

# United States Senate

WASHINGTON, DC 20510

April 8, 2020

The Honorable Alex Azar II  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Ave SW  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health & Human Services  
200 Independence Ave SW  
Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

We write to bring your attention to the concerns we have heard from hospitals, physicians and other health care providers in our communities regarding the significant interest rates that are tied to Medicare's Accelerated and Advance Payments Program. We appreciate your agency's work to expeditiously launch this expanded program. This program has the potential to provide critical financial support and liquidity for our nation's health care providers who are struggling with revenue shortfalls and increased expenses associated with response to the novel coronavirus or "COVID-19." However, for this program to be most effective, health care providers will need to be assured that large interest payments will not accrue on the advance payments they receive and that accrual of interest can be delayed as long as possible during this public health and economic crisis.

On March 28, 2020, the Centers for Medicare and Medicaid Services (CMS) announced the implementation of the expansion of the Accelerated and Advance Payments Program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act expanded eligibility for the program to a broad array of health care providers during the COVID-19 public health emergency. In implementing these CARES Act provisions, the Accelerated and Advance Payments Program will allow hospitals, critical access hospitals (CAHs) and other Medicare-participating providers and suppliers to apply for an upfront payment amount that is based off the health care provider's net Medicare reimbursement received during the second half of calendar year 2019. For CAHs and many other hospitals, the advance payment can cover a six-month period—and a three-month period for all other Medicare-participating providers and suppliers. The advance payment is then reconciled against subsequent claims for reimbursement for Medicare-covered services.

Starting 120 days after the advance payment is made to a hospital, or 210 days after the advance payment is made to another type of health care provider, the reimbursement amount that would normally be paid to the health care provider for Medicare-covered services will instead be retained by CMS to slowly recoup the advance payment amount that was provided under the program. This process would effectively provide critical upfront liquidity to health care providers who are struggling during the COVID-19 crisis, while ensuring that the Medicare program is ultimately reimbursed for the advance payment.

Under section 1815 of the Social Security Act, as amended by the CARES Act, if the entire advance payment amount is not recouped within one year after the advance payment was made to the hospital or CAH, or within 210 days after the advance payment was made to other participating providers, CMS is required to charge interest on the difference between the amount recouped and the total advance payment amount. The interest rate is to be determined in accordance with regulations of the

Secretary of the Treasury applicable to charges or late payments. Based on current Treasury regulations and rates, the applicable interest rate is set at 10.25 percent for repayment of Medicare's accelerated and advance payments for hospitals and other health care providers who have not completed repayment by the applicable due date. This 10.25 percent interest rate reflects the prevailing private consumer rate as determined by the Secretary.

Hospitals, physicians and other health care providers have significant concerns about the 10.25 percent interest rate and the implications of such interest rates on their ability to participate in the Accelerated and Advance Payments Program. Our frontline health care providers and medical professionals across this country need financial support to continue their vital work in responding to COVID-19 and dealing with the economic consequences of this pandemic. Given the unprecedented nature of this crisis, more flexibility on interest rates and repayment of accelerated and advance payments will be very important. In light of these circumstances we request answers to the following questions:

1. Under the CARES Act, the Secretary is required to "allow not less than 12 months from the date of the first accelerated payment" before requiring that hospitals pay the outstanding balance in full. Under this language, CMS could extend beyond 12 months the time hospitals have to pay the outstanding balance and before interest begins to accrue. Will CMS consider extending this period beyond 12 months, until a time at which public health and economic circumstances have stabilized? We urge CMS to extend this due date.
2. Does the Secretary have authority under 31 U.S.C. §3717, 45 C.F.R. § 30.18, or any other existing authorities under federal law to waive or modify the interest rate requirements for accelerated and advance payments? If so, will the Secretary consider using such authority to lower or waive the interest rate applied to accelerated and advanced payments made during the COVID-19 emergency? We urge the Secretary to do so.

The continuity of our health care system and its ability to respond to the clinical and economic impacts of this public health emergency will require ongoing financial flexibility from CMS, in partnership with Congress. Thank you for your attention to this critical issue.

Sincerely,

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Jeanne Shaheen  
United States Senator

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Bill Cassidy, M.D.  
United States Senator

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Angus S. King, Jr.  
United States Senator

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Cindy Hyde-Smith  
United States Senator

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Michael F. Bennet  
United States Senator

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David Perdue  
United States Senator

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Thomas R. Carper  
United States Senator

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Shelley Moore Capito  
United States Senator

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Richard J. Durbin  
United States Senator

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Martha McSally  
United States Senator

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Doug Jones  
United States Senator

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Josh Hawley  
United States Senator

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Catherine Cortez Masto  
United States Senator

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Marco Rubio  
United States Senator

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Elizabeth Warren  
United States Senator

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John Barrasso, M.D.  
United States Senator

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Edward J. Markey  
United States Senator

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Cory Gardner  
United States Senator

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Gary C. Peters  
United States Senator

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Kelly Loeffler  
United States Senator

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Jacky Rosen  
United States Senator

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Steve Daines  
United States Senator

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Kirsten Gillibrand  
United States Senator

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Kyrsten Sinema  
United States Senator

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Debbie Stabenow  
United States Senator

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Tina Smith  
United States Senator

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Christopher A. Coons  
United States Senator

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Richard Blumenthal  
United States Senator

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Amy Klobuchar  
United States Senator

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Margaret Wood Hassan  
United States Senator

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Martin Heinrich  
United States Senator

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Jack Reed  
United States Senator

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Christopher S. Murphy  
United States Senator