



March 16, 2020

The Honorable Mitch McConnell
 Senate Majority Leader
 317 Russell Senate Office Building
 Washington, DC 20510

The Honorable Chuck Schumer
 Senate Democratic Leader
 322 Hart Senate Office Building
 Washington, DC 2051

Dear Majority Leader McConnell and Leader Schumer,

The 28 undersigned organizations, representing millions of patients and consumers across the country who face serious, acute, and chronic health conditions, urge the Senate to act decisively to slow the spread of the COVID-19 virus, particularly among vulnerable populations. People with pre-existing conditions are at increased risk of infection and adverse health outcomes from COVID-19. For this reason, it is essential that any legislative package taken up in the Senate ensures that the health care system has adequate capacity to provide necessary care to patients with pre-existing conditions and robustly addresses public health needs.

The patients and consumers we represent need Congress to take swift action to remove barriers to COVID-19 testing and treatment, promote continuity of care for Americans with serious health conditions, and waive rules that require in-person interactions that promote community spread of COVID-19. With these goals in mind, we urge the Senate to quickly approve the Families First Coronavirus Response Act, H.R. 6201, and separately consider additional critical measures that will help protect people with pre-existing conditions, who are at greater risk of adverse health outcomes due to the COVID-19 pandemic.

The Families First Coronavirus Response Act, H.R. 6201

The House-passed coronavirus supplemental package incorporates several important changes that will make significant progress in slowing the spread of the virus and protecting vulnerable populations.

Free testing regardless of insurance type & status

It is critical that anyone who needs diagnostic testing related to COVID-19 is able to receive testing at no cost. Many Americans understand that cost-sharing associated with emergency department (ED) visits, urgent care visits, and lab testing is often quite costly. In this emergency, we cannot afford for concerns about affordability of testing and associated care to become a barrier that prevents people from taking appropriate action if they show symptoms. Although the Trump Administration has attempted to address cost barriers across several populations, we are concerned that this approach has led to confusion about how cost-sharing will vary across various insurance types.

H.R. 6201 includes provisions that extend no-cost testing to individuals with coverage through commercial insurance, Medicare fee-for-service, Medicare Advantage, Medicaid, the Children's Health Insurance Program (CHIP), the Indian Health Service, the Department of Defense, and the Department of Veterans Affairs. Importantly, the bill provides two avenues for similar no-cost testing for uninsured Americans: (1) an option for states to provide Medicaid coverage for the uninsured for services related to COVID-19 testing, at a 100% federal match rate, and (2) funding to ensure the National Defense Medical System is prepared to pay provider claims for COVID-19-related services for the uninsured.

Medicaid stability

This public health crisis will dramatically increase state Medicaid spending at the same time as the crisis' economic impact will likely reduce state revenues. In past times of economic downturn, Congress has stepped in to significantly increase the traditional federal match rate (FMAP) for Medicaid spending, in order to provide relief for state budgets and mitigate state incentives to respond to revenue shortfalls. This prevents states from making shortsighted changes to Medicaid eligibility, coverage, or reimbursement rates that would negatively impact low-income populations. This targeted support from the federal government is especially critical given the imperative of maintaining and hopefully expanding the role of Medicaid in facilitating the public health response to the current pandemic.

H.R. 6201 includes an FMAP increase of 6.2% for medical and administrative costs, as long as states maintain or improve their eligibility standards, and a similar increase in Medicaid allotments for U.S. territories. This support to states and territories will help Medicaid programs to address increased demand for public health services at this critical time. While we strongly support the expansion of the FMAP in H.R.6201, we believe the current crisis may require additional investments from Congress to adequately address the spread of COVID-19.

Effective social distancing

A core component of the public health strategy to combat the spread of COVID-19 is 'social distancing'—dramatically reducing instances in which individuals share the same physical spaces as others outside their families, caregivers, or other essential interactions. Social distancing has proven to be a valuable method of slowing the spread of COVID-19 in other countries, and the United States has already begun to make extraordinary investments and sacrifices to facilitate it. Therefore, it is important for Congress to ensure that government actions maximize the success of this strategy.

H.R. 6201 provides additional opportunities for workers to take paid and protected time off from their work. The leave provisions of H.R. 6201 would cover workers who are symptomatic, in quarantine, caring for an at-risk family member who is quarantined, or caring for a child due to school or daycare closure. H.R. 6201 extends paid and protected leave provisions to workers regardless of their full-time, part-time, or self-employed status and those who do not otherwise qualify for federal Family and Medical Leave Act protection due to their employer's size or their short tenure. Additionally, the legislation supports the delivery of this paid leave through a refundable tax credit. These paid and protected leave provisions are essential to providing workers with the income and job security necessary to take appropriate social distancing measures. These measures also help provide the insulation from exposure that vulnerable populations, like people with pre-existing conditions, rely on during public health crises.

