PHASE FOUR COVID-19 LEGISLATIVE PRIORITIES (CARES 2.0)

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New York's hospitals and health systems incurred staggering financial losses in response to the COVID-19 crisis. Now, with the worst of the patient surge behind them, they are experiencing a protracted strain on their financial resources.

These providers need continued Federal support to ensure that they can provide high-quality care during and after the COVID-19 crisis. GNYHA urges Congress to consider the disproportionately dire situation of New York-area hospitals and health systems when considering future COVID-19 proposals.

FUNDING FOR STATE GOVERNMENTS TO AVOID DRASTIC SPENDING CUTS

States have lost significant revenue due to the virtual shutdown of the economy at the same time that the COVID-19 pandemic has dramatically increased their expenses. Without significant Federal funding, states (which are required to balance their budgets) may be forced to dramatically cut health care spending in the middle of a pandemic. State funding cuts during an economic downturn will also significantly worsen the economic crisis the pandemic has created.

We therefore urge Congress to support the bipartisan requests in the April 21 letter from the Chair and Vice Chair of the National Governors Association (NGA), Governors Larry Hogan (R-MD) and Andrew Cuomo (D-NY).

Congress should:

- Create a $500 billion fund to help make up for lost revenue and prevent drastic cuts to essential state-funded services, especially health care
- Increase the Families First Coronavirus Response Act's temporary 6.2% increase in the Federal medical matching percentages (FMAP) to 12%. The increase should apply to costs associated with all Medicaid populations (including Affordable Care Act expansion populations), be retroactive to January 1, 2020, and last at least through September 30, 2021. The legislation should also provide flexibility to reform Medicaid programs without cutting any current beneficiaries off the rolls or increasing the ranks of the uninsured. In addition, the legislation should increase the state disproportionate share hospital (DSH) allotments to adjust for the increased FMAP. Without such an adjustment, states electing the enhanced FMAP would need to reduce aggregate hospital DSH payments to stay within their DSH allotments, inadvertently requiring cuts to hospitals

CONVERT MEDICARE ADVANCES TO GRANTS

The CARES Act enabled hospitals to request a six-month Medicare advance (all other providers and suppliers can request a three-month advance). These advances were subject to certain repayment terms beginning 120 days after the advance (hospitals receiving periodic interim payments are subject to different payment terms tied to settlement of their cost report).

Congress passed a short-term Federal funding bill that includes limited Medicare advance payment relief and makes the following improvements to the repayment terms:

- Pushes the loan recoupment to one year after issuance of the advance payment
- Extends the balance due date to September 1, 2022
- Reduces the recoupment percentage against Medicare claims to 25% for the first 11 months and then to 50% for the six months thereafter
- Reduces the interest rate on any amounts due after September 1, 2022, to 4% (down from the previous rate of roughly 10%)
- Removes the Health and Human Services (HHS) Secretary's discretion to approve hospital advances (the Centers for Medicare & Medicaid Services halted some hospital applications for advances). This provision would reopen the Medicare Accelerated and Advance Payment (MAAP) program for hospitals and health systems that have not yet applied

While GNYHA welcomes these changes, the proposal does not address all our MAAP concerns, and reforming the program continues to be one of our top legislative priorities.

Congress should:

- Convert the Medicare advances into a grant/loan forgiveness program so that either no repayment or a partial repayment would occur. Metrics demonstrating financial harm from the COVID-19 pandemic could be used to determine the eligibility for loan forgiveness. This would provide invaluable cash flow assistance to providers that will still be reeling from COVID-19's financial impact when the Medicare advance repayments will begin
- At a minimum, further improve the advance repayment terms by extending the timeframe for the 25% recoupment offset and providing an option for providers to extend the repayment terms for up to 20 years. In addition, the interest rate should be reduced to no more than 2% (about the current 4% is still far above current market rates)
- Make a technical correction to the CARES Act to allow a long-stay neoplastic hospital (defined under Section 1886(d)(l)(B)(vi)) to qualify for a six-month Medicare advance, as well as for the improved repayment terms

EXTEND THE MEDICARE ACCELERATED REPAYMENT PROGRAM AND COVID-19 PAYMENT INCREASE TO MEDICARE ADVANTAGE PLANS

While the CARES Act expanded the Medicare accelerated payment program, it did not require the participation of Medicare Advantage (MA) plans. In many counties across the US, more than half of local Medicare beneficiaries are enrolled in MA plans. For these hospitals to receive the benefit of the CARES Act's Medicare advance payments, MA plans must also provide advance payments.

Congress should:

- Require MA plans to follow Medicare fee-for-service (FFS) policies in affording hospitals relief and protections during the pandemic
- Include payment advances and the waiver of certain administrative rules such as preauthorization and timeframes for claims submissions and appeals
- Require MA plans to follow Medicare FFS and provide a 20% increase to the diagnostic-related group reimbursement rate for COVID-19 admissions

INCREASE DIRECT HOSPITAL FUNDING FOR EMERGENCY EXPENSES RELATED TO COVID-19

Hospitals and health systems nationwide have incurred tremendous financial losses due to the expenses associated with providing care to COVID-19 patients and lost revenue from deferred procedures. These additional expenses include, but are not limited to, increasing staffing levels by hiring agency nurses and other staff, purchasing unprecedented levels of personal protective equipment and pharmaceuticals, and buying additional equipment such as ventilators and beds to increase capacity.

