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MASSACHUSETTS,  
CHAIRMAN

# Congress of the United States

## U.S. House of Representatives

### COMMITTEE ON WAYS AND MEANS

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May 28, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Secretary Mnuchin and Commissioner Rettig,

We write to request regular reporting from the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) on the schedule for making economic impact payments (EIPs) authorized under the Coronavirus Aid, Relief, and Economic Security Act.

The Committee on Ways and Means (Committee) sincerely appreciates the hard work of Treasury and IRS employees during this crisis to ensure that Americans receive the emergency assistance that they were promised. These employees are working in difficult times, and we are grateful for their dedicated service.

Despite this hard work, we understand that many individuals have not yet received their EIPs. These individuals are eager to receive financial assistance, and the Committee continues to receive daily questions related to the payment of EIPs.


To ensure that the Committee provides accurate, up-to-date information, we reiterate the Committee's earlier request for weekly reports on Treasury's payment activity until all payments have been made. We are aware that the IRS sends payment information to Treasury's Bureau of the Fiscal Service (BFS) weekly, typically on Thursdays, for payments that Americans will receive the following week. Accordingly, the Committee requests a report by 3 p.m. each Friday concerning the payment information sent by the IRS to BFS that week.

For each week, please include the following information:


1. The total number of EIPs and total dollar amount sent to BFS for payment the following week;
2. The number of EIPs by paper check, the date of mailing, and total dollar amount;
3. The number of EIPs by debit card, the date of mailing, and total dollar amount;
4. The number of EIPs by electronic payment, the date the banks will receive the deposit for posting in taxpayer accounts, and total dollar amount;
5. For electronic payments, please provide the number by direct deposit or Direct Express separately, and the total dollar amount for each method;
6. A description of the taxpayers who were covered in the total number of payments sent by the IRS to BFS that week;
7. The number of payments returned to Treasury, and the total dollar amount of such payments by payment type, for the week ending the immediate Thursday before the Friday report;
8. The total number of letters mailed out to taxpayers during the week ending the immediate Thursday before the Friday report; and
9. A running total, from the start of the program, of the number of EIPs issued and the total dollar amount paid (net of returned amounts), broken out by week and by payment method.

Given that the Committee first requested weekly reports at the end of April, please provide the requested information by Friday, May 29, 2020 and on a weekly basis until all payments have been made. Thank you, in advance, for your prompt attention to this matter.

Sincerely,



Richard E. Neal  
Chairman  
Committee on Ways & Means  
United States House of Representatives



The Honorable John Lewis, *Chairman*  
Subcommittee on Oversight

JOHN LEWIS  
GEORGIA,  
CHAIRMAN

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KAREN MCAFEE,  
STAFF DIRECTOR

# Congress of the United States

## U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS  
SUBCOMMITTEE ON OVERSIGHT

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RACHEL KALDAHL,  
STAFF DIRECTOR

May 28, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write regarding the recent announcement that the Department of the Treasury (Treasury) began sending economic impact payments (EIPs) to an estimated four million individuals by prepaid debit card.

Ensuring timely and accurate EIP distribution is a priority, especially given the economic pressures of the COVID-19 pandemic. Treasury recently stated that these cards are “secure, easy to use, and allow [Treasury] to deliver Americans their money quickly.” However, recent reports indicate the cards are creating confusion and actually may delay when Americans receive this emergency assistance.

In the last week, there are reports that taxpayers are confused by the EIP prepaid debit cards and are concerned that they are scams. For starters, the cards arrive in a plain white envelope from “Money Network Cardholder Services,” which is not a name that taxpayers recognize. Further, there is no indication on the envelope or the card itself that it is an EIP or that it comes from Treasury. Alarming, if an individual calls the number listed in the accompanying materials, the activation line requires the individual to enter a substantial portion of his or her Social Security number.

When added together, these facts are leading many individuals to believe that the debit cards are junk mail or a scam. Indeed, the Iowa Attorney General noted in a recent article that the office is getting “lots of calls” from people thinking the cards arriving in the mail are a scam. This is particularly concerning because many taxpayers may be discarding or destroying their EIPs upon receipt, and it is unclear what recourse they will have subsequently to access their payments with or without additional fees.

