



Maryland
Hospital Association

May 27, 2020

The Honorable Benjamin L. Cardin
509 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Christopher Van Hollen
110 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Andy Harris
2334 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steny Hoyer
1705 Longworth House Office Building
Washington, D.C. 20515

The Honorable Kweisi Mfume
2163 Rayburn House Office Building
Washington, D.C. 20515

The Honorable A. Dutch Ruppersberger
2206 Rayburn House Office Building
Washington, D.C. 20515

The Honorable David Trone
1213 Longworth House Office Building
Washington, D.C. 20515

The Honorable John Sarbanes
2370 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jamie Raskin
412 Cannon House Office Building
Washington, D.C. 20515

The Honorable Anthony G. Brown
1323 Longworth House Office Building
Washington, D.C. 20515

Reference: Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act and the Coronavirus Aid, Relief, and Economic Security (CARES) Act Relief Funding

Dear Maryland Congressional Delegation:

The Maryland Hospital Association (MHA), on behalf of our 61 hospital and health system members, sincerely appreciates the delegation's leadership and your backing of hospitals and health care workers as they serve their communities during this unprecedented public health crisis. Maryland hospitals and health systems benefitted from the CARES Act relief funding that included the Public Health and Social Services Emergency Fund (PHSSEF), rural provider allocation, and high-impact COVID funding, but more is needed. We urge you to consider several key provisions of the HEROES Act.

We know some of our requests will be challenging to work through, but we strongly implore you to work with executive branch leadership on solutions to benefit health care in our state. **We also advise the U.S. Department of Health and Human Services (HHS) to take immediate action to allocate the remaining \$75 billion of funding from PHSSEF.**

We look forward to collaborating with you to support the needs of Maryland residents along with hospitals and health systems on the front lines of the COVID-19 crisis.

Public Health and Social Services Emergency Fund

Maryland hospitals and their dedicated caregivers urgently need more help to ensure they can continue to deliver life-saving medical care. Our hospitals are grappling with skyrocketing costs for personal protective equipment, labor, other critical supplies, and construction—all while seeing revenue plummet for canceled non-emergent care and outpatient visits. Maryland hospitals have lost close to \$2 billion in just three months due to the COVID-19 crisis. **The additional funds still available for distribution must offer immediate relief to ensure critical services stay intact for all providers.** The initial disbursements from this fund gave our hospitals much-needed support and resources, but more is urgently needed. Please advocate with HHS to better target funding for hospitals—the nation’s main source of COVID-19 tests and treatment—to safeguard essential services.

The delay in distribution of the funds is concerning. This is a complex, technical undertaking with no roadmap. Yet, hospitals continue to deliver the critical health care services and COVID response regardless of action, or inaction, by HHS. We cannot afford an imperfect process for disbursement. Please work with HHS to ensure the next round of funding is distributed quickly and fairly.

Finally, we are concerned about the bill’s requirement to subtract the full dollar value of staff furloughs and layoffs from revenue loss amounts. This will further hinder providers from quickly rehiring staff and ramping up capacity as the threat of COVID-19 lifts. Hospitals need flexibility to respond to the crisis and prepare for the recovery phases—and a possible second surge—appropriately determined by each hospital based on community need.

Accelerated Medicare Payments

Accelerated Medicare payments improve cash flow to hospitals during emergencies and have been essential to keeping services running during this extraordinary deadly and costly crisis. Hospitals also are concerned with the interest rates and payment terms of the loans. We simply do not know how long the strain on the health care system will last—putting hospitals’ ability to repay at further risk.

Lowering the interest rate on accelerated payments and extending the payment terms, as the current bill outlines, gives relief to hospitals, but the scale of the financial impact necessitates a more robust response. Even better would be to convert the loans to grants for *all* hospitals, giving them the solid assurance as they continue caring for their communities.

Accelerated payments should remain available for all hospitals during the public health emergency period. As such, any improvements to repayment terms also should be applied to all hospitals.

Medical Liability Protections

As Maryland hospitals and health care providers respond to this emergency, liability protections must be put in place. Facilities and health care professionals require protection as they put their safety and finances in danger to save lives. As such, we **urge you to support the COVID-19 frontline by enacting federal legislation to ward off unwarranted lawsuits.**

Federal liability provisions should include broad but targeted protections that cover facilities, professionals, and their agents for the duration of the federal public health emergency declaration. Specifically, Maryland hospitals ask your support of the following key protections:

- Grant civil and criminal immunity for health care facilities, providers, and their agents for acts or omissions in the course of arranging for or delivering health care services during the pandemic
- Include non-COVID-19 activities in the immunity provisions, because all health care operations are affected by the pandemic
- Exclude from these protections willful or intentional criminal misconduct, gross negligence, reckless misconduct or a conscious, flagrant indifference to the rights or safety of patients
- Ensure these protections are in place for the duration of the public health emergency declared by the HHS Secretary, including retroactively to Jan. 31, 2020 when the declaration was first issued.

Health Care Heroes

Front line caregivers responding to the COVID-19 crisis, including nurses, physicians, facilities management personnel, technicians, and other health care providers, are working around the clock to deliver the medical care patients and communities require. These essential workers need, and deserve, additional resources to continue their work and support themselves and their families after this crisis. We therefore appreciate additional assistance for dependent care, bonus pay, and access to behavioral health services for essential workers included in this bill.

Occupational Safety Standards

We support protections for employees, yet we are concerned about the proposal to set new standards. The legislation would require the Secretary of Labor to promulgate an emergency temporary standard within seven days of enactment to protect from occupational exposure to SARS-CoV-2 health care sector workers and emergency responders, as well as workers in other organizations who face occupational risk.

While the bill requires the Secretary of the Labor to consult with the Centers for Disease Control and Prevention and the National Institute for Occupational Safety and Health, there is no guarantee that forthcoming standards would align with existing guidance or be updated regularly to keep pace with science. These provisions would be extremely difficult to implement during a global pandemic and could result in a confusing array of regulations and guidance. We urge the U.S. Congress to focus on personal protective equipment and employee supports.

Health Equity

MHA and our members are committed to addressing impacts of COVID-19 within communities of color and other vulnerable groups. Hospitals, health systems, community providers, and the state are partnering to identify and address disparities in the response to COVID-19. This includes increasing the accessibility of community testing, ensuring access to equitable treatment, and disseminating timely, relevant, culturally appropriate, and culturally sensitive public health information.

The ongoing flexibilities and funding to leverage telehealth and expand broadband capacity have been instrumental in delivering care to those hard to reach populations while mitigating exposure to COVID-19. We, therefore, appreciate the numerous provisions intended to identify and address health care disparities and support telehealth expansion.

We are encouraged by the strong leadership you have demonstrated during these trying times. Your support of hospitals and health systems as they care for all Maryland communities during this crisis is truly commendable. We need your backing now more than ever and we stand ready to work with you and your colleagues on next steps. If you have any questions, please contact me or Jennifer Witten, Vice President, Government Affairs, at jwitten@mhaonline.org.

Sincerely,



Bob Atlas
President & CEO