To limit the spread of COVID-19 and ensure there are enough beds for COVID-19 patients, hospitals nationwide have deferred health care procedures and limited ambulatory care services. In taking these necessary steps, hospitals and health systems have lost hundreds of billions of dollars. Without additional Federal financial support, they will experience severe long-term financial challenges that will threaten their patient care mission.

Congress should:

- Increase funding for the "Public Health and Social Services Emergency Fund" from $175 billion to $275 billion
- Ensure that hospitals and health systems receive immediate Federal funding—giving priority to hospitals in areas that have treated or continue to treat a disproportionate number of COVID-19 patients

GRADUATE MEDICAL EDUCATION FUNDING: BOLSTERING THE PHYSICIAN WORKFORCE TO ADDRESS PUBLIC HEALTH CRISES

Teaching hospitals are on the front lines of the COVID-19 crisis. They are deploying every available physician to care for vastly more inpatients. But even with those deployments, teaching hospitals have been forced to identify additional clinical resources to supplement the existing physician workforce. Like other states, New York has issued unprecedented waivers to licensure and practice rules to ensure that physician resources are available to care for patients during a crisis that has highlighted not only the nation's physician shortage, but also public policies that obstruct the development of more doctors. Teaching hospitals are capped in the amount of funding they can receive for the training of resident physicians who will become part of the front-line response to any future crisis.

Congress should:

- Enhance Medicare support for physician training programs and lift outdated caps on the number of reimbursable residency slots by passing the Resident Physician Shortage Reduction Act of 2019 (H.R. 1763/S. 348)

DELAY UPCOMING HOSPITAL REIMBURSEMENT CUTS

Now is not the time to cut reimbursement rates to states or hospitals that are being stretched thin by the COVID-19 crisis. Cuts to safety net hospitals and programs for low-income individuals would be particularly harmful.

Congress should:

- Eliminate the Medicaid DSH cuts, which are set to go into effect on December 11, 2020
- Suspend the Medicare sequester cuts for at least the duration of the pandemic. The CARES Act suspended the 2% sequester cuts to Medicare providers, including hospitals, physicians, and post-acute care providers, but only through December 31, 2020.

PROVIDE FINANCIAL RELIEF BY MODIFYING FINANCING TERMS

In response to hospitals' massive COVID-19 challenges, Congress should consider waiving or modifying payment terms to help them preserve cash flow and sustain operations.

Congress should:

- Require lenders to provide relief from debt covenants on hospital loans to prevent the triggering of financial penalties
- Extend the interest rate relief under the Bipartisan Budget Act of 2015 for defined benefit pension plans (it is due to phase out beginning in 2021)
- Waive 2020 Pension Benefit Guaranty Corporation fees

INFRASTRUCTURE FUNDING FOR HOSPITALS

The COVID-19 crisis has worsened the nation's deteriorating hospital infrastructure. The lack of access to capital funding makes it extremely difficult for hospitals to make long-overdue infrastructure improvements, including a post-pandemic conversion back into full-service hospitals. The crisis has also demonstrated why the United States must bolster its telehealth and health information technology (HIT) infrastructure.

Congress should:

- Increase capital access for hospitals that need infrastructure improvements, particularly those that dipped into their capital reserves to treat COVID-19 patients
- Improve the nation's telehealth infrastructure by helping to fund provider startup costs such as purchasing videoconferencing equipment and reliable connectivity, and loosening rules and regulations, particularly around geographic, service type, and provider restrictions
- Free up additional capital for providers to make it easier to comply with Federal electronic health record and other HIT standards, which hospitals nationwide have already invested billions in to comply with, and to make other necessary improvements

CRISIS PAY FOR HEALTH CARE WORKERS

Health care workers on the front lines of the COVID-19 crisis are working increased hours and risking exposure to the virus. Many have made significant personal sacrifices such as quarantining themselves from their immediate family members and migrating to hot-spot cities to provide vital care during this emergency.

Congress should:

- Pass legislation to fund significant "crisis pay" payments that could be used to fund increased wages, bonuses, and/or benefits for health care workers

LIMITED LIABILITY FOR PROVIDERS TREATING COVID-19 PATIENTS

The COVID-19 crisis has forced health care providers and their workforces to make difficult decisions on how to best allocate limited resources and care for COVID-19 patients. Hospitals and other health care providers, particularly those in hot spots, have asked their nurses, physicians, and other health care workers to serve under incredible stress.

Congress should:

- Ensure that health care entities and workers are protected from all forms of legal exposure and liability as they carry out their jobs in support of Federal and state COVID-19 response efforts

GNYHA requests the inclusion of these policy proposals in a fourth COVID-19 relief package.