



April 13, 2020

Senator Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

Senator Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Representative Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20515

Representative Kevin McCarthy
House Minority Leader
United States House of Representatives
Washington, DC 20515

CC: Senator Charles Grassley, Chairman, Senate Finance Committee; Senator Ron Wyden, Ranking Member, Senate Finance Committee; Representative Frank Pallone, Chairman, House Energy and Commerce Committee; Greg Walden, Ranking Member, House Energy and Commerce Committee

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

On behalf of the nation's Medicaid Directors, NAMD is writing to request immediate additional fiscal relief for state Medicaid programs to respond to the ongoing COVID-19 public health emergency. We specifically request:

- An additional enhancement to federal match of 5.8 percentage points, combining with the current enhancement to bring total enhanced match to 12 percentage points;
- The ability for states to make immediate supportive payments to financially fragile Medicaid providers at risk of closure due to significantly decreased service utilization;
- Delaying the Medicaid Fiscal Accountability Rule by two years, and
- Delaying by one year federal match reductions for states without Electronic Visit Verification systems in place for Medicaid personal care services.

The National Association of Medicaid Directors (NAMD) is a bipartisan, nonprofit, professional organization representing leaders of state Medicaid agencies across the country. Our members drive major innovations in health care while overseeing Medicaid, which provides a vital health care safety net for more than 72 million Americans. As a major source of health care coverage in each state, Medicaid is a key component in addressing COVID-19.

We appreciate the measures both Congress and the Administration have taken to date to bolster the Medicaid program. These include a 6.2 percentage point enhancement to Federal Medical Assistance Percentage (FMAP) for state Medicaid expenditures, state option to receive full federal match for COVID-19 testing provided to the uninsured via Medicaid, significant easing in regulatory practices to promote the rapid expansion of telehealth and telemedicine, and expedited approval of public health emergency Medicaid authorities. These actions are helpful in supporting Medicaid's critical role in responding to the COVID-19 emergency.

However, it is increasingly clear that more significant action must be taken to ensure Medicaid's provider infrastructure remains fiscally sound in this time of crisis. The \$100 billion appropriation Congress made to address provider revenue shortfalls in the CARES Act is currently being allocated based on Medicare utilization, which leaves critical Medicaid providers without vital financial assistance. NAMD, with input from our Board of Directors and our membership, recommends Congress take the following actions to provide critical fiscal relief for states and Medicaid providers.

Additional Enhancement of FMAP

The 6.2 percentage point FMAP increase in the Families First Coronavirus Response Act (FFCRA) is a helpful step for bringing fiscal relief to states. This increase helps support the continuous enrollment provisions in FFCRA and keep current enrollees covered during this critical time. However, states will experience unprecedented increases in enrollment applications as newly unemployed individuals turn to Medicaid for health insurance. States have never experienced as sudden shock in unemployment in such a short timeframe as they are experiencing today. Further, these newly enrolled will not necessarily cycle off Medicaid and back on to employer-sponsored insurance or coverage through the marketplaces in the near term, particularly if the nation faces a prolonged economic downturn. The FMAP increase provided in FFCRA, based on state data and projections, will not be sufficient to support this increase in enrollment.

An additional FMAP enhancement is necessary to provide states with the fiscal support necessary to meet these increased demands on the Medicaid program. We recommend an additional FMAP enhancement of 5.8 percentage points, additive to the 6.2 percentage point FFCRA enhancement, for a total of total enhancement of 12 percentage points. This enhancement should also apply directly to the Children's Health Insurance Program (CHIP). Further, federal match for state Medicaid administrative activities should be increased to 75 percent to assist states in managing significant increases in enrollment applications. These measures will directly free up state dollars to reinvest in the program or to meet other critical state needs.

These enhancements should extend beyond the COVID-19 national emergency, as the program's heightened needs will not be directly tied to COVID-19. To mitigate the risk of a "fiscal cliff," the enhancements should be gradually reduced over a period of no less than two years, with the reduction directly tied to the state's economic recovery. The increased and extended FMAP should not be tied to maintenance of effort requirements, which should end at the end of the month in which the COVID-19 national emergency ends.

Allow Retainer Payments for All Medicaid Provider Types

NAMD's members are extremely concerned that core components of their state provider infrastructures are deteriorating during the public health emergency. This deterioration is driven by significantly decreased utilization of services as individuals practice social distancing and providers implement recommendations to indefinitely delay elective visits, treatments, or procedures. Impacted providers include, but are not limited to, behavioral health providers, substance use disorder treatment providers, Federally Qualified Health Centers and Rural Health Centers, non-emergency medical transportation providers, school-based health service providers, personal care service providers, rural hospitals, pediatric providers, and children's hospitals. For small and financially fragile providers that provide unique Medicaid services, the need is particularly acute. Provider closures are already occurring and will

only increase if relief is delayed. Some states have already reported over 300 Medicaid provider closures in just two weeks. Without immediate action, this trend will be exacerbated and felt nationwide.

States must have ability to provide immediate financial relief to these providers. The most direct way to do so is to expand the authority of states to make retainer payments to providers who are experiencing a significant decrease in service utilization. These payments would be made to compensate providers for services that would ordinarily be rendered to Medicaid members, but are not being provided for the reasons described above. This authority exists in the 1915(c) Appendix K for certain Medicaid home- and community-based service providers who provide habilitative services. States need the authority to make similar payments to any provider the state deems necessary. NAMD has [requested CMS grant states the authority to do so](#). We believe clear statutory authority will expedite regulatory decision-making in this area. States with predominantly managed care delivery systems should have the ability to make these investments via a directed payment mechanism or other appropriate managed care vehicle.

Such authority must persist for the duration of the national emergency to ensure critical Medicaid providers remain solvent and in operation. We support appropriate and reasonable parameters for these payments, including prioritization of providers for whom Medicaid is a primary payer, subjecting payments to future state audits, requiring provider attestation that staff will be retained at current wage and salary levels, and limiting payments to a maximum amount derived from previous provider claims and/or tied to a Medicaid member's service plan.

Moratorium on the Medicaid Fiscal Accountability Rule (MFAR)

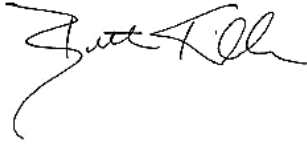
States need certainty that their current Medicaid financing arrangements will not be disrupted as the program faces significantly increased demands. [As NAMD described in response to the MFAR proposed rule](#), the actions contemplated by the Administration in the rule would introduce significant instability to the majority of states' current Medicaid financing mechanisms. Such changes cannot be prepared for or implemented while in the midst of a pandemic and economic downturn. We request a two-year moratorium on MFAR.

Delay FMAP Penalties Related to Electronic Visit Verification

State FMAP levels must be increased, not decreased, during the COVID-19 emergency and in the anticipated economic downturn, as discussed above. To that end, we request a one-year delay in applying FMAP penalties for states not yet in compliance with the 21st Century Cures Act's requirements for Electronic Visit Verification (EVV) systems for Medicaid personal care services.

We appreciate your consideration of these requests and all the measures Congress has enacted to date to provide states, providers, and Medicaid members with the tools needed to combat COVID-19. NAMD stands ready to serve as a resource to assist lawmakers in better understanding any of the issues discussed in this letter.

Sincerely,



Beth Kidder
President, NAMD
Deputy Secretary for Medicaid
Florida Agency for Health Care Administration



Jami Snyder
President-Elect, NAMD
Director
Arizona Health Care Cost Containment System