



July 28, 2020

The Honorable Alex Azar II Secretary U.S. Department of Health & Human Services Hubert H. Humphrey Building 200 Independence Avenue, SW Washington, DC 20201

The Honorable Seema Verma Administrator Centers for Medicare & Medicaid Services US Department of Health & Human Services Hubert H. Humphrey Building 200 Independence Avenue, SW Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

On behalf of the 92 hospitals across our 22-state footprint, Trinity Health appreciates the Administration's efforts to help providers respond to the ongoing COVID-19 pandemic. The flexibilities that have been provided to date have helped our hospitals and providers focus on preparing for surge capacity and caring for COVID-19 patients. There remain significant policy levers that HHS can use to help Trinity Health and other providers continue to be able to respond to the needs of our communities during the pandemic and reduce burden.

The COVID-19 response of our health system has been extremely resource intensive, including: adding beds, redesigning emergency departments and patient flow, building community-based public health infrastructure, testing colleagues for the virus and paying for at-home quarantines, and purchasing tremendous amounts of supplies and equipment.

At our April peak, Trinity Health experienced about 2,000 COVID-19 inpatient cases, supported almost 1,000 front-line colleagues who were quarantined, was paying 300-500% more for personal protective equipment, and watched volumes plummet with surgeries down 69%. The impact of this pandemic is unlike anything we've experienced.

We have taken bold efforts to offset our losses. These efforts include a capital freeze, delaying several strategic initiatives, and painful workforce reductions. We believe the federal government should be doing more to support the front-line workforce. HHS can assist health providers with the following: quickly disburse remaining Provider Relief Funds, forgive advanced and accelerated payment loans, increase adoption and expansion of telehealth, improve new laboratory reporting, create national supply chain certainty, and reduce provider regulatory burden.

Disburse Provider Relief Fund Quickly and Transparently

The virus continues to strain health systems such as ours and will continue to do so until there is a widely available vaccine. We are grateful to the Department for distributing approximately \$120 billion of the \$175 billion appropriated for the Provider Relief Fund. **We urge HHS to disperse the remaining funds in the Provider Relief Fund as soon as possible using a transparent methodology. The formula for the next distribution from the general allocation should focus on net patient service revenue, which is data available to HHS for most providers. Consistent with the current methodology, HHS may then determine whether providers retain these funds based on their accounting for lost revenue and incremental costs due to COVID-19.**

In addition, providers who qualified to receive funding in prior tranches but did not—either as a result of HHS' error or reporting error—should have the opportunity to appeal and receive funding. A few examples from our health system:

- Safety net facility St Francis Medical Center incorrectly entered the cost of charity care on the S-10 cost report and immediately reported it to the Medicare Administrative Contractor (MAC). The MAC advised the facility to wait until the S-10 audit to correct the error rather than amending the cost report. **As a result, this facility missed out on \$12 million from the first safety net allocation despite meeting all other criteria. An amended cost report was accepted by the MAC in June but the facility was again excluded from the second safety net allocation.**
- **Four of our facilities met the Department's criteria for \$56 million in funding from the second hot spot allocation but have yet to receive any funding from that tranche.** We have shared screenshots of data submitted through the portal with HHS confirming eligibility for the allocation and have contacted the provider support line and HHS staff. We're hopeful these providers will receive this much needed hot spot funding.

Finally, as HHS defines reporting requirements for how providers used Provider Relief Fund allocations, we urge you to take into consideration the severity of this pandemic's impact on the health delivery system. The definition for qualifying expense should include incremental expenses including extra personal protection equipment, enhanced cleaning, screening personnel, paid leave time for all quarantined staff, and staff redeployment to hot spots.

Forgive Advanced and Accelerated Payment Loans

Congress has granted HHS authority to provide accelerated payments to providers. The recoupment period begins after 7 months – 12 months, depending on provider type, with an interest rate of 10.25 percent that begins 30 days after HHS issues a payment demand letter. **We urge HHS to work with Congress to forgive all or a portion of these loans. Absent forgiveness, HHS should use its existing authority under 45 CFR 30.18(g)(1), 45 CFR 30.18(g)(2)(ii), and 45 CFR 30.18(b)(2) to waive collection of interest or significantly reduce the interest rate to no more than 2 percent. In addition, HHS should delay the beginning of loan recoupment.** We also support additional recommendations outlined to HHS by the American Hospital Association in their letter sent on April 6, 2020.