The Honorable Steven T. Mnuchin

May 28, 2020

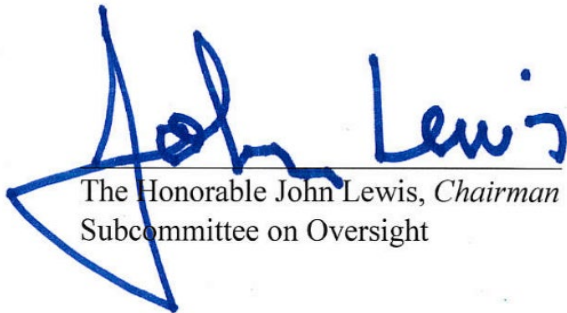
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In light of these concerns, we request that you please provide the following information by June 2, 2020:

1. The number of cards that have been mailed to date and the number activated;
2. The number of cards for which taxpayers have requested a replacement and, if known, the reason for the replacement;
3. A schedule of all fees associated with the cards, including replacement and mailing fees;
4. The total dollar amount of all fees charged to users to date and, if known, the reason for the fee; and
5. The criteria used for selecting these taxpayers to receive a card instead of a paper check.

Thank you, in advance, for your prompt attention to this matter.

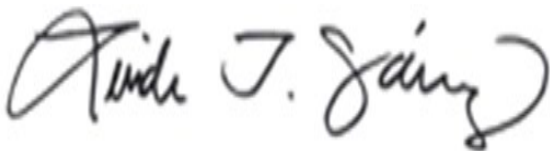
Sincerely,



The Honorable John Lewis, *Chairman*  
Subcommittee on Oversight



The Honorable Suzan K. DelBene



The Honorable Linda T. Sánchez



The Honorable Thomas R. Suozzi

The Honorable Steven T. Mnuchin

May 28, 2020

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The Honorable Judy Chu



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The Honorable Gwen Moore



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The Honorable Brendan F. Boyle

# Congress of the United States

## House of Representatives

Washington, D.C. 20515

May 7, 2020

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

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce and the Committee on Ways and Means are examining the ongoing efforts of the Department of Health and Human Services (HHS or Department) to address the coronavirus (COVID-19) pandemic. We write to raise serious concerns about the Provider Relief Fund and the Accelerated and Advance Payment Programs. With respect to each, we are concerned about the lack of transparency with Congress and the American people about how funds are being spent or loans are being made. We also have grave concerns regarding the methodology being used to distribute \$175 billion Congress appropriated for the Provider Relief Fund, through the Public Health and Social Services Emergency Fund.

Our nation's healthcare providers are struggling to care for COVID-19 patients while simultaneously facing deep declines in revenues due to decreased patient volumes and deferred care. Additionally, particularly in areas that have been hit hard by the COVID-19 outbreak, hospitals and other providers have faced significant costs attributable to COVID-19, such as costs related to purchasing personal protective equipment (PPE) and testing supplies, building temporary structures, retrofitting existing structures for isolation and surge management, and paying personnel.

Congress has moved rapidly to provide unprecedented levels of funding in order to ensure the short-term and long-term stability of our nation's health care system throughout and beyond the COVID-19 crisis. The Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) appropriated \$100 billion in relief for providers and the recent Paycheck Protection Program and Health Care Enhancement Act (P.L. 116-139) appropriated an additional \$75 billion for the CARES Act Provider Relief Fund.

The CARES Act also expanded Medicare's Accelerated Payment Program for certain hospitals during the COVID-19 emergency, and the Centers for Medicare & Medicaid Services

(CMS) built on this expansion by extending the Accelerated Payment Program and Advance Payment Program to additional Part A and Part B providers and suppliers.<sup>1</sup> As of April 26, 2020, CMS indicated that approximately 21,000 applications totaling \$59.6 billion in payments to Part A providers and 24,000 applications totaling \$40.4 billion in payments to Part B providers were approved.<sup>2</sup> On April 26, 2020, CMS also announced that it would immediately suspend the Advance Payment Program for Part B providers and reevaluate pending and new applications for the Accelerated Payment Program.<sup>3</sup> However, CMS provided no additional information regarding the future of the Advance and Accelerated Payment Programs.

