hfma™
healthcare financial management association

July 29, 2020

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles Schumer
Senate Democratic Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
House Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

Re: Medicare Accelerated Payment Program and Advance Payment Program

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

On behalf of the Healthcare Financial Management Association's (HFMA's) 56,000 members, I would like to thank you and your colleagues for the bold action you've taken to-date to help sustain healthcare providers — particularly economically vulnerable rural hospitals and independent physician practices — as they have canceled elective procedures and incurred significant expenses to prepare for the COVID-19 pandemic and provide lifesaving care to those in their communities afflicted by this virus.

We write today regarding the Medicare Accelerated and Advanced Payment (AAP) Programs. In order to increase cash flow to providers of services and suppliers impacted by the COVID-19 pandemic, Congress, via the CARES Act, expanded Medicare's current AAP Programs to a broader group of Medicare Part A providers and Part B suppliers. The expansion of this program is only for the duration of the public health emergency.

Since expanding the AAP Programs on March 28, 2020, CMS has approved over 21,000 applications totaling $59.6 billion in payments to Part A providers, including hospitals. For Part B suppliers, including doctors, nonphysician practitioners and durable medical equipment suppliers, CMS approved almost 24,000 applications advancing $40.4 billion in payments.[1] In total, CMS has loaned $100B to 45,000

[1]CMS. MLN Connects, "COVID-19: CMS Reevaluates Accelerated Payment Program and Suspends Advance Payment Program," April 27, 2020.

hospitals, physicians and other providers since expanding the program on March 28. This is an average payment of $2.22M per recipient.

These funds have provided much needed liquidity at a time when hospitals are incurring significant expenses to provide care for patients suffering from COVID-19 and all providers have experienced precipitous declines in revenue as a result of social distancing and the need to conserve personal protective equipment.[2] On average, it is estimated that hospital revenues have declined by 40-60%[3] and physician practice revenues are down by 55%.[4]

Included in the CARES Act was a $100B appropriation to the HHS Public Health and Social Services Emergency Fund (hereafter Provider Relief Fund, or PRF) that was subsequently increased by $75B in the Protection Program and Health Care Enhancement Act. The purpose of these funds is to reimburse hospitals and healthcare providers for COVID-19 related expenses and lost revenue.

HFMA believes Congress's intent was for the Medicare AAP Program to act as a temporary liquidity vehicle to supply bridge financing to hospitals and physician practices — particularly organizations whose capital access became constrained[5] due to the pandemic's impact on capital markets — until HHS could distribute the $175B in PRFs. HFMA also believes that Congress's intent was that recipients of fund advances from the APP Program would then be able to use payments from the PRF to repay the Medicare loans. Based on HHS data, HFMA estimates there are a minimum of 179,000[6] recipients of payments from the PRF. This translates into a maximum average potential payment per recipient of $976,000. HFMA notes that as of May 15, HHS has still not provided comprehensive details of how the $175B in PRFs will be distributed. Therefore, providers who applied for the AAP Program loans were unable to estimate their ability to repay the loan on CMS's offered terms based on their receipt of funding from the PRF.

HFMA is concerned about the ability of some recipients, particularly independent physician practices, to repay these loans. As summarized in Table 1, on average, recipients of APP Program loans will need to repay CMS an average of $1.25M more than they received from the PRF.

Table 1: Average Provider APP Program Repayment Funding Shortfall

	Total Dollars Available for Distribution (or Distributed)	Total Number of Facilities/Providers Receiving Funds	Average Payment Per Facility/Provider
CARES Act Provider Relief Fund	$ 175,000,000,000	179,305	$ 975,991
Medicare AAP Program	$ 100,000,000,000	45,000	$ 2,222,222
Provider APP Program Repayment Shortfall	$ 75,000,000,000	134,305	$ (1,246,232)

[2] CMS Guidance on Elective Procedures
[3] J.P. Morgan. "The Stimulus Bill Isn't Enough: Hospital Revenues Are Declining Much Faster Than Anticipated."
[4] Medical Group Management Association. "COVID-19 Financial Impact on Medical Practices."
[5] HFMA. "Coronavirus leaves hospital financing in flux," March 19, 2020.
[6] Centers for Disease Control and Prevention. "HHS Provider Relief Fund," accessed May 15, 2020.

