Director