



November 23, 2020

The Honorable Joseph R. Biden
President-Elect

Dear President Elect-Biden:

The 32 undersigned organizations, representing millions of patients and consumers across the country who face serious, acute, and chronic health conditions, urge you to take immediate steps upon assuming office that will help support the health and wellbeing of the American public while also slowing the spread of the COVID-19 virus, particularly among vulnerable populations. Together, our organizations represent more than 120 million people with pre-existing conditions in the U.S., many of whom have increased risk of infection and/or adverse health outcomes as it relates to the COVID-19 pandemic.

In 2017, our organizations agreed upon three overarching principles¹ that guide our work. These principles state that: (1) health care must be adequate, meaning health care coverage should cover treatments patients need, including the services in the essential health benefit package; (2) health care should be affordable, enabling patients to access the treatments they need to live healthy and

¹ Partnership to Protect Coverage Consensus Health Care Principles. Available at:
<https://cqrcengage.com/mda/file/UVSYoNuyq1q/033020%20Healthcare%20Principles41logos.pdf>

productive lives; and (3) health care should be accessible, meaning that coverage should be easy to understand and not pose a barrier to care. Similarly, enrollment should be easily accessible for all consumers, and benefits should be clearly defined.

The COVID-19 pandemic has made abundantly clear that all people need access to adequate and affordable health insurance coverage now more than ever. Research has demonstrated that access to comprehensive health insurance allows consumers to seek timely care, resulting in better health outcomes. If someone without health insurance today contracts the COVID-19 virus, they may be forced to make the difficult decision to not be tested and treated due to fears about the cost of care. That puts our entire society – particularly the people we represent – at risk.

As you and your Administration consider administrative and legislative activities aimed at protecting the financial, physical, and mental health of the American people, we note that the following priorities are critical to ensuring quality health insurance coverage is affordable and accessible:

Private Coverage:

- Extend or reopen enrollment in the ACA marketplaces in January 2021 in order to give Americans additional time to enroll in health insurance coverage due to the COVID pandemic.
- Clarify that all insurance is required to cover COVID-19 testing at no cost and without restriction and provide robust public health funding for this purpose.
- Protect patients from all surprise medical bills, including those that result from COVID-19 testing and treatment.
- Work to allow individuals who lose their jobs to extend employer sponsored coverage and provide premium subsidies to alleviate financial strain.
- Block and rescind the sale and availability of non-qualified health plans.

Medicaid:

- Raise the federal medical assistance percentage (FMAP) increase from 6.2 to at least 14 percentage points and provide additional, dedicated funding for home and community-based services (HCBS). Extend the amount of time states can utilize these funds and preserve maintenance of effort requirements.
- Authorize state Medicaid programs to cover COVID-19 treatment for the uninsured with 100% federal funding.
- Incentivize states to expand Medicaid.
- Remove barriers to coverage in Medicaid including rescinding guidance on work and community engagement requirements and block grants.
- Expand access to and availability of telehealth services during the COVID-19 pandemic and beyond.
- Promote the deployment of telehealth options for Medicare and Medicaid enrollees.

Essential Medications:

- Require all payers to relax plan restrictions that prevent patients from securing an appropriate amount of essential medications and medical products.

Private Coverage

Special Enrollment Periods

In the wake of the pandemic, we are deeply troubled that the current Administration has repeatedly opted not to issue a special enrollment period for the healthcare.gov marketplace, which services 38

state health insurance marketplaces. Conversely, eleven states and the District of Columbia opened their marketplaces so that individuals could obtain health insurance. Tens of thousands of Americans in these states took advantage of this opportunity, which will provide them with the coverage needed to obtain care in the event that they contracted COVID-19. In Maryland, for example, more than 10,000 individuals signed up for coverage in the first few weeks of the special enrollment period, more than half of whom were between the ages of 18 and 34.² All but one of the remaining states do not have the authority to open marketplace enrollment and must rely on the federal system.

