



CONSUMERS F1RST

The Alliance to Make the Health Care
System Work for Everyone

April 29, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Pelosi and Leaders McConnell, McCarthy, and Schumer:

The COVID-19 pandemic has created a public health and economic crisis in the United States. Three months after the U.S. made its first COVID-19 diagnosis, more than a million people have contracted the virus, and as of April 28th more than 58,000 people have lost their lives. The undersigned members of *Consumers First*, a national coalition representing health care consumers and children, primary care physicians, employers, and workers, are writing to express our support for continued efforts to strengthen our nation's response to the COVID-19 emergency that has brought unprecedented challenges to our health care system and has resulted in 22 million individuals filing unemployment claims. Building on the strong bipartisan efforts that led to the passage of the CARES Act, *Consumers First* urges Congress to pass additional legislation to enable the health care system to meet the needs of the American people during the COVID-19 pandemic.

In addition to this letter, each organization is working to ensure that affordable, quality health care coverage is accessible to all those who need it during the COVID-19 pandemic. It is critical that we protect the infrastructure of the health care system including the various pathways in which Americans access health care coverage including the protection of our safety-net programs which serve the nation's most vulnerable populations and the employer-provided health system upon which nearly 180 million Americans rely. This broad goal of ensuring all Americans have access to coverage underpins our specific recommendations below.

Consumers First urges Congress to ensure the following policies are included in the next legislative package that is developed to address the COVID crisis:

- Prohibiting excessive pricing on any health care items or services including provider and consumer medical supplies,
- Ending surprise medical bills
- Allowing telemedicine services to be subject to payment parity across payers
- Increase payments to primary care providers

Addressing these critical issues will improve the capacity of the health care system to respond to COVID-19 and to provide essential health care services to the American people. Each recommendation is described in greater detail below.

Prohibiting Excessive Charges

The shortage of medical supplies including personal protective equipment (PPE) has been widely reported since the start of the COVID-19 emergency in the United States. While government leaders and health care provider struggle to access essential medical equipment, some manufacturers, wholesalers and suppliers are responding by leveraging the public health emergency to abusively drive up prices for medical supplies and equipment. Some reports show an increase of 15 times the regular price for surgical masks and up to three times the price of medical equipment such as portable x-ray machines.¹ Consumers have also been subjected to what can be described as “price gouging” of essential medical supplies such as soap, hand sanitizer and household disinfectants, which has prompted some states to enact consumer protections to prevent price gouging of consumer medical supplies.² These practices not only take advantage of institutional and individual consumers, but also the many other providers of these supplies and equipment who are responding to this global crisis in a very appropriate and ethical manner as they seek to meet the sudden growing demand for products.

The COVID-19 emergency has amplified the cost of pricing abuses on health care providers, families, workers, and employers. Excessive charges for health care services and medical supplies threatens the ability of health care providers and systems to provide safe and effective health care to the American people, strains the financial resources of health care providers and state and federal governments; and ultimately increases the costs of health care for consumers, workers and employers. ***Consumers First* urges Congress to enact legislation explicitly banning these practices for any health care items or services, including provider and consumer medical supplies and COVID-19 tests and supplies, prosecutable by the Federal Trade Commission and State Attorneys General such as provided for in Division U, Section 102 of H.R. 6379, the Take Responsibility for Workers and Families Act. Further, if Congress mandates full coverage of COVID-19 treatment, it should take necessary steps to ensure providers are paid at reasonable market-based rates, rather than unilaterally set “billed charges.”**

Ending Surprise Medical Bills

Consumers First supports bi-partisan efforts by Congress to end surprise medical bills for America’s families. Now more than ever, families are vulnerable to unexpected health care costs. Prior to the current health emergency, more than 10,000 families received a surprise bill *each day*. The press already reports families receiving large medical bills in relation to COVID testing and care including parents receiving thousands of dollars in bills for COVID-related screening and care for themselves and their

children.³ As families struggle with both health and economic uncertainties, Congress should enact comprehensive consumer protections from surprise medical bills. ***Consumers First urges Congress to pass comprehensive legislation protecting consumers from surprise medical bills.***

In addition, we strongly support the Administration policy announced April 9, 2020 to prohibit providers that receive funding through federal COVID relief packages from seeking “collection of out-of-pocket payments from a COVID-19 patient that are greater than what the patient would have otherwise been required to pay if the care had been provided by an in-network provider.”⁴ We urge policymakers to extend these common-sense protections to all patients.

