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COMMITTEES:
ARMED SERVICES
ENVIRONMENTAL AND PUBLIC WORKS
AGRICULTURE
SPECIAL COMMITTEE ON AGING

December 10, 2020

The Honorable Richard Shelby
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Patrick Leahy
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Nita M. Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

The Honorable Kay Granger
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Shelby, Chairwoman Lowey, and Ranking Members Leahy and Granger:

As we face another COVID-19 wave during influenza season, federal support is more important than ever to New York nonprofit and public hospitals, health systems, nursing homes, home health agencies and other healthcare providers. As you finalize appropriations legislation ahead of the government funding deadline, I urge you to also include supplemental coronavirus relief and the priorities that will help keep hospitals and health systems firmly in the fight against COVID-19, save lives, and protect our healthcare workers.

New York's hospitals and health systems provide care to millions of New Yorkers while improving the economy and community. Their annual contributions include $170B in economic activity and make up 10% of the state's entire gross domestic product. Hospitals and health systems are often the largest employers in communities and generate new jobs in every region of New York.

Fighting COVID-19, New York hospitals have incurred major expenses such as increasing bed capacity, purchasing personal protective equipment (PPE), and hiring healthcare professionals. At the same time, hospitals have experienced staggering revenue losses due to interruptions in elective procedures and reduced use of healthcare services. As a result, hospitals have been forced to take funding advances and loans, delay accounts payable, furlough thousands of staff, and postpone much-needed capital projects.

COVID-19 is devastating already strained hospital finances. One financial analysis suggests that in just a little more than one year (second half of March 2020 through April 2021), hospitals across the state will suffer $20-$25 billion in losses and new expenses due to the COVID-19

response. This reflects about 25-30% of our hospitals' patient service revenue in a year — a devastating blow to any business, but especially devastating to those businesses fighting on the front lines of COVID-19 which must also retain essential healthcare services 24/7.

COVID-19 is devastating New York State's government finances. New York State is projecting a budget gap of $30 billion over the next two years as a result of COVID-19. Without federal aid or measures to increase state revenues, hospitals will likely face up to a 20% cut this year for services provided to Medicaid enrollees. This massive cut would be on top of the $2.2 billion in Medicaid cuts already adopted this year in New York State and is not sustainable for hospitals and the patients they serve.

I am urging Congressional leadership to pass a comprehensive COVID response bill that includes funding for state and local governments, health providers, vaccine distribution, PPE and testing, and support for health workers. Specifically, I am requesting the inclusion of these policy proposals in any upcoming COVID-19 relief package:

Funding for State and Local Governments to Avoid Spending Cuts

Any upcoming coronavirus relief legislation must include substantial funding for a state stabilization fund to provide direct funding to state and local governments. In addition, it should increase the Families First Coronavirus Response Act's temporary 6.2% increase in the Federal medical matching percentages (FMAP) to at least 14%. 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

Coronavirus relief legislation has enabled hospitals to request six-month Medicare advances (all other providers and suppliers can request a three-month advance) that were subject to certain repayment terms. Any coronavirus relief legislation should convert the Medicare advances into a grant/loan forgiveness program so that either no repayment or a partial repayment would occur, at a minimum we urge you to further delay the repayment of these loans.

Provider Relief Fund Increase and Flexibility for Emergency Expenses Related To COVID-19

Coronavirus relief legislation should increase funding for the "Public Health and Social Services Emergency Fund" from $175 billion to at least $275 billion and 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.

Additionally, healthcare providers continue to experience steep costs and lost revenue as the pandemic continues surging across the country. As lawmakers, we need to ensure that hospitals and health systems have the flexibility they need to use these funds as they meet the demands of the pandemic. Specifically, I urge you to include legislation that would provide flexibility on how a provider can define lost revenue, allow health systems to allocate resources among their subsidiaries to ensure each hospital within a system is able to maintain access to health services for COVID and non-COVID patients, and allow health systems to use these funds for both emergency use related to the COVID-19 pandemic as well as critical permanent infrastructure improvements to create resiliency and preparedness for the next wave of COVID and any future pandemics.

Finally, expanding Provider Relief Fund flexibility would provide additional support to safety net hospitals on the front lines of the COVID-19 pandemic. Modifying Federal Emergency Management (FEMA) Public Assistance program requirements to allow use of the Provider Relief Fund to cover the non-federal share of costs for the COVID-19 response would provide consistency with the Coronavirus Relief Fund and open a key resource for providers that are already struggling from the resulting financial impacts of the COVID-19 pandemic.

Crisis Pay and Bolstering the Health Workforce

Coronavirus relief legislation should include "crisis pay" payments that could be used to fund increased wages, bonuses, and/ or benefits for health care workers. It 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), and include my proposal with Senator Bennet and others, the *Health Force and Resilience Force*. Legislation should also help provide tax-free child care, housing, transportation and education benefits for hospital workers.

Delay Upcoming Hospital Reimbursement Cuts and Modify Financing Terms

Coronavirus relief legislation should eliminate the Medicaid Disproportionate Share (DSH) cuts, which are set to go into effect on December 11, 2020 as well as 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. Coronavirus relief legislation should also consider waiving or modifying payment terms to help them preserve cash flow and sustain operations. By requiring lenders to provide relief from debt covenants on hospital loans to prevent the triggering of financial penalties.

Infrastructure and Telehealth Funding for Hospitals

Coronavirus relief legislation should increase capital access for hospitals that need infrastructure improvements, particularly those that used capital reserves to treat COVID-19 patient. A coronavirus relief package should improve the nation's telehealth infrastructure by helping to fund provider startup costs such as purchasing videoconferencing equipment and reliable connectivity, and improving rules and regulations particularly around geographic, service type, provider restrictions, and accessibility for people with disabilities.

Thank you for your consideration of these critical priorities for the sustained operation of New York State hospital and health systems.

Sincerely,