When we passed the CARES Act, Congress was clear that the funding provided to the Department for the Provider Relief Fund was for the express purpose “to prevent, prepare for, and respond to coronavirus...for necessary expenses to reimburse, through grants or other mechanisms, eligible health care providers for health care related expenses or lost revenues that are attributable to coronavirus.”<sup>4</sup> We furthermore made clear that the Secretary of HHS is required to “review applications and make payments under this paragraph in this Act.”

The Administration’s efforts to establish the Provider Relief Fund to date has been at best, a series of missteps, and at worst, a disregard of Congress’ intent for the program. On April 10, 2020, 14 days after the passage of the CARES Act, HHS announced an initial \$30 billion distribution from the Provider Relief Fund.<sup>5</sup> This tranche of funding was allocated based on providers’ share of 2019 Medicare fee-for-service (FFS) reimbursements. According to HHS, the Medicare FFS mechanism was chosen in order to facilitate the fastest, most broad-based distribution possible.<sup>6</sup> However, this approach had clear shortcomings that the Administration acknowledged, leaving large swathes of providers behind, such as pediatric providers and those

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<sup>1</sup> Centers for Medicare and Medicaid Services, *FACT SHEET: EXPANSION OF THE ACCELERATED AND ADVANCE PAYMENTS PROGRAM FOR PROVIDERS AND SUPPLIERS DURING COVID-19 EMERGENCY* ([www.cms.gov/files/document/accelerated-and-advanced-payments-fact-sheet.pdf](http://www.cms.gov/files/document/accelerated-and-advanced-payments-fact-sheet.pdf)).

<sup>2</sup> Centers for Medicare and Medicaid Services, *CMS Reevaluates Accelerated Payment Program and Suspends Advance Payment Program* (Apr. 26, 2020) ([www.cms.gov/newsroom/press-releases/cms-reevaluates-accelerated-payment-program-and-suspends-advance-payment-program](http://www.cms.gov/newsroom/press-releases/cms-reevaluates-accelerated-payment-program-and-suspends-advance-payment-program)) (press release).

<sup>3</sup> *Id.*

<sup>4</sup> Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, Pub. L. No. 116-136 (2020).

<sup>5</sup> U.S. Department of Health and Human Services, *HHS to Begin Immediate Delivery of Initial \$30 Billion of CARES Act Provider Relief Funding* (Apr. 10, 2020) ([www.hhs.gov/about/news/2020/04/10/hhs-to-begin-immediate-delivery-of-initial-30-billion-of-cares-act-provider-relief-funding.html](http://www.hhs.gov/about/news/2020/04/10/hhs-to-begin-immediate-delivery-of-initial-30-billion-of-cares-act-provider-relief-funding.html)) (press release).

<sup>6</sup> *Id.*

that rely on Medicare Advantage. Additionally, the approach adopted clearly fails to target funding based on the statutory framework relating to COVID-19 driven costs, and in fact the level of funding appears to be completely disconnected from need.<sup>7</sup> Although the Department is requiring recipients to “certify” that the payment will reimburse the recipient only for health care related expenses or lost revenues that are attributable to COVID-19,<sup>8</sup> it is unclear how the Department will enforce this requirement, whether the Department will require additional documentation from providers to substantiate these claims, or whether the Department has seen providers return this funding due to these certifications.

Despite acknowledgements by the Department that this mechanism for initial funding tranche failed to address all providers’ needs and would need to be modified or supplemented, \$20 billion in a second tranche of funding is currently being sent to providers under a similar distribution mechanism, except through a formula based on 2018 net patient revenue from all payors rather than 2019 Medicare FFS claims.<sup>9</sup> Eligibility for the second distribution of funding was also inexplicably limited to providers who received funding in the first distribution, despite the Department’s stated intent to improve upon the first distribution and ensure broader relief in subsequent allocations. As such, providers either received two distributions of funding, or none at all, leaving a number of providers nationwide without any relief, such as certain behavioral health providers and pediatric providers who do not have any Medicare revenue. Moreover, as the second formula-based distribution also did nothing to factor in actual funding needs or COVID-19 related revenue shortfalls, funding for providers directly impacted by COVID-19 and who are fighting on the frontlines to treat and contain this crisis has remained wholly inadequate. As demonstrated by the Administration’s inability to capture all provider types and to target funding to those who are most in need of assistance, formula-based distribution mechanisms are insufficient to address the crisis in our healthcare system. Moreover, such a distribution mechanism runs counter to Congressional intent and to the program language signed into law, which requires funds to be distributed through an application-based process to reimburse for specific COVID-related expenses and lost revenue.