Increase Adoption and Expansion of Telehealth

As part of COVID-19 relief, the Department has provided temporary flexibilities to make telehealth services more readily available, relaxing long-existing barriers to providing care through telehealth. These telehealth changes have had many advantages, including keeping patients and providers safe from exposure to COVID-19, preserving personal protective equipment, and improving access to care. In addition, they have allowed patients access to their existing physicians, which has been critical for patients with chronic conditions.

The positive experience Trinity Health has had with the increased adoption and expansion of telehealth across our health system makes it clear telehealth is a critical component for how we provide high quality, patient-centered care moving forward. **We recommend HHS act to make the following telehealth flexibilities permanent:**

- Allow clinicians to furnish and bill with parity of payment with in-office visits across all payers and settings.
- Allow reimbursement of telehealth visits when originated within the patient's home or location of their choosing where clinically appropriate.
- Allow clinicians to be reimbursed for telehealth when seeing new patients or a patient not previously seen at their practice.
- Remove limitations on frequency of services.
- Expand types practitioners eligible to bill for telehealth services.
- Expand covered services reimbursable for telehealth, ensuring to include prescribing and behavioral health services.

Improve New Laboratory Reporting

In response to the Section 18115 CARES Act requirement that every laboratory that performs or analyzes a test that is intended to detect or diagnose a possible case of SARS-CoV-2 report the results from each such test to the Secretary of the Department of Health and Human Services, HHS established August 1st as the effective date for daily data reporting.

Trinity Health has significant concerns with the proposed August 1, 2020 timeline. The newly required data elements and ask-on-order-entry questions require significant monetary investment and coordination from hospitals and other entities—including EHR and other vendors—to be successful. Additionally, many states have yet to provide guidance on how they intend to collect this data from laboratories before advancing to HHS. **We urge HHS to provide more time to come into compliance with these new guidelines.** In addition, these new requirements are daily and require hospital resources. **We urge HHS to allow providers to load Saturday and Sunday data on Monday and minimize changes once lab reporting requirements are finalized.**

Create National Supply Chain Certainty

Access to personal protective equipment (PPE) and diagnostic testing continues to be an enormous challenge. Without access to PPE and testing, we cannot protect our front-line workers, nor can we safely fully resume/continue elective surgeries. Ultimately, we cannot be prepared for subsequent surges. **We urge HHS to develop transparent policies related to the Strategic National Stockpile (SNS) that include information on the inventory, location and accessibility of the stockpile, along with a process to track the status of critical product shortages.** Efforts to augment the SNS should not impede hospitals and other providers from accessing the medicines, supplies, PPE, and testing needed for immediate patient care. **In addition, HHS should develop a coordinated national supply chain initiative via a public-private partnership that includes a "marketplace" for supplies with information on demand allow supply chain experts to lead this work with government at the table.**

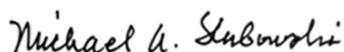
Reduce Provider Regulatory Burden

Our staff must focus solely on responding to the pandemic, and we have limited time and resources to implement new policies. Trinity Health requests HHS **delay implementation and finalization by two years of the following policies:**

- Hospital Price Transparency rule, which is set go to into effect January 1, 2021. Alternatively, HHS could delay enforcement to provide hospitals additional time to meet these time intensive requirements.
- Proposed Medicaid Fiscal Accountability rule to avoid disrupting state financing and the health care system.

Trinity Health appreciates your considerations of the above recommendations to enhance our response to the COVID-19 pandemic. If you have any questions or need more information, please contact Tina Grant, Vice President of Public Policy and Advocacy, at granttw@trinity-health.org or 517-643-0784.

Sincerely,



Michael A. Slubowski
President and Chief Executive Officer