



June 26, 2020

The Honorable Lamar Alexander
Chairman
U.S. Senate Committee on Health, Education, Labor and Pensions
428 Dirksen Senate Office Building
Washington, DC 20510

Re: Preparing for the Next Pandemic

Dear Senator Alexander:

The 23 undersigned organizations represent millions of patients and consumers who live with serious, acute, and chronic conditions across the country. Together, our organizations work to ensure that both patient voices and interests are reflected in any debate or legislation related to the accessibility, adequacy, and affordability of healthcare for Americans and their families. The diversity and experiences of our patients enable us to draw upon a wealth of knowledge and expertise that we believe can be an invaluable resource in this discussion. During the COVID-19 pandemic, our organizations have worked tirelessly to advance public policy to ensure our communities have access to the care they need.

In 2017, our organizations agreed upon three overarching principles to guide any work to reform and improve the nation's healthcare system. These principles state that: (1) healthcare must be adequate, meaning healthcare coverage should cover treatments patients need, including the services in the essential health benefit package; (2) healthcare should be affordable, enabling patients to access the treatments they need to live healthy and productive lives; and (3) healthcare should be accessible, meaning that coverage should be easy to understand and not pose a barrier to care. Enrollment should be easy to understand, and benefits should be clearly defined.

Using these principles as our benchmark, we have provided feedback and recommendations for your consideration as you develop legislation to address the next stages of this pandemic and prepare for future pandemics. We appreciate your attention to this issue and agree that we should use the lessons learned from this time to help our nation prepare for the next public health emergency, as well as to continue to improve our response to the current pandemic. Our comments will focus on health insurance coverage in keeping with our three principles.

Expand Coverage to Prepare for the Next Pandemic

We appreciated that your white paper recognized that inadequate access to care contributed to poor outcomes, including the disproportionate impact COVID-19 has had on minority populations.¹ About half of the 30 million Americans without insurance are people of color.² Insurance coverage that is adequate, affordable, and accessible will help ensure not only that people can access the care they need during a public health emergency, but also help ensure that they are in better health going into the next public health emergency.

Crucial to a national response to a public health emergency is adequate testing and treatment. Congress took several actions to ensure access to COVID-19 testing and treatment during the emergency declaration. The Families First Coronavirus Response Act (FFCRA) stated, and the CARES Act clarified, that diagnostic testing must be provided with no-cost sharing under Medicaid, Medicare, TRICARE, VA, and other coverage. FFCRA also created an option for Medicaid to cover diagnostic testing for the uninsured at 100% federal match.

Our organizations strongly support these provisions. However, implementation has been uneven and the provisions did not cover all people. Only 21 states have adopted the option to provide diagnostic testing through Medicaid.³ The requirements do not apply for those enrolled in short-term limited-duration plans and other non-ACA-compliant coverage. We are also concerned that people may not know about no-cost testing options. Even when Congress takes action to provide testing and treatment for free or at low costs, cost has continued to be a barrier to care for some patients. High deductible health plans, surprise billing, and simple lack of coverage has made people wary of seeking needed care. And while the Department of Health and Human Services (HHS) has also announced that some of the funds from the CARES Act Provider Relief Fund will go to hospitals as reimbursement for treating uninsured patients with COVID-19, it is unclear whether those funds will be sufficient to cover costs for hospitals that are already in challenging financial situations.⁴

These stop-gap efforts taken by Congress to address coverage for testing and treatment, though laudable, do not make up for a regular and consistent source of affordable, comprehensive coverage. To

¹ Senator Lamar Alexander. Preparing for the Next Pandemic, pg. 25. June 2020. Retrieved from https://www.alexander.senate.gov/public/_cache/files/0b0ca611-05c0-4555-97a1-5dfd3fa2efa4/preparing-for-the-next-pandemic.pdf

² USC-Brookings Schaeffer on Health Policy. There Are Clear, Race-Based Inequalities in Health Insurance and Health Outcomes. February 19, 2020. Retrieved from <https://www.brookings.edu/blog/usc-brookings-schaeffer-on-health-policy/2020/02/19/there-are-clear-race-based-inequalities-in-health-insurance-and-health-outcomes/>

³ Kaiser Family Foundation. Medicaid Emergency Authority Tracker: Approved State Actions to Address COVID-19. Retrieved on June 23, 2020 from <https://www.kff.org/coronavirus-covid-19/issue-brief/medicaid-emergency-authority-tracker-approved-state-actions-to-address-covid-19/>

⁴ Kaiser Family Foundation. Limitations of Program for Uninsured COVID-19 Patients Raise Concerns. June 16, 2020. Retrieved from <https://www.kff.org/coronavirus-policy-watch/limitations-of-the-program-for-uninsured-covid-19-patients-raise-concerns/>

respond to the current pandemic and in preparing for the next one, Congress should take action to ensure access to adequate, affordable, and accessible coverage and that no one is left uninsured.