H.R. 6201 suspends the work and work training requirements of the Supplemental Nutrition Assistance Program (SNAP). Given the economic impact of the COVID-19 pandemic, such work requirements are counter-productive—putting essential nutrition support at risk when people need them most and requiring individuals to work even if that work puts them and their community at greater risk of community spread.

H.R. 6201 makes important changes to unemployment programs to promote social distancing. Individuals filing for and seeking to maintain access to unemployment benefits are often subject to requirements that mandate frequent social engagements. H.R. 6201 requires and empowers unemployment programs to provide at least one enrollment option outside of an in-person location and ease eligibility requirements like work search rules that typically require activity outside the home. These changes are important to ensuring that workers who are unemployed or otherwise harmed by the economic impact of the COVID-19 pandemic are not forced to choose between unemployment assistance and appropriate social distancing behaviors.

The bill also provides the funding necessary to support approximately 25 million additional pre-packaged meals to the homes of seniors through the Administration for Community Living's Senior Nutrition program. This program is incredibly valuable in helping seniors and their caregivers maintain social distance—protecting this especially vulnerable population from increased risk of exposure to COVID-19. Ensuring continued availability of home-delivered nutritious meals is vital for protecting seniors with pre-existing conditions.

Additional steps to protect people with pre-existing conditions from COVID-19

Following the quick enactment of H.R. 6201, we urge Congress to take additional steps to protect people with pre-existing conditions from COVID-19 and promote the ability of these individuals to receive appropriate care.

Remove barriers to COVID-19 treatment

Barriers to care are a significant concern for our organizations during the spread of COVID-19 and while we strongly support access to no-cost testing for all people living in the US, we recognize that after diagnosis, patients may be liable for substantial costs related to their quarantine and treatment. Recent media reports indicate that consumers diagnosed with COVID-19 may face extreme costs because of the nature of their treatment and quarantine.¹ Fear of encountering high costs could keep consumers who have been exposed or infected with the COVID-19 virus from seeking the care they need – potentially perpetuating the spread of this deadly virus.

Congress has recently considered bi-partisan, bi-cameral legislation that would robustly protect patients from unexpected medical bills – which many of our organizations strongly support. We urge Congress to consider including policies in future legislation that would provide relief from, or completely cover, costs related to treatment from COVID-19 for consumers. This financial protection should include all providers, settings, and insurance to ensure that everyone who needs testing and treatment is able to receive timely and affordable care. Fear of surprise bills should not keep patients and consumers away from care during this critical time.

Promote access to coverage

During this time of crisis, it is critically important that all Americans have access to affordable, quality health care coverage. Congress and the Administration must ensure coverage and financial protections are available to all Americans, including those who are currently uninsured, in order to effectively reduce the rate of transmission and reduce adverse health outcomes.

Streamlining and removing barriers to Medicaid eligibility is an immediate step states and the Administration can take to expand access to testing and treatment. We strongly encourage Members of Congress to work with state leaders to quickly utilize flexibilities allowed under Appendix K of the 1915(c) Home and Community-Based Services (HCBS) Waivers, state plan amendments, and section 1115 demonstration waivers. This includes: adopting additional eligibility groups; increasing effective income standards; expanding hospital presumptive eligibility groups; and removal of cost-sharing. Further, we call on Congress to hold the Administration accountable for ensuring rapid approvals of waivers aimed at decreasing the impact of the virus.

Given the economic impact of the COVID-19 pandemic, programmatic efforts that would create barriers to gaining and maintaining Medicaid eligibility should be immediately halted – including waivers establishing work requirements and eliminating retroactive eligibility. Suspension of work requirements in Medicaid, like the suspension of SNAP work requirements in H.R. 6201, would both aid those who may be unable to work given economic conditions from losing access to their Medicaid coverage or other essential benefits and removing an incentive for workers to go to work while sick.

We call on Congress to work with the Administration to immediately rescind the block grant policy guidance issued in January. Under this policy, states can change a significant portion of their Medicaid program to a block grant, which would have an aggregate or per person cap in the federal funding they receive. This public health crisis is likely to dramatically increase state Medicaid spending needs. As the gap between the block granted amount and actual costs of patient care increases over time, states will be forced to limit enrollment, reduce benefits, lower provider payments or increase cost-sharing, all of which would cause significant harm to the patients we represent.