While individuals in these and all states now have the opportunity to enroll in comprehensive coverage through [healthcare.gov](https://www.healthcare.gov) for the duration the open enrollment period, we are concerned that the December 15 deadline that is used in many states will not provide sufficient time for individuals and families impacted by the pandemic. The chronic underfunding of outreach and enrollment activities as well as the navigator program that has taken place over the past four years, in addition to the added complications of the pandemic and the significant confusion surrounding the exchanges in light of the legal challenge to the Affordable Care Act (ACA), has generated a series of barriers that many may struggle to overcome.

Consequently, we urge you to direct the Department of Health and Human Services (HHS) to immediately reopen the enrollment period in January 2021 to allow for those who were unable to enroll to continue their search for quality and affordable care without having to wait another year. In addition, we ask that the administration undertake a robust public education campaign to ensure that the public is aware of this opportunity and work with Congress to secure the necessary funds.

Access to COVID-19 Testing, Treatment, Vaccines, and Recovery Services

Experts agree that access to testing, treatment, vaccines, and recovery services are among the most important part of slowing and stopping the spread of COVID-19. As you begin to chart a path forward, we urge you and your administration to ensure that all individual and group market insurance be required to cover all care related to the *testing, treatment, vaccines and recovery services* from the COVID-19 virus with low or no cost sharing for consumers.

Our organizations are grateful that the CARES Act and the Families First Coronavirus Response Act (FFCRA) included provisions that aimed to provide testing to patients at no cost. However, HHS' recent interpretation of the statute limits access to these services to specific circumstances and does not accommodate testing for public health or occupational safety reasons.³ This interpretation means many patients are receiving significant medical bills for testing and creates loopholes that will make it harder for patients in a variety of different circumstances to obtain the tests they need. We encourage your administration to broaden this interpretation of the CARES Act provision and, where possible, mandate that all insurance, including ERISA-regulated plans and non-compliant plans, be required to cover testing at no cost to individuals regardless of the reason the test is needed. By removing the financial barrier of testing, individuals will be more likely to get tested, benefiting them, their loved ones, and the broader public health.

Similarly, we are concerned about costs that burden patients when they need access to COVID-19 treatment, recovery services, and eventually, COVID-19 vaccines. As further highlighted in this letter, it is imperative that financial burdens do not preclude the American public from preventing and treating COVID-19 infection. We urge the administration to ensure these services are available at no or low- cost

² <https://www.marylandhbe.com/wp-content/uploads/2020/04/CoronavirusPressRelease040120.pdf>

³ FAQs About FFCRA and Coronavirus Aid, Relief, and Economic Security Act Implementation, Part 43. CMS. June 23, 2020. <https://www.cms.gov/files/document/FFCRA-Part-43-FAQs.pdf>

sharing. If needed, we also urge the administration to work with Congress to appropriate public funding to cover the additional costs to relieve financial burden on the health care system.

Financial Protection for Patients & Consumers

Our organizations continue to be concerned about the impact of surprise medical bills on our patients. While surprise bills have been commonplace for many years, recent media reports indicate that the pandemic could be exacerbating the problem.⁴ During this time of crisis, we cannot allow the fear of a surprise bill for treatment for COVID-19 to become a barrier that prevents people from taking appropriate action if they show symptoms or have been exposed to the virus.

Patients with serious and chronic conditions routinely require medical treatment to maintain their health. However, during the pandemic, patients are being asked to shift their care to different providers and facilities to minimize exposure or to ensure patients with COVID can seek and receive treatment away from those who may be at risk of infection. These shifts, while necessary to contain the virus, may result in out-of-network care – increasing consumers’ risk of receiving a surprise bill. Fear of exorbitant costs and surprise medical bills should not keep patients and consumers away from care for treatment of COVID-19 or an underlying medical condition.

While it is urgent that Congress act now to enact bipartisan, bicameral legislation to fully protect patients from all surprise medical bills, we urge your administration to explore executive and regulatory actions that would protect patients. This includes allowing patients to seek care outside of their network as a result of the pandemic; ensuring that patients and their families have peace of mind knowing they will not receive unexpected medical bills when seeking treatment for COVID-19 or other underlying medical conditions.