Medicaid Expansion

There are currently over two million people who are in the “coverage gap,” with an additional 1.9 million more individuals expected to fall in the coverage gap due to a loss of employer-sponsored insurance as a result of the COVID-19 pandemic.⁵ These individuals live in a state that has not opted to expand Medicaid, do not make enough money to qualify for advanced premium tax credits (APTC), but make too much to qualify for their state’s limited Medicaid program – leaving them with no affordable coverage options. Health Management Associates has projected that nearly 70% of the newly uninsured in 2020 will live in states that did not adopt Medicaid expansion.⁶ Without access to high-quality insurance coverage, many individuals and families will be vulnerable to present and future public health emergencies.

Our organizations encourage Congress to work with states and the Centers for Medicare and Medicaid Services (CMS) to promote Medicaid expansion in the states that have not already expanded. One way to do this is to incentivize states to expand by offering an initial higher Federal Medical Assistance Percentage (FMAP) for coverage of the expansion population, similar to what the early adopter states received.

Medicaid Stability

Early in the pandemic, Congress acted to provide additional resources to states through an increase in the FMAP of 6.2 percentage points. However, the initial amount quickly proved insufficient to support state Medicaid budgets, and organizations including the National Governor’s Association and the National Association of Medicaid Directors have asked Congress for additional relief for state Medicaid programs.⁷ Last month, our organizations urged Congress to raise the FMAP increase from 6.2 to at least 14 percent to help states continue to serve as a vital safety net during this time.⁸ Projections indicate that Medicaid enrollment could increase by up to 18 million people by the end of the year.⁹ States need federal support to absorb this increase. Congress should increase the current FMAP, extend the time period during which it applies, and preserve the maintenance of effort requirements to ensure patients’ access to care during the current pandemic. Additionally, Congress should build in an automatic FMAP increase tied to the unemployment rate to enable state Medicaid programs to timely respond to future public health emergencies.

Expand Advanced Premium Tax Credits

⁵ Kaiser Family Foundation. The Coverage Gap: Uninsured Poor Adults in States that Do Not Expand Medicaid. January 14, 2020. Retrieved from <https://www.kff.org/medicaid/issue-brief/the-coverage-gap-uninsured-poor-adults-in-states-that-do-not-expand-medicaid/>

⁶ Health Management Associates. COVID-19 Impact on Medicaid, Marketplace, and the Uninsured. May 2020. Retrieved from <https://www.healthmanagement.com/wp-content/uploads/HMA-Updated-Estimates-of-COVID-Impact-on-Health-Insurance-Coverage-May-2020.pdf>

⁷ National Governor’s Association. Governor’s Letter Regarding COVID-19 Aid Request. April 21, 2020. Retrieved from <https://www.nga.org/policy-communications/letters-nga/governors-letter-regarding-covid-19-aid-request/>

⁸ Patient Coalition Letter to Congressional Leadership. May 26, 2020. Retrieved from <https://cqrceengage.com/efa/file/dntsG73lyFb/Coalition%20Medicaid%20Priorities%20for%20COVID%204%20Letter%205.20.20%20FINAL.pdf>

⁹ Health Management Associates. COVID-19 Impact on Medicaid, Marketplace, and the Uninsured. May 2020. Retrieved from <https://www.healthmanagement.com/wp-content/uploads/HMA-Updated-Estimates-of-COVID-Impact-on-Health-Insurance-Coverage-May-2020.pdf>

Congress should also work to address the of lack of affordable health plans for many Americans, including those with moderate incomes, by acting to increase the number of people eligible for APTCs. Currently, APTCs are only available for consumers making between 100 and 400 percent of the federal poverty level. By increasing the income eligibility threshold, more consumers would be able to afford health insurance through their state's individual marketplace. This has the potential to improve the health of states' individual market risk pools and therefore promote market stability.