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<sup>7</sup> *Hospital relief money slow to reach places that need it most, lawmakers and industry groups say*, Washington Post (Apr. 16, 2020) ([www.washingtonpost.com/us-policy/2020/04/16/bailout-money-hospitals-slow-get-out-missing-some-places-that-need-it-most-lawmakers-industry-groups-say/](http://www.washingtonpost.com/us-policy/2020/04/16/bailout-money-hospitals-slow-get-out-missing-some-places-that-need-it-most-lawmakers-industry-groups-say/)).

<sup>8</sup> U.S. Department of Health and Human Services, *Terms and Conditions for Provider Relief Fund Distributions* (Apr. 2020) ([www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf](http://www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf)). U.S. Department of Health and Human Services, *HHS Announces Additional Allocations of CARES Act Provider Relief Fund* (Apr. 22, 2020) ([www.hhs.gov/about/news/2020/04/22/hhs-announces-additional-allocations-of-cares-act-provider-relief-fund.html](http://www.hhs.gov/about/news/2020/04/22/hhs-announces-additional-allocations-of-cares-act-provider-relief-fund.html)) (press release).

<sup>9</sup> U.S. Department of Health and Human Services, *HHS Announces Additional Allocations of CARES Act Provider Relief Fund* (Apr. 22, 2020) ([www.hhs.gov/about/news/2020/04/22/hhs-announces-additional-allocations-of-cares-act-provider-relief-fund.html](http://www.hhs.gov/about/news/2020/04/22/hhs-announces-additional-allocations-of-cares-act-provider-relief-fund.html)) (press release).



Additionally, the Department's lack of transparency about who has received funds through these programs is troubling. We appreciate that the Department yesterday took its first step towards publicly releasing some data with regard to recipients of funds from the Provider Relief Fund.<sup>10</sup> But we continue to request that the Department provide to Congress all of the data on all distributions from the Provider Relief Fund without further delay, as this information is critically important to inform our legislative efforts. The Department has also failed to make available any provider-specific data with regard to the Medicare Accelerated and Advance Payment Programs, despite repeated requests by Congress for this basic level of transparency and the Department's ability to do so for other CARES Act funding awards.<sup>11</sup> The Committees continue to have questions about the specific methodology for the \$12 billion "high impact areas" distribution for areas highly affected by COVID-19 and the \$10 billion "rural" distribution, as well as future planned distributions.<sup>12</sup> Additionally, questions the Committee has submitted to the Department about how the Provider Relief Fund will be administered, including

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<sup>10</sup> Centers for Disease Control and Prevention, HRSA Provider Relief Fund – General Allocation ([data.cdc.gov/Administrative/HRSA-Provider-Relief-Fund-General-Allocation/kh8y-3es6](https://data.cdc.gov/Administrative/HRSA-Provider-Relief-Fund-General-Allocation/kh8y-3es6)) (accessed May 7, 2020).

<sup>11</sup> E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services and Staff, Centers for Medicare and Medicaid Services (Apr. 20, 2020); Telephone call, Majority Staffs from House Committee on Ways and Means and House Committee on Energy and Commerce with Staff, U.S. Department of Health and Human Services (Apr. 20, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services and Staff, Centers for Medicare and Medicaid Services (Apr. 24, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services and Staff, Centers for Medicare and Medicaid Services (Apr. 28, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services and Staff, Centers for Medicare and Medicaid Services (Apr. 29, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 24, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 27, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 28, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 29, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 30, 2020).

<sup>12</sup> E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 24, 2020); E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 28, 2020); Email from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (May 4, 2020).

The Honorable Alex M. Azar II  
The Honorable Seema Verma  
May 7, 2020  
Page 5

the terms and conditions for receipt of the funds and how they will be enforced,<sup>13</sup> the process for selecting UnitedHealth Group to administer the fund and whether this contract was awarded outside of regular federal procurement channels,<sup>14</sup> and what portion of the fund will be spent on treatment of the uninsured through the Health Resources and Services Administration,<sup>15</sup> also remain unanswered.