Telemedicine

Consumers First applauds efforts by Congress and the Centers for Medicare and Medicaid Services (CMS) reflected in the passage of the CARES Act and CMS’s Interim Final Rule⁵ from March 30, 2020. These actions promote access to telehealth services and institute broad flexibility enabling health care providers to administer telehealth services to reduce risk to COVID-19 for health care workers, patients and communities. One outstanding barrier to the widespread adoption of telehealth services across the health care system during the COVID-19 emergency is the inability of health care providers to be reimbursed at commensurate levels for providing telehealth services as they would for providing those same services in-person, referred to as telehealth payment parity.

Although CMS clarified in its Interim Final Rule that all qualified Medicare telehealth services be subject to reimbursement parity, telehealth reimbursement parity is not consistent across payers. In response to the COVID-19 emergency, some states have passed emergency declarations to mandate payment parity in Medicaid and private payers. Regrettably, not all states have instituted such policies.⁶ To ensure that health care providers across the nation are able to provide essential telehealth services to consumers, and to be reimbursed at equivalent rates for telehealth services as for in-person visits regardless of payer, ***Consumers First urges Congress to pass legislation that allows all reimbursement for telemedicine services in commercial health plans be subject to payment parity for the duration of the COVID-19 public health emergency.***

Increase Payments for Primary Care Providers

Many small and medium-sized primary care provider practices report dire financial situations and the possibility of imminent closure due to the loss of patient revenue during the COVID-19 crisis.⁷ *Consumers First* supports efforts made by Congress to extend financial support to health care providers through the Public Health and Social Services Emergency Fund under the CARES Act. However, the CARES Act limits the allocation of financial support to those providers who are providing direct care to COVID-19 patients. While *Consumers First* supports the allocation of those funds to frontline health care providers, the need for the primary care workforce to care for patients outside of COVID-19 services and treatment during the public health emergency continues. To preserve the foundation of our health care system, it is critical to provide financial support and relief to primary care providers to ensure that a primary care infrastructure is in existence during the COVID-19 emergency and following the crisis. The need to support our primary care providers and the critical role they play in the U.S. health care system is urgent. Congress should specifically earmark financial support to financially unstable primary care practices. Specifically, ***Consumers First recommends Congress increase Medicare payment levels for primary care providers, either through increased fee-for-service rates or short-term capitation***

payments. Furthermore, Medicaid payment levels should match Medicare, with the federal government paying 100% federal matching for the difference between current Medicaid and Medicare levels with a flat percentage increase in the federal matching rate to support rural and other states already paying Medicare rates to their primary care providers in the Medicaid program. This should be priority for congressional action.

Thank you for considering our recommendations; we urge you to include these in the next legislative package to address the COVID-19 pandemic. If you would like to discuss any of these policies in detail, please reach out to Sophia Tripoli, Director of Health Care Innovations at Families USA at (202)- 626-0652 or stripoli@familiesusa.org

Sincerely,

Consumers First Steering Committee

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¹ Lydia DePillis and Lisa Song. "In Desperation, New York State Pays up to 15 Times the Normal Prices for Medical Equipment. Propublica, April 3, 2020, <https://www.propublica.org/article/in-desperation-new-york-state-pays-up-to-15-times-the-normal-price-for-medical-equipment>

² States Push Price Gouging Measures as Coronavirus Fuels Consumers Fears. NBC News, March 20, 2020, <https://www.nbcnews.com/politics/politics-news/states-push-price-gouging-measures-coronavirus-fuels-consumer-fears-n1163846>

³ See e.g., Kliff, S. "Kept at the Hospital on Coronavirus Fears, Now Facing Large Medical Bills". *New York Times*. February 29, 2020. Available at: <https://www.nytimes.com/2020/02/29/upshot/coronavirus-surprise-medical-bills.html?auth=login-email&login=email&referringSource=articleShare> . Accessed April 9, 2020.

⁴ Associated Press: White House Says No Surprise Bills for COVID-19 Patients. <https://apnews.com/2b7499e3cdb7e655575fa3469135c496>. Accessed April 10, 2020.

⁵ Department of Health and Human Services, Centers for Medicare and Medicaid Services, Interim Final Rule with Comment Period, Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency, March 30, 2020, <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-06990.pdf>

⁶ "CMS Affirms Payment Parity for Telehealth, Adds more Covered Services," Xtelligent Healthcare Media, April 1, 2020, <https://mhealthintelligence.com/news/cms-affirms-payment-parity-for-telehealth-adds-more-covered-services>

⁷ Dr. Farzad Mostashari. "COVID-19 pushing primary care to brink of collapse." *Modern Healthcare*. April 2, 2020, <https://www.modernhealthcare.com/opinion-editorial/covid-19-pushing-primary-care-brink-collapse?CSAuthResp=1%3A%3A970715%3A1317%3A24%3Asuccess%3ACA0011821CAA724F06780E389FB4B34A>