



March 24, 2020

The Honorable Lawrence J. Hogan, Jr.  
Governor of Maryland  
100 State Circle  
Annapolis, MD 21401

Ms. Tricia Roddy  
Acting Medicaid Director, MDH  
201 West Preston Street  
Baltimore, MD 21201

Dear Governor Hogan and Ms. Roddy:

First, thank you and your teams for your swift and proactive responses to the historic challenge we are all currently facing with the COVID-19 pandemic. We are fortunate to be in a state in which sound, bipartisan actions are being taken by our leaders.

We are writing to urge immediate, additional emergency action to put in place steps to ensure the availability of essential funding for Medical Assistance Program ("Medicaid") nursing facility services, **specifically related to the backlog in eligibility determination and re-determination for Marylanders in need who are already receiving care in skilled nursing and rehabilitation centers.** LeadingAge Maryland joins us in this critical ask.

We are grateful you recognize that the stable, effective, and nimble response by Maryland's skilled nursing facilities, along with our hospital partners and the entire health care continuum, is essential. Most important to this response is the sufficient availability of staff, equipment, medications and supplies, which makes up the vast majority of the cost of care.

Sufficient funding is critical, yet the benefit of funding is fundamentally contingent on a functioning Medicaid eligibility process that is already overburdened and is the subject of ongoing concern. Millions of dollars in reimbursement is owed to skilled nursing and rehabilitation centers for quality care already provided to Marylanders in need; this funding would greatly contribute to addressing the current crisis.

Moreover, there is greater concern that even funding that is available will not make it to skilled nursing and rehabilitation centers in a timely way while the state's workforce is prudently teleworking in a largely paper-dependent eligibility approval process and while we all are rightfully focused on clinical capacity needs during this pandemic.

Governor Hogan, we ask that you exercise your authority pursuant to your March 5, 2020 Proclamation declaring a state of emergency and catastrophic health emergency, to direct and authorize the Maryland Department of Health and Maryland Department of Human Services to take any and all actions to establish eligibility for and to (a) pay Medicaid claims for past services by Medicaid nursing facilities and (b) to ensure the immediate, timely, and effective approval of eligibility and payment for nursing facility services going forward.

As the Acting Medicaid Director, Ms. Roddy, we wish to be in immediate communication and coordination with you concerning Maryland's response to the March 22, 2020 Centers for Medicare and Medicaid Services ("CMS") letter, #20-002, to State Medicaid Directors on COVID-19 Public Health Emergency Section 1115(a) Opportunity for States (the "SMDL Letter"). We are evaluating the SMDL letter and anticipate being in further communication about it.



**We do, however, wish to immediately and specifically focus on the provisions stating:** “The COVID-19 section 1115 demonstration opportunity can make available a number of authorities and flexibilities to assist states in enrolling and serving beneficiaries in Medicaid and to focus state operations on addressing the COVID-19 pandemic.”

**We also wish to focus on this provision that we anticipate is not confined to section 1915 demonstrations:** “The demonstration opportunity can also be used by states to accept self-attestation of applicant resources, which will assist Medicaid agencies in making streamlined eligibility determinations for some vulnerable populations.”

**We urge the following measures as soon as possible:**

- Interim approval of all Medicaid applications of residents in nursing facilities who are prepared to attest to applicable qualifications for the duration of the emergency and a reasonable period thereafter to enable follow up after the crisis abates.
- Suspend all annual redeterminations for another year to avoid a cut off of essential payments for currently approved beneficiaries.
- Pay nursing facilities on an interim, Prospective Interim Payment basis at 110% of the average of the prior 3 to 6 months payment.
- Where families or responsible parties are not forwarding Social Security payments or other resource amounts due from residents, pay the full Medicaid rate and use the authority of the government to collect these funds.
- Process all copay claims immediately regardless of the 128 error code issues (addressing the one year issue).
- Pay all claims pending in the Problem Resolution Unit for which the facility has a notice of eligibility where the claim was not paid due to a “span” issue for the period 2016 forward and otherwise direct the Medicaid program to pay claims held up by “span” issues.

It is vital that each of you use your respective authorities to work in tandem to address this issue as quickly as possible. We know you and the public are depending on Maryland’s post-acute sector to remain steadfast in delivering effective care and services.

Be well,



Joseph DeMattos  
President and CEO

CC: The Honorable Boyd Rutherford, Lt. Governor, Maryland  
The Honorable Robert Neall, Secretary, Maryland Department of Health  
The Honorable Dennis Schrader, COO and Medicaid Director, Maryland Department of Health  
Dianne Croghan, Deputy Chief of Staff, Office of Governor Hogan  
The Honorable Bill Ferguson, President, Maryland Senate  
The Honorable Adrienne Jones, Speaker, Maryland House of Delegates  
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