While we have been patient with the Department given the gravity of the challenges we are all facing in responding to the COVID-19 crisis, the Department's lack of transparency makes it impossible for Congress to assess the ongoing needs of our healthcare system as the COVID-19 crisis unfolds, as we lack critical information on the adequacy and the comprehensiveness of the current efforts. As such, we request an immediate response from the Department regarding the documents and information requested in the enclosed appendix. If the Department is unable to immediately provide the information, please provide a timeline for providing the requested information to the Committees.

This crisis demands that we work swiftly and based on the best data available. Currently, despite repeated requests, this Administration has prevented Congress from obtaining the data that the Department has available on funding for our health care system, data that is necessary to inform near future legislation. We look forward to receiving this information so that we can conduct the business the American people expect of us. We look forward to having you join us at the earliest possible date in each of our Committees to discuss these and other COVID-related issues.

Sincerely,



Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce



Richard E. Neal  
Chairman  
Committee on Ways and Means

Enclosure

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<sup>13</sup> E-mail from Majority Staff, House Committee on Energy and Commerce, to Staff, U.S. Department of Health and Human Services (Apr. 24, 2020).

<sup>14</sup> *Trump team's use of big insurer to dispense recovery funds comes under scrutiny*, Politico (Apr. 18, 2020) ([www.politico.com/news/2020/04/18/unitedhealth-trump-coronavirus-recovery-funds-193716](http://www.politico.com/news/2020/04/18/unitedhealth-trump-coronavirus-recovery-funds-193716)).

<sup>15</sup> Health Resources and Services Administration, COVID-19 Claims Reimbursement to Health Care Providers and Facilities for Testing and Treatment of the Uninsured ([www.hrsa.gov/CovidUninsuredClaim](http://www.hrsa.gov/CovidUninsuredClaim)) (accessed May 7, 2020).

## Appendix

### Provider Relief Fund

1. Please provide the following information with respect to the Provider Relief Fund:
  - a. A detailed description of how the CARES Act Provider Relief Fund is being overseen within the Department, including what agencies are involved in the administration of the fund, the development of funding methodologies, and review of provider documentation and applications, as well as who within the Department or agencies is primarily responsible for daily oversight of this fund.
  - b. A list of all providers who received funding under the Provider Relief Fund. Such a list should include for each provider:
    - i. When and by what delivery method the provider received a payment;
    - ii. The amount of the grant to each provider;
    - iii. The type of provider receiving the grant;
    - iv. A description of the documentation submitted by the provider that demonstrated the funds were used for healthcare-related expenses or lost revenue attributable to coronavirus;
    - v. Whether the provider also received funds through the Accelerated and Advance Payment Programs, and if so, in what amount(s);
    - vi. Whether the provider has accepted the terms and conditions and/or returned the payment; and
    - vii. Whether HHS has or plans to recoup payments distributed based on formula differences between the various disbursements.
  - c. A detailed description of the specific methodology that is being utilized to allocate funds for COVID-19 high impact areas, including whether any of the funds will be allocated according to a provider's Medicare DSH status, Medicaid deemed DSH status, or a combination of both.
    - i. A list of all providers who received funds based on this allocation;
    - ii. The amount of the grant to each provider;
    - iii. The type of provider receiving the grant; and
    - iv. Whether the provider also received funds through any other COVID-related provider relief method.
  - d. A detailed description of the specific methodology that is being utilized to allocate funds for rural providers.
    - i. A list of all providers who received funds based on this allocation;
    - ii. The amount of the grant to each provider, and the percentage of overall operating expenses compensated by the grant;
    - iii. The type of provider receiving the grant; and
    - iv. Whether the provider also received funds through any other COVID-related provider relief method, and if so, the amount.
  - e. The total amount of funding distributed by May 6, 2020 and the amount left in such fund.



- iv. Whether the provider or supplier is eligible to receive additional loans through either program.
- b. The total number of loans distributed through either program including a breakdown by state and by provider type.
- c. The rationale for suspending the Advance Payment Program and if/when payments will be resumed.
- d. The criteria CMS will use to reevaluate pending and future Accelerated Payment applications.
- e. Information on any future changes CMS intends to make to the eligibility or process for approving and recouping payments made through the Accelerated and Advance Payment Programs.

