

July 31, 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: Measures to Ensure Safety Net Hospital Operational Sustainability

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 and safety net hospitals – 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.

I write to ask that Congress take action to ensure hospitals do not lose access to discounted drug prices under the 340B drug pricing program as a result of the COVID-19 pandemic and its impact on hospital operations. We appreciate the Health Resources and Services Administration (HRSA) recognizing the evolving impact of the pandemic on 340B hospitals and allowing for additional flexibilities. However, HRSA has recently made clear that they do not have the authority to waive these 340B statutory requirements<sup>1</sup> which further underscores the need for Congressional action.

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<sup>1</sup> HRSA Covid-19 Resources Page, <https://www.hrsa.gov/opa/COVID-19-resources>

Hospitals across the country are on the frontlines treating COVID-19 patients, and 340B hospitals and their patients are among those most impacted by the pandemic. As you know, hospitals qualify for the 340B program by virtue of treating high volumes of low-income patients or being located in remote, rural areas. 340B hospitals provide critical services to low-income patients. Although 340B disproportionate share (DSH) hospitals comprise only 38 percent of all acute-care hospitals, they provide 60 percent of the nation's uncompensated care.<sup>2</sup>

Many 340B hospitals are concerned that the impact of COVID-19 on hospital operations could temporarily affect their ability to meet 340B eligibility requirements. For example, hospitals that participate in 340B as DSH hospitals, free-standing children's and cancer hospitals, sole community hospitals, and rural referral centers must demonstrate a sufficient DSH adjustment percentage on the most recently filed Medicare cost report to qualify for 340B.<sup>3</sup> The DSH adjustment percentage is a product of Medicaid inpatient days and Medicare/ Supplemental Security Income (SSI) inpatient days.

The hospital response to COVID-19 could have a material impact on hospital admissions and payer mix in ways that could affect hospital eligibility for the 340B program. Hospitals may also experience temporary changes in their payer mix as they see an influx of COVID-19 admissions and attempt to keep patients out of their inpatient units to reserve space for critically ill individuals. Additionally, hospitals' DSH percentage could also be affected by the intentional shift to more outpatient care and telemedicine visits in order to prevent the spread of infection. Such changes could reduce a hospital's DSH adjustment percentage, unfairly penalizing them and affecting their ability to access 340B pricing.

Further, while all hospitals are currently facing drug shortages and distribution challenges due to COVID-19, 340B hospitals are struggling even more to maintain adequate drug supply while adhering to the prohibition on using group purchasing organizations (GPO's).

In light of the critical role 340B hospitals play in our nation's safety net, we respectfully ask that Congress protect 340B hospitals from losing access to 340B discounts as a result of changes in hospital operations in response to COVID-19 by either passing S. 4160: *A bill to enable certain hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID-19 public health emergency to temporarily maintain eligibility for such program, and for other purposes*, co-sponsored by Senators Thune, Stabenow, Portman, Baldwin, Capito, and Cardin. Or alternatively, HFMA members support including this language in the next COVID-19 relief legislation. By doing so Congress will ensure that hospitals may continue to participate in the 340B program, so they are able to meet the needs of our nation's most vulnerable patients.

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

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<sup>2</sup> L&M Policy Research, "Analysis of 340B Disproportionate Share Hospital Services to Low Income Patients (March 12, 2018), [https://www.340bhealth.org/files/340B\\_Report\\_03132018\\_FY2015\\_final.pdf](https://www.340bhealth.org/files/340B_Report_03132018_FY2015_final.pdf).

<sup>3</sup> Hospitals that do not file Medicare cost reports can meet this requirement using data to demonstrate what the hospitals' DSH adjustment percentage would otherwise be.

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

#### **About HFMA**

HFMA is the nation's leading membership organization for more than 58,000 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.