



HEALTH ACCESS CALIFORNIA

May 1, 2020

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Organizations listed for
identification purposes

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Dianne Feinstein
Senator
United States Senate
Washington, DC 20510

The Honorable Kamala Harris
Senator
United States Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader McCarthy, Senator Feinstein, Senator Harris, and the California Congressional Delegation:

On behalf of Health Access California, the statewide health care advocacy coalition, we write to urge the U.S. Congress to pass a new relief package to ensure that Californians can get through the public health and economic crisis caused by this coronavirus crisis.

We appreciate the passage of the last four packages to respond to COVID-19, including the Families First Act and CARES Act, to provide much needed emergency help to the health system, state and local governments, and the many Americans who are suddenly unemployed.

However, significant health and resulting economic problems presented by this pandemic have not been addressed yet, and should be included in a follow-up bill. Two weeks ago, over 55 California consumer, community, and constituency organizations wrote a similar letter and identified many health-related needs, most of which were not included in the most recent legislation. Californians urgently need this help, and we highlight them, with more detail, to be prioritized for urgent inclusion in a new package:

STATE FISCAL RELIEF: We appreciate the aid previously provided to reimburse state and local governments for unanticipated COVID-19 costs, but the federal government needs to help states in a much more significant way to make up the major revenues they will lose during this economic emergency. Like most other states, but unlike the federal government, the California Constitution requires a balanced budget. But California now faces a severe economic downturn, perhaps worse than 2008-10, with concomitant loss of state revenues.

- **Without significant additional federal assistance, our state will be forced to cut health and human services** at the very time they are most needed.
- We support the full National Governors Association (NGA) request for state aid, including an additional Federal Medicaid Assistance Percentage (FMAP) increase, as well as an **additional \$500 billion in direct relief specifically for states, that allows for replacement of lost revenue** caused by this economic crisis.
- Our highest priority is to **increase the Medicaid match**, an efficient and effective means of getting aid to the states. We strongly support a **significant FMAP increase of at least 12%**, as requested by the NGA, and for the FMAP increase to **include the Medicaid expansion population**.



- We also strongly support the NGA requests that the **FMAP increase should be tied to the economy** so it is even **higher for high unemployment states**, and so it extends not just to the end of the public health crisis, but **until the end of the economic crisis when the unemployment rate goes back to normal levels**.
- We strongly support the **continuation of the “maintenance of effort” (MOE) requirement** that if states get this aid, they should be required to use that money in part to continue the Medicaid eligibility and enrollment already in place and not make additional cuts. We oppose any effort to weaken or undo this critical Medicaid protection already included in the Families First Act.
- The FMAP increases during the Great Recession helped prevent proposals by former California Governors to cut hundreds of thousands of Californians off of Medi-Cal coverage. Yet even with the help, California was still forced to make severe cuts—from cutting provider rates by 10%, to eliminating dental coverage, and 10 other benefits to Medi-Cal recipients—some of which we just restored in the past year. We need additional aid and a maintenance-of-effort requirement to **prevent such cuts just when people need care the most**, in the middle of a pandemic.
- This aid is crucial not just to ensure health and human services are provided to Californians in need, but as economic stimulus. **Without significant additional state relief, severe cuts to state programs will further harm the economy**, and will likely overwhelm any positive stimulus impact of the previous and future packages.

INSURANCE AFFORDABILITY ASSISTANCE: Millions of Californians are losing not just hours, income, and employment, but employer coverage as well, and we need to increase affordability assistance for those who will now have to purchase insurance as individuals.

- Since the start of this crisis weeks ago, well over 4 million Californians have filed for unemployment insurance, and we estimate **over two million have already lost employer-based coverage**, and hundreds of thousands will now need to buy coverage on exchanges like Covered California.
- The affordability assistance provided in the ACA will help but is not enough for many families, especially those living in our high cost-of-living state. Subsidies should be strengthened across the board to help all families afford coverage now, and prevent sticker shock of shifting from employer-subsidized coverage.
- **California has shown the positive benefits of providing additional assistance**, with some state subsidies this year up to 600% of the federal poverty level, which showed results in increasing new sign-ups for coverage, but we were limited in what we could do with scarce state funds that sunset soon. Because of the limit on state funding, some are asked to spend as much as 18% of income on premiums alone, and those above 600% don’t even get that protection. While the state subsidies have helped thousands of Californians, more help in this difficult time would make a real difference.
- We would urge funding a **blanket protection that nobody should have to spend more than 8% of their income on coverage**, extending this guarantee for those above 400% of the poverty level, and with additional help to provide more assistance down the sliding scale for lower incomes. Help for both lower- and middle-income individuals would both bring uninsured Californians into coverage. Given how hard it is to estimate income this year, we also support **lowering the reconciliation caps** to prevent significant penalties in next year’s taxes.
- As a secondary supplement to these efforts, we also support to **fully pay for or significantly defray COBRA premiums**, which, with an extended deadline to sign up, would allow employees to stay on their previous employer’s plan, with their ability to stay with the coverage and networks they know and with the hope that they will return to their jobs.
- While we prioritize direct assistance to consumers in affording coverage, we support **federal efforts to reinstitute reinsurance and/or risk corridors in the ACA**, in order to provide assurance for insurers dealing with a surge of COVID-19 costs and to stabilize premiums for patients in the individual market at a turbulent time.
- The more we can keep people covered, including for the testing and treatment of COVID-19, the more effective our public health efforts will be to get out of this emergency.