RICHARD E. NEAL  
MASSACHUSETTS,  
CHAIRMAN

# Congress of the United States

## U.S. House of Representatives

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GARY ANDRES,  
MINORITY STAFF DIRECTOR

April 30, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Dear Secretary Mnuchin and Commissioner Rettig,

I write to request that the Internal Revenue Service (IRS) promptly provide a public briefing on the economic impact payments authorized under the Coronavirus Aid, Relief, and Economic Security Act. A public webinar previously was scheduled for April 23, but the IRS abruptly cancelled it without explanation the evening prior to the event. I feel very strongly that Americans deserve to hear from the Administration on this important topic and have their questions answered directly by IRS officials.

As you know, Congress authorized the economic impact payments in order to provide critically-needed financial assistance to Americans impacted by the coronavirus pandemic. With a record number of Americans newly unemployed, this aid is needed now more than ever. Though the Department of the Treasury (Treasury) reported that millions already should have received payment, millions more Americans are still waiting. Understandably, these individuals are eager to receive the financial aid that they were promised.


In recent weeks, Congressional offices have been inundated with calls from constituents with questions about their economic impact payments. Among other issues, Americans awaiting payment are wondering if they need to take any further steps. Even those who have received payments have a wide range of questions, including why their payment amount is different than what they expected and how they can resolve outstanding issues with the IRS. In many instances, these Americans need information that only the IRS can provide. Despite Congressional offices' best efforts to provide helpful information, there sometimes is no substitute for going straight to the source.

Secretary Mnuchin  
Commissioner Rettig  
April 30, 2020  
Page 2

Accordingly, I respectfully request that the IRS promptly reschedule the public briefing that was scheduled for April 23. I ask that the briefing occur within the next seven days and that it be made available to the maximum number of people possible. Additionally, I request that Treasury consider providing other public briefings on issues related to this pandemic, including a briefing for small businesses on the availability of relief aid.

Thank you, in advance, for your prompt attention to this matter.

Sincerely,



Richard E. Neal  
Chairman  
Committee on Ways & Means  
United States House of Representatives

**Congress of the United States**  
**Washington, DC 20515**

April 21, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write regarding a special alert issued yesterday by the Internal Revenue Service (IRS) for Social Security and Railroad Retirement Board (RRB) beneficiaries who do not file tax returns and who have qualified dependents. In short, the alert states that, if these individuals wish to receive stimulus payments for their dependents, they must register on the IRS's non-filer portal by tomorrow at noon. Though we appreciate that the IRS is endeavoring to pay these individuals as quickly as possible, we are concerned that this vulnerable population has been given less than forty-eight hours to act. We urge the Department of the Treasury (Treasury) to make an additional accommodation this year for beneficiaries who are unable to register and provide dependent information in time.

As you are aware, older Americans are among the most vulnerable in our country and have been one of the groups hardest hit by the COVID-19 pandemic. Accordingly, it is paramount that these individuals receive the full and correct amount of their stimulus payments this year without undue delay or hardship. In light of the special alert issued by the IRS yesterday, we are deeply concerned that some of these beneficiaries will face both hardship and delay and will not receive the full amount of money that they are rightfully owed. This delay could impact their ability to care for dependent children or grandchildren currently living with them.

The alert, issued late yesterday afternoon, imposed a deadline of noon tomorrow for these individuals, many of whom are elderly and unaccustomed to dealing with the IRS. It states that beneficiaries who miss the deadline will have to wait until 2021 and file a 2020 tax return to receive their full stimulus payment. Our concerns over this deadline are particularly acute because many of these beneficiaries are seniors with limited or no internet access. Requiring these Americans to wait so long for emergency assistance appears to be inconsistent with the goals of the Coronavirus Aid, Relief, and Economic Security Act, which authorized these payments.

Given the importance of these payments at this critical time, we urge Treasury to consider all available options for paying these beneficiaries additional amounts owed this year. We request that beneficiaries who provide their dependent information after the deadline receive payment for their dependents promptly thereafter, whether those recipients are the Social Security and RRB families affected by the current short deadline, or the Supplemental Security Income beneficiaries and veterans who will also need to file to receive payment for dependents. We also request that Treasury consider an alternative option for Americans who may have limited or no internet access, so that they too can receive payment for their dependents as soon as possible.