Assistance for People Who Have Lost Employer Sponsored Coverage

As more individuals lose coverage as a result of job loss, it will continue to be critical to retain coverage to adequately combat COVID-19. We, therefore, encourage the administration to work within its authorities to allow individuals to extend employer-sponsored coverage and provide subsidies for such coverage to alleviate the subsequent financial strain after termination. When last utilized during the 2009 financial crisis, this approach allowed workers to receive a 65% premium subsidy for six months to help retain coverage. We encourage your administration to support this provision should Congress consider offering this benefit and increasing the generosity of the subsidy beyond 65% to ensure employers and employees are shielded from financial stress.

Furthermore, keeping an employer plan will allow for continuity of provider networks and medications, which is critical for patients and survivors. Patients, particularly those with high-cost conditions, are among the people most likely to incur substantial out-of-pocket spending throughout the year. Facilitating the extension of employer coverage relieves such individuals from having to start a new plan, with new cost-sharing amounts and patient out-of-pocket contributions reset to zero.

Stop the Issuance of Non-Qualified Health Plans

Due to the increased availability of subpar insurance products, even Americans with insurance find themselves underinsured during this crisis. Non-compliant plans, like STLD plans and AHPs, are not required to meet federal patient protection standards. Noncompliant plans leave consumers exposed to

⁴ Trump Wrongly Said Health Insurance Will Pay for All Coronavirus Treatment, Kaiser Health News. March 13, 2020. Accessed at: <https://khn.org/news/trump-wrongly-said-health-insurers-will-pay-for-all-coronavirus-treatment/>

high out-of-pocket costs for their care and often do not cover basic health care needs, such as prescription drugs and emergency services.⁵

These plans are particularly dangerous at this time because they can rescind coverage based on the determination of a pre-existing condition, for which COVID-19 could qualify, and leave patients with no coverage at all in the midst of a crisis. Further, unlike compliant plans, they are not required to cover COVID-19 testing or vaccines. To make matters worse, new evidence suggests that they are being marketed in misleading and even predatory ways to people suffering job or income loss.⁶

In the absence of congressional action, your administration should immediately move to prohibit the Department of Health and Human Services, the Department of Treasury, and the Department of Labor from implementing, enforcing, or in any way giving effect to final rules that expanded availability of short-term, limited-duration and association health plans.^{7,8} Allowing non-compliant plans to enroll more individuals at this time will only increase the number of individuals who do not have coverage of essential COVID-related services and, therefore, will require funds from the National Disaster Medical System program for uninsured individuals. Additionally, for those individuals who are already covered by these plans, your administration must ensure that any people who lose this sub-par coverage due to the rescission of any rules have a way to purchase comprehensive, affordable coverage that meets their and their families' needs.

Medicaid

Additional Funding for State Medicaid Programs

State Medicaid programs provide a vital safety net during this national crisis, covering traditionally underserved populations and helping to stem the spread of the virus. Our organizations strongly supported the 6.2 percentage point increase in the federal medical assistance percentage (FMAP) for states in the FFCRA and urge you to work with Congress to raise the FMAP increase from 6.2 to at least 14 percentage points and provide additional, dedicated funding for home and community-based services (HCBS).

Estimates suggest that nearly 13 million individuals who have lost employer sponsored coverage are eligible for Medicaid, and that number will rise to 17 million by January 2021.⁹ Recognizing the significant impact this increase will have on state budgets, it is critical that increased federal support be made available.

Furthermore, our organizations also believe it is beneficial to extend the length of time that states can receive these additional funds. The economic impact of COVID-19 is likely to last much longer than the public health emergency declaration. In fact, CBO estimates that the unemployment rate will be nine percent at the end of 2021, meaning that states will see an increased need for Medicaid coverage for months and even years to come.¹⁰ Our organizations urge your administration to work with Congress to

⁵The Impact of Short-Term, Limited-Duration Policy Expansion on Patients and the ACA Individual Market. Milliman Research Report. Hanson, Dane and Gabriela Dieguez. February, 2020. Accessed at:

<https://www.ils.org/sites/default/files/National/USA/Pdf/STLD-Impact-Report-Final-Public.pdf>