The terms of the loan are summarized in Table 2. CMS will start withholding 100% of recipients' Medicare allowable payments 120 days from when the recipient received the loan.[7] As of April 26, 2020, CMS will not be accepting any new applications for the Advance Payment Program, and CMS will be reevaluating all pending and new applications for accelerated payments. Based on this, HFMA estimates that by August 24, 2020, over 45,000 hospitals and providers will have 100% of their Medicare allowable payments withheld. This will impose a cash flow crisis on most, if not all, hospitals, physicians and other providers.

Furthermore, CMS, through its Medicare Administrative Contractors, will issue letters demanding repayment from physicians after 210 days and from hospitals after 365 days. Physician practices that received an APP Program loan will have a 9.625% interest rate applied to the outstanding balance of the loan by November 23, 2020. The corresponding date for hospitals is April 27, 2021.

Table 2: CMS APP Program Loan Terms

	Hospitals	**Physicians and Other Providers**
Amount of Payment Advanced/Accelerated[1]	6 Months of Medicare Allowable	3 Months of Medicare Allowable
Interest Rate Applied	Currently 9.625%	Currently 9.625%
Time from Receipt of Advanced/Accelerated Payment to Repay Before Recoupment Begins	120 Days	120 Days
Latest Date for Recoupment to Begin	**8/24/2020**	**8/24/2020**
% of Medicare Claims Recouped after 119 Days	100%	100%
Time from Receipt of Advanced/Accelerated Payment to Repay Before Interest Imposed	365 Days	210 Days
Imposition of Interest Begins	**4/27/2021**	**11/23/2020**

1. Critical Access Hospitals (CAHs) May Request 125% of Medicare Allowable

Most physicians and health systems are beginning to expand the non-emergent services they offer in accordance with CMS's and their state's guidelines. The shortfall between the PRF payments for lost revenue received by APP Program Loan recipients will require providers to "make up" the difference through increasing the volume of services provided to individuals who have delayed necessary care during the pandemic. Even absent the lagging effects of the COVID-19 pandemic, we do not believe it will be possible for some providers to deliver a sufficient volume of services to repay the APP Program loan and sustain ongoing operations.

There are finite hours in a week that physicians and their staff can provide services. And, even if there were no constraint on capacity, the assumption that demand for all services will instantly revert to

[7] CMS. "Fact Sheet: Expansion of the Accelerated and Advance Payments Program and Suppliers During COVID-19 Emergency."

normal is unrealistic[8]. While it is difficult to project volumes, given the uncertainties of the COVID-19 pandemic, conversations with HFMA members suggest that hospital and physician service volumes over the next 12 months will be much lower than their volumes during the same timeframe in 2019 due to the real need to preserve capacity for future flare-ups, limited personal protective equipment (PPE) due to increased global demand, consumer fears of contracting COVID-19 in a healthcare setting, capacity constraints on delivering non-emergent services and structural changes in the way care is delivered as a result of the pandemic. This is congruent with surveys of select specialists, like orthopedists, who anticipate volumes will be 33% lower in June and remain 7% lower in August, as compared with the period before the COVID-19 pandemic.[9] And we believe these estimates are optimistic given the increasing COVID-19 positive rates experienced in many areas of the country.

If CMS enforces the terms of the APP Program loans as they are currently structured, it will impair the viability of independent practices (particularly primary care providers[10,11]) and hospitals, particularly rural hospitals, that were financially challenged[12,13] before the COVID-19 pandemic. In markets where this occurs, it will limit access to care and reduce available jobs at a time when our nation desperately needs both.

HFMA members believe the most expedient course of action is for Congress to forgive the Medicare APP Program loans. HFMA estimates that physicians, hospitals and other providers are currently facing between $250 to $321B[14] in lost revenue and increased costs as a result of the COVID-19 pandemic.[15] The additional $100B in forgiven APP Program loan payments would supplement the already appropriated $175B in Provider Relief Funds appropriated to date. This will help ensure Americans have access to care and preserve good jobs.