The Honorable Steven T. Mnuchin  
April 21, 2020  
Page 2

Thank you, in advance, for your attention to this urgent matter.

Sincerely,



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The Honorable John B. Larson  
Chairman  
Subcommittee on Social Security  
Committee on Ways and Means



---

The Honorable Danny K. Davis  
Chairman  
Subcommittee on Worker and Family Support  
Committee on Ways and Means

**Congress of the United States**  
**Washington, DC 20515**

April 21, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Mnuchin,

As Members of the Committee on Ways and Means, we write seeking information about issues that may be causing stimulus payments authorized under the Coronavirus Aid, Relief, and Economic Security Act to be returned to the Department of the Treasury (Treasury). Given the ongoing economic and health crisis, it is imperative that Americans eligible to receive stimulus payments are provided such funds as swiftly as possible.

Last week, we understand that Treasury attempted to pay \$150 billion in stimulus payments by direct deposit to “80 million Americans.” These payments were made using direct deposit information included on 2018 or 2019 tax returns. Based on press reports and constituent inquiries, however, it appears that many Americans did not receive scheduled stimulus payments as a result of incorrect banking information.

There seems to be a variety of reasons for the direct deposit issues. Some press reports found that there may be tens of millions of taxpayers who relied on commercial tax preparation software or services for whom Treasury cannot deposit the stimulus payment into their bank accounts.

Other taxpayers may have received advances on their federal tax refunds through refund anticipation products, and their stimulus payments incorrectly went to third-party banks that provided the money for the advance to the preparers. While it is unclear why these payments were sent to accounts that should have been designated as temporary, we understand these stimulus payments should be returned to Treasury.

Furthermore, we heard that Treasury has incorrect, or closed, bank account information on file for some taxpayers. We also understand that these stimulus payments should be returned to Treasury.

On April 16, 2020, Treasury reported that nearly one billion dollars of federal tax refunds were returned by financial institutions to Treasury. There are many questions regarding this amount, including the number of payments returned, the reasons the payments were returned, and how many payments Treasury estimates will be returned. For Americans whose stimulus payments were returned to Treasury, it is important to communicate this information to them.

Secretary Mnuchin  
April 21, 2020  
Page 2

Therefore, given the information above, please provide answers to the following questions by no later than tomorrow, April 22:

1. What is the total number and dollar amount of stimulus payments that have been returned to Treasury to date?
2. What are the leading factors causing stimulus payments to be returned to Treasury?
3. When stimulus payments are returned to Treasury, what actions are taken to ensure such funds are promptly delivered to the intended recipients and update any error related to their account information?

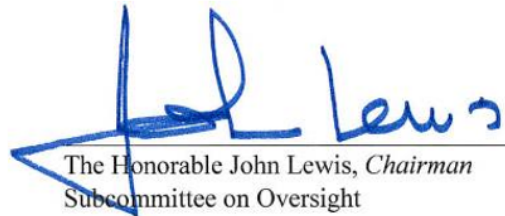
Thank you, in advance, for your attention to this urgent matter.

Sincerely,



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The Honorable Mike Thompson, *Chairman*  
Subcommittee on Select Revenue Measures



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The Honorable John Lewis, *Chairman*  
Subcommittee on Oversight

MIKE THOMPSON

5TH DISTRICT, CALIFORNIA

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON SELECT REVENUE MEASURES

CHAIRMAN

SUBCOMMITTEE ON HEALTH



CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

April 17, 2020

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WASHINGTON, DC 20515  
(202) 225-3311  
WEB: <http://mikethompson.house.gov>

The Honorable Steven Mnuchin  
Department of the Treasury  
1500 Pennsylvania Ave., N.W.  
Washington, DC 20220

Dear Secretary Mnuchin:

I write to express my concern about the alarming reports concerning the small businesses relief enacted under the Coronavirus Aid, Relief and Economic Security (CARES) Act. As you are aware, the Small Business Administration Paycheck Protection Program is designed to provide a direct incentive for small businesses to keep their workers on the payroll. However, this critical relief to keep workers employed may never get to legitimate small businesses who are desperate for help because larger companies that employ thousands of people were able to benefit from the first wave of the loans. These large companies got there first, for example large restaurants chains like Potbelly Corp. and Ruth's Hospitality Group received funding that accelerated the depletion of critical SBA loan relief and now many small family-owned businesses are unable to get the funding they need to survive and keep their workers employed.