COVERAGE WITH NO COST-SHARING FOR TESTING AND TREATMENT: The state and federal efforts have made good efforts to prevent cost-sharing for COVID-19 testing, however **waiving cost-sharing for treatment of COVID-19 should be codified.**

- [Most Americans agree](#) that **financial barriers should not discourage people from getting tested and treated**, regardless of insurance status.
- Federal policy should clarify that **providers can get Medicaid payment for emergency services for testing and treatment for COVID-19 for the uninsured** not eligible for comprehensive Medicaid coverage, as a way to get aid to hospitals and health providers, to prevent premium spikes next year, and to provide financial security for all seeking care.
- Needing a ventilator in an ICU can cost tens of thousands of dollars if not more. The potential of such a **big hospital bill should not be a barrier to a patient, or an unpaid burden for a provider.**

EQUITABLE ACCESS TO TESTING AND TREATMENT: This pandemic will magnify and further reinforce persistent health inequities.

- **HHS should be required to collect and report comprehensive demographic data** on race, ethnicity, primary language, and geographic location of all COVID-19 testing and treatment.
- Since [Center for Disease Control and Prevention](#) (CDC) and [preliminary California data](#) reflects these disparities, especially among African Americans, **funding should be targeted to testing and treatment sites in underserved regions** with health disparities, including Tribal and Urban Indian health programs. Dedicated funds should ensure **language assistance** at all points of care, and for **navigation assistance to underserved communities.**

SURPRISE BILLING: Especially in this crisis, no one should get needed care and then face an unexpected out-of-network medical bill. Surprise bills were never appropriate, but as our health system rapidly adds capacity, surprise bills are more likely, and even more unjust.

- As providers shift staffing and resources to prepare for the surge of COVID-19 cases, **the likelihood of surprise bills increases**, as more patients may be seen by out-of-network providers, or end up at out-of-network emergency rooms.
- Congress has had multiple committees consider this issue and should **pass the proposals that align with California's strong law for physician balance billing**, which provides [a case study of a successful compromise](#), where patients are protected, and providers are paid. To resolve payment disputes, a **benchmark payment tied to average contracted rate has proven to work**, with minimal appeals filed, and positive impacts on insurer networks.
- California has passed strong patient protections for physician balance billing, but around **7 million Californians are still at risk for a surprise bill due to federal ERISA preemptions**—a loophole that is best closed by federal action, needed in the next federal legislative package.

ADDITIONAL PROTECTIONS AGAINST MEDICAL DEBT: Medical debt remains a significant contributing factor to bankruptcy in California and can make it impossible to rent an apartment or get a loan.

- Providers and collection agencies should not seek to collect **any debt related to COVID-19 testing and treatment**, and be prohibited from reporting any such debt to credit bureaus.
- Other medical debt accrued until the state of emergency ends should be subject to additional consumer protections, including a **prohibition on collections, reporting to credit bureaus, or other extraordinary actions** for at least six months.

INDUSTRY ACCOUNTABILITY: As we are providing significant and necessary resources to the health care system, Congress should make sure there is the appropriate oversight and accountability so the money is well-spent, so we maintain system capacities and our health care is sustainable and affordable going forward.

- **Health plans and providers that accept money should agree to not take aggressive actions against patients**, including surprise medical bills, debt collection practices, and other issues raised in this letter.
- Health providers and prescription drug companies should be **prevented from price-gouging**, for either existing or new treatments.

IMMIGRANT INCLUSIVITY: The health and economic impacts of COVID-19 do not discriminate based on immigration status, and our federal assistance should not either.

- In many cases, **immigrant families contribute into our systems** of taxes, unemployment insurance, and other parts of our economy, but are excluded from the benefits.
- Excluding our immigrant family members, friends, and neighbors from federal aid doesn't just hurt them, but **hurts our public health and economic recovery** goals to get everyone out of this emergency.
- Given the size and important of the immigrant community in California, **excluding California's undocumented and uninsured will significantly deter our efforts to contain the coronavirus.**

DO NO HARM: Any new federal response should put off pending proposals that threaten to destabilize the health system when we are asking so much of it already.

- At this time, we must **delay or fully withdraw proposals that would threaten Medicaid** cuts to states, especially the Medicaid Financial Accountability Regulation (MFAR), that would cause significant financial disruption in the health system as a whole, especially with our safety-net hospitals.
- We also support federal statute that would **allow states like California to extend their Medicaid waivers another year, including with commensurate funding** outside of budget neutrality rules. State health departments should be focused on the COVID-19 crisis, and should not be distracted with trying to develop a whole new waiver.
- We need to **suspend the public charge or other regulations that discourage people from getting the testing and treatment they need** and make it that much harder to contain the coronavirus.
- In order to ensure more Americans are not at risk of losing coverage, the Trump Administration and the Department of Justice should defend the Affordable Care Act, **and the Senate should join the House in countering the pending lawsuit** which threatens to turn millions of Californians uninsured and the health system of the nation into chaos.

Recognizing that people's health is determined by their working conditions, transportation options, housing, and economic security, we also support additional investments in other federal programs, including SNAP, paid leave, unemployment insurance and other important safety net systems. While this letter is focused on health consumer issues, we also recognize that in this public health crisis there are critical needs for our health care workforce, such as to have personal protective equipment (PPE), to not only protect themselves, but the public.

Federal action is urgent, Congress must act to keep Californians covered, consumers protected, state services funded, and our health system accountable and affordable into the future. Please contact myself or Yasmin Peled at Health Access California if you have any questions. Thank you for your consideration.

Sincerely,



Anthony Wright
Executive Director
Health Access California