If Congress does not see fit to forgive the loans, HFMA members believe Congress should pass legislation instructing CMS to modify the terms of the APP Program loans as follows:

- *Extend initiation of recoupment timeframe*: Extend the period before repayment begins from four months to at least 12 months.

- *Reduce recoupment percentage*: Reduce the amount of the Medicare claim reduction during repayment from 100% to no more than 25%.

- *Waive or reduce interest*: Waive the interest rate (or the collection of interest). If Congress imposes an interest rate it should reflect the Treasury's borrowing cost to repay the Medicare Trust Fund plus CMS's cost to administer the APP Program loans. Therefore, the appropriate interest rate should be no more than the average March 2020 interest rate for treasury bills[16] plus 5 basis points to cover CMS's cost for administering the program. We believe the Treasury Bill rate best matches duration of these loans and therefore the Treasury's borrowing costs to

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[8] https://achp.org/blog-covid-19-shifting-consumer-behavior-and-attitudes-toward-health-care/
[9] H. Mensik, "Orthopaedic surgeons predict return to somewhat normal volumes in 6 months," *Healthcare Dive*, May 12, 2020.
[10] R. Pifer, "1/5 of primary care practices could close within next month as US mulls reopening economy," *Healthcare Dive*, April 20, 2020.
[11] COVID-19 leaves primary care in dire straits," *Modern Healthcare*.
[12] The Chartis Group, "The Rural Health Safety Net Under Pressure: Rural Hospital Vulnerability." February 2020.
[13] A. Diaz, K.R. Chaabra, and J.W. Scott, "The COVID-19 pandemic and rural hospitals — adding insult to injury," Health Affairs, May 3, 2020.
[14] HFMA correspondence to Hon. Mitch McConnell, Hon. Charles Schumer, Hon. Nancy Pelosi, and Hon. Kevin McCarthy, April 14, 2020.
[15] HFMA Analysis, assumes non-emergent procedures are performed on a limited basis for between 2.5 to 3 months under CMS's current guidance.
[16] Treasury Direct, "Interest rates and prices," March 2020.

repay the Medicare trust fund for the loans. We believe the appropriate interest rate is 1.2165%.

- *<u>Extend Repayment Period</u>*: Extend the repayment period before interest begins to accrue from 12 months to a minimum of 36 months.

Hospitals, physicians and other providers across the country are struggling financially under the weight of the COVID-19 pandemic and will continue to struggle beyond this initial response period. The changes we have suggested will have a material impact on the ability of health systems and independent providers to respond to COVID-19, plan for the future and continue to provide vital care to America's patients and communities.

HFMA looks forward to any opportunity to provide additional assistance or comments to support Congress's response to the COVID-19 pandemic. As an organization, we take pride in our long history of providing balanced, objective financial technical expertise to Congress, federal agencies and advisory groups. If you have additional questions, you may reach me or Richard Gundling, Senior Vice President of HFMA's Washington, DC, office, at (202) 296-2920. The Association and I look forward to working with you.

Sincerely,

Joseph J. Fifer, FHFMA, CPA
President and Chief Executive Officer
Healthcare Financial Management Association

cc:
Alexander Azar, Secretary of Health and Human Services
Seema Verma, Administrator, Centers for Medicare & Medicaid Services

<u>About HFMA</u>

HFMA is the nation's leading membership organization for more than 56,000 healthcare financial management professionals. Our members are widely diverse, employed by hospitals, integrated delivery systems, managed care organizations, ambulatory and long-term care facilities, physician practices, accounting and consulting firms and insurance companies. Members' positions include chief executive officer, chief financial officer, controller, patient accounts manager, accountant and consultant.

HFMA is a nonpartisan professional practice organization. As part of its education, information and professional development services, HFMA develops and promotes ethical, high-quality healthcare finance practices. HFMA works with a broad cross-section of stakeholders to improve the healthcare industry by identifying and bridging gaps in knowledge, best practices and standards.