⁶ Misleading Marketing of Short-Term Health Plans amid COVID-19. Linke Young, Christen and Kathleen Hannick. March 24, 2020. Accessed at: <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/03/24/misleading-marketing-of-short-term-health-plans-amid-covid-19/>

⁷ Short-Term, Limited-Duration Insurance, [83 FR 38212](#)

⁸ Definition of "employer" under section 3(5) of ERISA – Association Health Plans, [83 FR 28912](#)

⁹ Eligibility for ACA Health Coverage Following Job Loss, Kaiser Family Foundation. May 13, 2020. Accessed at: <https://www.kff.org/coronavirus-covid-19/issue-brief/eligibility-for-aca-health-coverage-following-job-loss/>

¹⁰ Updating CBO's Economic Forecast to Account for the Pandemic, Congressional Budget Office. April 2, 2020. Accessed at: <https://www.cbo.gov/publication/56314>

extend the FMAP increase beyond the public health emergency declaration and instead tie it to a measure of the economic impact of this crisis.

Extending Coverage of COVID-19 treatment to the Uninsured

Similarly, we cannot allow affordability of treatment for COVID-19 to become a barrier that prevents people from taking appropriate action if they show symptoms. As a result, our organizations have urged Congress to authorize state Medicaid programs to cover COVID-19 treatment for the uninsured with 100% federal funding. Our organizations are also concerned by the fact that not all states have taken up the option to provide no-cost testing. As a result, we continue to support extending both of these provisions past the public health emergency declaration, as they will encourage greater uptake by states if consistently available as long as needed.

Maintain Maintenance of Effort Provisions

Recognizing the importance of continuous Medicaid coverage, the Families First Coronavirus Response Act included maintenance of effort requirements for the enhanced FMAP that prevent states from imposing more restrictive eligibility standards or increased cost-sharing during the public health emergency, as well as significantly limit the circumstances in which states can disenroll current or newly enrolled members. These protections are critical to ensuring that patients with serious and chronic conditions continue to receive affordable and accessible coverage during a period in which there will be enormous pressure on states to reduce costs. Our organizations strongly urge that your administration work with Congress to preserve these protections in any future COVID-related legislation.

Incentivize Remaining States to Expand Medicaid

The COVID-19 crisis has, as previously discussed, highlighted the pressing need to reduce our nation's uninsured rate. Those without health insurance may fear seeking help because of the cost of treatment, contributing to poorer health outcomes for themselves as well as continued community spread of this disease. Our organizations have called on States to expand Medicaid coverage to all individuals with incomes below 138 percent of the federal poverty level (\$2,497/ month for a family of three) which would extend coverage to 4.8 million uninsured adults living in states that have not taken up this expansion to date.¹¹ The benefits of expansion are clear, including improved access to coverage and positive health outcomes for patients, as well as economic benefits to states and hospitals.¹² Our organizations therefore urge you to work with Congress to provide 100 percent FMAP for the first three years that states expand their Medicaid programs, and take any additional administrative steps to help incentivize states to expand their programs at this critical time.

Block Barriers to Medicaid Coverage

While our organizations oppose barriers to Medicaid coverage at any time, they are more problematic now than ever before. Given the economic impact of the COVID-19 pandemic, many of our organizations ask the administration to immediately halt programmatic efforts that would create barriers to gaining and maintaining Medicaid coverage - such as waivers establishing work requirements, eliminating retroactive eligibility, or increasing cost-sharing. Similarly, we also ask that the block grant policy guidance issued in January be immediately rescinded.

¹¹ The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid. Kaiser Family Foundation, January 14, 2020. Accessed at: <https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/>

¹² The Effects of Medicaid Expansion under the ACA: Updated Findings from a Literature Review. Kaiser Family Foundation. March 17, 2020. Accessed at: <https://www.kff.org/medicaid/report/the-effects-of-medicaid-expansion-under-the-aca-updated-findings-from-a-literature-review/>

Coverage for Telemedicine Services

Telehealth, including telemedicine and telemental health, is vital lifelines for those at the greatest risk for the coronavirus. Telemedicine services can ensure access to specialized providers and continuity of care when in-person visits are not a safe option, enabling patients to continue to social distance and avoid hospitals and clinics at the front lines of battling the pandemic. Telemental health enables people to access care to address the fear, stress, and anxiety caused by COVID-19 – a particular concern for individuals with underlying health conditions that the Centers for Disease Control and Prevention (CDC) recognizes as being at higher risk for both severe illness and increased stress due to COVID-19. Access and continuity of care are essential to ensuring patients' health and well-being.