Special Enrollment Period

In response to the public health emergencies, eleven states and the District of Columbia re-opened their health insurance marketplaces. More than 300,000 individuals have enrolled in coverage through these special enrollment periods as of mid-May.¹⁰ The federal government, which oversees the individual exchange for 38 other states, has not opened an enrollment period. The Kaiser Family Foundation has projected that, as of early May 2020, nearly 27 million Americans could lose their access to employer-sponsored coverage.¹¹ While those who have lost coverage due to a qualifying life event like loss of employer sponsored coverage may enroll via an existing special enrollment pathway, they are required to prove loss of coverage. These administrative requirements can be burdensome, especially during a pandemic that has caused significant disruptions to the normal operations of businesses nationwide. A new open enrollment period would reduce paperwork burden and allow the uninsured and underinsured to seek the coverage they need during this time. Congress should strongly encourage HHS to use its existing authority to open a special enrollment period as soon as possible. Additionally, Congress should study and consider making the opening of a special enrollment period an automatic flexibility triggered by a PHE.

Non-Compliant Plans

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. These plans put enrollees at substantial financial and physical risk, especially in emergency situations. Despite Congressional action to ensure that COVID-19 testing be provided at no-cost to promote the public health, Americans enrolled in these insurance-like products will not be protected. The Commonwealth Fund found that short-term plans have significant coverage gaps that would extend to COVID-19 treatment.¹² These plans are of such low quality that, for the purposes of COVID-19 treatment, Congress considers individuals enrolled in such plans to be uninsured. We are similarly concerned about association health plans and other insurance-like products which leave patients unprotected. We urge Congress to take action to restrict the availability of these plans.

Ensure Insurance Practices Support Public Health

At the beginning of the COVID-19 pandemic, many of our organizations were concerned that our communities would be unable to follow the public health advice issued by the Centers for Disease Control and Prevention (CDC) because of insurance practices. For example, the CDC recommends that

¹⁰ Inside Health Policy. More State Exchanges Extend COVID-19 SEPs, At Least 310K Enrolled. June 23, 2020. Retrieved from <https://insidehealthpolicy.com/vitals/more-state-exchanges-extend-covid-19-seps-least-310k-enrolled>

¹¹ Kaiser Family Foundation. Eligibility for ACA Health Coverage Following Job Loss. May 13, 2020. Retrieved from <https://www.kff.org/coronavirus-covid-19/issue-brief/eligibility-for-aca-health-coverage-following-job-loss/>

¹² Commonwealth Fund. In the Age of COVID-19, Short-Term Plans Fall Short for Consumers. May 12, 2020. Retrieved from <https://www.commonwealthfund.org/blog/2020/age-covid-19-short-term-plans-fall-short-consumers>

people who rely on medications have access to several weeks of medications and supplies.¹³ But most insurance policies will not cover additional supplies to allow people to plan for emergencies. Congress recognized this in the CARES Act by requiring Medicare Part D plans to provide a 90-day supply of medication so that enrollees could comply with CDC recommendations. The CDC also recommends the use of telehealth whenever possible. While most payers, including CMS, quickly relaxed restrictions on telehealth coverage, many questions remain as to whether that practice will remain in place. To prepare for future pandemics, Congress should work with the CDC, our organizations, and insurers to ensure that payment policy promotes the public health, and consider additional triggers tied to future public health emergencies to ensure patients can access critical services during pandemics. We would look forward to working with you as you develop these policy proposals.

Conclusion

Our organizations represent millions of patients, individuals, caregivers, and families who need access to quality and affordable healthcare regardless of their income or geographic location. We appreciate the opportunity to provide our recommendations in response to the white paper. We look forward to working with you and your colleagues to prepare for the next pandemic during the remainder 116th Congress. For more information or to discuss further, please direct your staff to contact Rachel Patterson of the Epilepsy Foundation at rpatterson@efa.org.

Sincerely,

American Cancer Society Cancer Action Network
American Heart Association
American Kidney Fund
American Lung Association
Arthritis Foundation
Cancer Support Community
CancerCare
Chronic Disease Coalition
Cystic Fibrosis Foundation
Epilepsy Foundation
Hemophilia Federation of America
Leukemia & Lymphoma Society
Muscular Dystrophy Association
National Alliance on Mental Illness
National Health Council
National Hemophilia Foundation
National Organization for Rare Disorders
National Patient Advocate Foundation
Pulmonary Hypertension Association
Susan G. Komen
The AIDS Institute
The American Liver Foundation
WomenHeart: The National Coalition for Women with Heart Disease

¹³ Centers for Disease Control and Prevention. Groups at Higher Risk for Severe Illness. Retrieved on June 23, 2020 from <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html>