Additionally, state and federal agencies should open a special enrollment period to ensure that all consumers have access to comprehensive coverage that will meet their healthcare needs. Due to the increased availability of plans that are not required to meet federal patient protection standards – including short-term limited duration and association health plans – many Americans are signed up for insurance-like products that may not cover testing or treatment for COVID-19, putting them at substantial financial risk. While some states have already taken this step, we call on Congress to require the Administration to immediately re-open HealthCare.gov, to allow un- or under-insured Americans to enroll in comprehensive coverage.

Paid Medical Leave

The paid leave portion of HR 6201 is a critical first step in helping ensure greater social distancing by giving the option to some workers to take time off from work if they are sick. However, it applies only to companies with 500 or fewer employees, requiring them to offer up to 14 days of paid leave. While a good initial step, this is insufficient. Fifty four percent of workers in this country are employed by companies with over 500 employees. While some of these employers have a paid leave program in place, not all of them do, and this gap in coverage could force workers to choose between giving up their paycheck in order to not spread the virus or go to work and potentially spread the virus to people in vulnerable populations, like the ones we represent.

According to the Pew Research Center, people who don't have paid leave are disproportionately lower-wage workers.ⁱⁱ These workers are also least able to absorb the loss of a paycheck, providing them an incentive to go to work even if they do not feel well. We call on Congress to expand the paid leave policies outlined in HR 6201 to include all American workers.

Maximize the ability of patients to access care via telemedicine

Telemedicine has the potential to offer an opportunity to access health care services from the safety of home. Congress should expand access to and availability of telemedicine services during the COVID-19 pandemic to ensure that patients with pre-existing conditions can easily access health care expertise while simultaneously practicing safe social distancing—allowing patients to avoid being exposed to COVID-19 in provider waiting rooms, exam rooms, and associated travel.

Specifically, Congress should expand the scope of telemedicine services available to Medicare beneficiaries to include non-COVID-19 services and ensure that patients have this access regardless of whether they have coverage through traditional Medicare or Medicare Advantage. Congress should also require private insurers to establish similar access to telemedicine and promote the deployment of telehealth options for Medicaid enrollees.

Ensure access to sufficient supplies of essential medications and medical products

Insurance plan restrictions on when a patient can obtain a prescription refill or purchase essential medical supplies can present challenges to appropriate care in circumstances in which drug and product supply chains may experience brief but meaningful disruptions. These restrictions on life-sustaining medications and products can require frequent trips to a physical pharmacy location, needlessly putting patients at risk of COVID-19 exposure while attempting to pick up their supplies.

CMS has informed Part D plan sponsors that the plans may choose to relax these restrictions under certain circumstances during the COVID-19 pandemic. We urge Congress to take bold action to require all payers to relax plan restrictions that prevent patients from following the recommendations of the CDC to secure an appropriate amount of backup supplies of essential medications and medical products. Congress should ensure that any new requirements carefully balances the ability for patients to access additional prescriptions and supplies with the potential for major stockpiling to avoid drug shortages. These policies should apply to all plans, including Medicare, Medicaid, employer sponsored coverage and commercially available plans.

For more information or to discuss further, please direct your staff to contact Katie Berge of the Leukemia & Lymphoma Society at katie.berge@lls.org. Thank you for your consideration.

Sincerely,

Adult Congenital Heart Association
ALS Association
American Cancer Society Cancer Action Network
American Diabetes Association
American Kidney Fund
American Liver Foundation
American Lung Association
Arthritis Foundation
Chronic Disease Coalition
COPD Foundation
Epilepsy Foundation
Family Voices
Hemophilia Federation of America
Immune Deficiency Foundation
Leukemia & Lymphoma Society

Lutheran Services of America
March of Dimes
Muscular Dystrophy Association
National Alliance on Mental Illness
National Coalition for Cancer Survivorship
National Health Council
National Hemophilia Foundation
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Susan G. Komen
United Way Worldwide
WomenHeart: The National Coalition for Women with Heart Disease

Cc:

Senator Lamar Alexander
Senator Patty Murray
Senator Chuck Grassley
Senator Ron Wyden
Speaker Nancy Pelosi
Minority Leader Kevin McCarthy

ⁱ <https://khn.org/news/trump-wrongly-said-health-insurers-will-pay-for-all-coronavirus-treatment/>

ⁱⁱ <https://www.pewresearch.org/fact-tank/2020/03/12/as-coronavirus-spreads-which-u-s-workers-have-paid-sick-leave-and-which-dont/>