United States Senate
Washington, D.C. 20510

July 1, 2020

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

We write to you with deep concerns about the Department of Health and Human Services (HHS) allocation of the $175 billion in relief for health care providers Congress included in the Public Health and Social Services Emergency Fund of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Paycheck Protection Program and Health Care Enhancement Act. We believe that using Provider Relief Funds to pay shareholders and private equity owners at the expense of heroic frontline health care workers is inconsistent with the goal of the Fund and we ask you to prohibit such payments.

Thus far, HHS has allocated $30 billion in Provider Relief Funds based on 2019 Medicare reimbursements, with a supplement of $20 billion to reflect 2018 total reimbursements. Another $50 billion has been announced for targeted distribution to providers in areas significantly impacted by the COVID-19 outbreak, as well as rural providers, providers with lower shares of Medicare reimbursement or who predominantly serve the Medicaid population, and providers treating uninsured Americans.[1]

This financial support is vital for our health care providers and should support essential health care workers that have been on the ground responding to the COVID-19 pandemic. However, these funds are limited, and we have concerns with a number of recipients and their relative need. A Bloomberg News analysis found that private equity companies have borrowed $1.5 billion through the CARES Act programs, despite having billions in cash on hand.[2] The report found that "[h]ealthcare facilities owned by Apollo Global Management, which started the year with about $46 billion, received at least $500 million in HHS loans. And Cerberus Capital Management's Steward Health Care System LLC, which threatened to close a hard-hit Pennsylvania hospital, received at least $400 million in loans."[3]

As you know, this pandemic has put significant pressure on our health care system, from rural clinics to multi-hospital health systems. Brave health care workers have been at the forefront,

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[1] Department of Health and Human Services. "CARES Act Provider Relief Fund: General Information". *Accessible at*: https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/general-information/index.html
[2] Bloomberg News. "Private equity lands billion dollar backdoor hospital bailout". 2 June 2020. *Accessible at*: https://www.themiddlemarket.com/articles/private-equity-lands-billion-dollar-backdoor-hospital-bailout
[3] *Ibid.*

going to work every day to serve our communities, at a cost to their own health.[4] On your website, you note that the Provider Relief Fund "supports American families, workers, and the heroic healthcare providers in the battle against the COVID-19 outbreak." The terms and conditions of the program require providers to certify that the payment will only be used to "prevent, prepare for, and respond to coronavirus, and that the payment shall reimburse the recipient only for health care related expenses or lost revenues that are attributable to coronavirus."[5]

We do not believe health care companies that are paying dividends, management fees, repurchasing stock, or paying cash or stock bonuses to executives can meet the above certification. We are deeply concerned that HHS has not placed adequate limits on the extent to which wealthy health care companies can use taxpayer funding to line the pockets of executives and private equity owners, while cutting pay, furloughing, or firing doctors, nurses, and other essential workers that are preventing the spread of COVID-19 and saving lives—often without adequate personal protective equipment.[6] Such payments to shareholders at the expense of frontline health care workers are inconsistent with the goal of the Fund and therefore we ask that you prohibit them.

Additionally, with reports confirming that many recipients of these taxpayer funds are privately held and owned by private equity firms, public disclosures will not reveal if dividends or management fees were paid to private equity owners while the companies were receiving taxpayer aid. When asked about Provider Relief Funds going to private equity companies, Administrator of the Centers for Medicare & Medicaid Services Seema Verma said, "[w]e don't look into ownership . . . that is not information that the agency has historically looked into."[7] This is unacceptable.

Recipients of the funds are required to "submit reports as the Secretary determines are needed to ensure compliance with conditions . . . as specified by the Secretary in the future program instructions directed to all Recipients." As such, we ask that you require all payment recipients to provide documentation accounting for all dividends, management fees, stock repurchases, and bonuses paid (in cash or in stock) since receiving federal aid from the Provider Relief Fund. In the case of providers who have paid dividends, fees, stock repurchases, or bonuses, we ask that they provide written explanation of why these payments are consistent with the certification required by the program. Additionally, we ask that you require recipients to provide in their reports broad information about the use of funds, including an accounting of funds spent on personal protective equipment, supplies, and wages.

We thank you for your attention to this request and our offices are ready to discuss this request with you further if you have any questions.

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[4] Jessica Gold. "The Covid-19 crisis to few are talking about: health care workers' mental health". *STAT*. 3 April 2020. *Accessible at*: https://www.statnews.com/2020/04/03/the-covid-19-crisis-too-few-are-talking-about-health-care-workers-mental-health/

[5] Department of Health and Human Services. "Acceptance of Terms and Conditions". *Accessible at*: https://www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf

[6] Jessica Silver-Greenberg, Jesse Drucker, and David Enrich. "Hospitals Got Bailouts and Furloughed Thousands While Paying C.E.O.s Millions". *The New York Times*. *Accessible at*: https://www.nytimes.com/2020/06/08/business/hospitals-bailouts-ceo-pay.html

[7] *Ibid.*

Sincerely,

Tammy Baldwin
U.S. Senator

Patrick Leahy
U.S. Senator

Edward J. Markey
U.S. Senator

Bernard Sanders
U.S. Senator

Sherrod Brown
U.S. Senator

Elizabeth Warren
U.S. Senator

Kamala D. Harris
U.S. Senator

Richard Blumenthal
U.S. Senator

Christopher S. Murphy
U.S. Senator