Catholic Health Association of the United States

A Passionate Voice for Compassionate Care

December 4, 2020

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

Dear Secretary Azar:

On behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of more than 2,200 Catholic health care systems, hospitals, long-term care facilities, sponsors, and related organizations, I am writing to urge you to restore in full the COVID-19 Provider Relief Fund (PRF) reporting requirements contained in the June 19, 2020 frequently asked question (FAQ) on defining expenses and lost revenues attributable to COVID-19. We continue to have concerns with subsequent guidance issued by the Department of Health and Human Services (HHS) and request that you abandon the reporting requirements in the October 22, 2020 notice, General and Targeted Distribution Post-Payment Notice of Reporting Requirements. In addition, we urge you to allow hospital systems to move targeted distributions within their system to follow COVID-19 patients and the hospitals that are incurring the expenses and lost revenues directly attributable to the virus.

The Provider Relief Fund was created with funding appropriated in the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Paycheck Protection Program and Health Care Enhancement Act to reimburse eligible expenses and lost revenues attributable to COVID-19. At a time when our nation faces a renewed surge in COVID-19 cases and hospitals face new challenges to meet the growing needs of those with COVID-19, the PRF has played a critical role in building capacity to respond to the surge. These funds have helped hospitals and health systems to continue to meet the needs of their communities and put the health and safety of patients and personnel first. However, HHS' revised policies regarding calculation of lost revenue and its limitations on the ability of hospitals to move targeted distributions within the system to support hospitals that are incurring the expenses undermine the goal of ensuring that our nation's health care providers are able to meet the growing COVID-19 need.

Under the law, recipients of PRF funds must submit reports and maintain documentation to ensure compliance with the terms of payment. HHS has amended its instructions on the appropriate method for calculating lost revenues that are attributable to coronavirus several times since it began distributing Provider Relief Fund dollars. An FAQ issued on June 19, 2020 provided that hospitals could "use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared." Under this FAQ, if a hospital had prepared a budget without considering the impact of COVID-19, its

estimate of lost revenue could be the difference between the budgeted amount and actual revenue.

Guidance issued since then changed the definition of lost revenue and has created serious problems for hospitals. While the revised definition included in the October 22, 2020 guidance corrected some of the issues created by the September 19 document, it failed to restore the ability of hospitals to use budgeted-to-actual comparison when calculating lost revenues. It also failed to restore the ability of hospitals to calculate lost revenue on a monthly rather than annual basis. These two flexibilities are critical so that hospitals are not penalized for year-over-year changes that allow them to better serve their communities.

We also urge HHS to allow hospital systems to move targeted distributions so they can allocate these distributions to hospitals incurring expenses or lost revenues as a result of the COVID-19 pandemic. Under the current guidance, hospital systems that have a corporate structure of multiple hospitals under a single taxpayer identification number (TIN) are able to move targeted PRF funds among hospitals in proportion to their lost revenues or expenses. However, hospital systems that operate a unified corporate system under multiple TINs are unable to move the targeted distribution payments to cover COVID-19 related expenses or lost revenues in a way that best meets the needs of the patients and communities served by the hospitals within the health system.

Catholic health care providers across the country have been at the front line of the COVID-19 crisis. From the first patients to today, in rural and urban settings, these providers have made extraordinary efforts to provide safe and effective care for those suffering from COVID-19. While some of these providers operate individually, many are part of health care systems which provide flexibilities to allow human, financial and clinical resources to be shared and targeted to areas of need. This flexibility has allowed health care services to be ramped up when COVID-19 surges happen and have allowed providers to move patients needing intensive care from a smaller rural hospital to larger hospitals with greater experience and resources for treating COVID-19 patient. Allowing PRF targeted distributions to follow the needs of patients should guide the HHS response regardless of the unrelated corporate structures of health care systems. We therefore urge you to provide hospital systems that operate under multiple TINs the same flexibilities available to those systems that use a single TIN.

Failing to fully reinstate the June reporting requirements or to allow hospitals systems to move targeted distributions within their system will result in many Catholic hospitals, including rural hospitals and those serving low-income, elderly and vulnerable communities, being unfairly required to return PRF funds to HHS at the moment when these hospitals are facing a renewed surge in COVID-19 cases. Making these changes is not only consistent with HHS' previous guidance but allows the funds to better assist health care providers during this historic pandemic as Congress intended. Allowing these providers to retain the funds at this critical time and

providing them with the flexibilities they need to distribute these funds within their system will support them in their efforts to continue to serve their patients and communities.

We thank you for your consideration of these concerns. If you have any questions about these comments, please do not hesitate to contact me or Kathy Curran, CHA senior director, public policy, at Kcurran@chausa.org.

Sincerely,

Lisa A. Smith
Vice President
Public Policy and Advocacy