Our organizations commend Congress and the administration for providing greater flexibility and ease of access to telehealth services, including relaxing site of care rules for Medicare beneficiaries; allowing audio-only services for Medicare beneficiaries; allowing Federally Qualified Health Centers and Rural Health Clinics to serve as a distant site for telehealth during the COVID-19 emergency period; and providing \$200 million for the Federal Communications Commission (FCC) and \$180 million to the Health Resources and Services Administration (HRSA) to support telehealth services.

We understand that the policy changes made in the current administration's interim final rule are in place for the duration of the public health emergency. However, it will be necessary for people with serious health conditions – those at higher risk of a severe case of COVID-19 – to have access to these services for a longer period of time. High-risk patients and those with compromised immune systems will have to be vigilant about their risk for COVID-19 and other contagious diseases long after the initial crisis period is over, and the administration should work with Congress to extend current flexibilities to ensure these patients can continue to safely access the care they need. Further, we recommend your administration seek increased funding for patient and provider education around the availability, simplicity, and safety of using telemedicine when appropriate. In addition, we urge the HRSA to use this unique moment in time as an opportunity to collect and analyze data on telehealth usage to inform future policies.

Our organizations also support the expanded use of telehealth services in the Medicaid program. As it has done in Medicare, the administration should use existing authorities as well as work with Congress to require private insurers to establish similar access to telemedicine and promote the deployment of telehealth options for Medicaid enrollees. Additionally, we support permanently removing Medicare's geographic and originating site restrictions that, outside of the current PHE, will be significant barriers to expanded telehealth access. Data should drive future decisions on telehealth so that we can better understand telehealth utilization, ensure quality care is provided, and positive health outcomes are achieved. To this end, a comprehensive report evaluating the changes that have been made to enable telemedicine access during the PHE in both the Medicaid and Medicare programs would be beneficial.

Ensure access to 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.

In the CARES Act, Congress required Part D plan sponsors to provide a 90-day supply of medications in most cases during the COVID-19 pandemic. We urge your administration and 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 balance 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.

Conclusion

As the COVID-19 virus continues to spread across communities in the United States, we urge you and your congressional colleagues to provide the coverage resources individuals and families need to seek and afford timely treatment and care. The above recommendations will help assure that patients will be protected during this crisis and that our health care system will remain viable and available to them after the crisis.

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

Sincerely,

ALS Association
American Cancer Society Cancer Action Network
American Diabetes Association
American Heart Association
American Kidney Fund
American Liver Foundation
American Lung Association
Arthritis Foundation
Asthma and Allergy Foundation of America
Cancer Support Community
Chronic Disease Coalition
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America
JDRF
Lutheran Services in America

March of Dimes
Mended Hearts & Mended Little Hearts
Muscular Dystrophy Association
National Alliance on Mental Illness (NAMI)
National Health Council
National Hemophilia Foundation
National Kidney Foundation
National MS Society
National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Pulmonary Hypertension Association
Susan G. Komen
The Leukemia & Lymphoma Society
United Way Worldwide
WomenHeart: The National Coalition for Women with Heart Disease

Cc:

The Honorable Mitch McConnell
The Honorable Chuck Schumer
The Honorable Lamar Alexander
The Honorable Patty Murray
The Honorable Chuck Grassley
The Honorable Ron Wyden

The Honorable Nancy Pelosi
The Honorable Kevin McCarthy
The Honorable Steny Hoyer
The Honorable Steve Scalise
The Honorable Frank Pallone
The Honorable Greg Walden
The Honorable Richard Neil
The Honorable Kevin Brady
The Honorable Bobby Scott
The Honorable Virginia Foxx