Like many Members, I have received countless inquiries from small businesses throughout my district who have encountered major difficulties applying for relief assistance that would help their businesses survive and save the jobs of so many employees. Small businesses are not getting access to loans and many have not been able to apply before funding ran out. In addition, banks are getting ever evolving guidance which slows things down and are not embracing the Paycheck Protection Program as they should. Knowing that these funds are distributed on a first come, first served basis, small businesses in my district without existing bank relationships and resources have been left out in the cold, whereas larger companies with resources have navigated the process successfully.

Small businesses in my district are struggling to stay afloat and meet payroll obligations during this health care crisis. Many are in a financial situation where their cash may not last under current conditions. The Paycheck Protection Program is not working as intended and small businesses are still waiting, uncertain about how much they will get or when they will get it. In addition, because of the depletion of SBA loan resources, I am deeply concerned about legitimate small businesses not losing their place in line and not having to reapply. In light of the struggles facing small businesses who are working desperately to survive and keep their workers employed, the Administration must ensure the small guys get the relief Congress intended.

Thank you in advance for your prompt attention to this urgent matter.

Sincerely,

A handwritten signature in blue ink that reads "Mike Thompson".

MIKE THOMPSON  
Member of Congress

**COMMITTEE ON WAYS AND MEANS**  
**U.S. HOUSE OF REPRESENTATIVES**  
**WASHINGTON, DC 20515**

April 17, 2020

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Ave., S.W.  
Washington, DC 20201

Re: Skilled Nursing Facility Reporting on Testing and Capacity in the COVID-19 National  
Emergency

Dear Administrator Verma:

I am writing to express my alarm about the current situation facing residents of skilled nursing facilities (SNFs) during the COVID-19 crisis and urge you to take quick action to assist facilities in protecting their residents. Older Americans residing in SNFs are at tremendous risk of acquiring COVID-19 and having bad outcomes because of the infection. Since last week, the number of known COVID-19 cases in our nation's long-term care facilities has more than doubled to 5,610 – across nearly 3500 facilities in 39 states.<sup>1</sup> As of April 16<sup>th</sup>, Massachusetts reported 4,798 confirmed COVID-19 cases, spanning 232 long-term care facilities.<sup>2</sup> The U.S. now leads the world in coronavirus cases, at over 640,291 with 31,015 deaths as of April 16.<sup>3</sup> According to a Centers for Disease Control and Prevention (CDC) report released last month, individuals 65 and older represent 31 percent of COVID-19 cases, 45 percent of hospitalizations, 53 percent of intensive care unit (ICU) admissions, and 80 percent of deaths – with the highest percentage of severe outcomes occurring among individuals aged 85 and older.<sup>4</sup> We *must* focus more on our nation's nursing homes, particularly in the areas of transparency and infection control/crisis management.

**Transparency.** First, transparency on COVID-19 testing and care capacity for the people that are most vulnerable to the COVID-19 pandemic – our seniors living in nursing homes across the country – is essential. Vice President Mike Pence's March 29, 2020, letter to hospital administrators requested hospitals report daily to the Department of Health and Human Services (HHS) on the number of COVID-19 tests completed and on hospital, ICU, and ventilator use and capacity through the National Healthcare Safety Network (NHSN) COVID-19 Patient Impact

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<sup>1</sup><https://www.nbcnews.com/news/us-news/coronavirus-deaths-u-s-nursing-homes-soar-more-5-500-n1184536>

<sup>2</sup> Massachusetts Emergency Management Agency. (16 April 2020). *COVID-19 Command Center: Situation Update*.

<sup>3</sup> <https://www.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>

<sup>4</sup> [https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm?s\\_cid=mm6912e2\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm?s_cid=mm6912e2_w)

and Hospital Capacity module.<sup>5, 6</sup> This request is an important step in enabling the federal government to better understand the scope of the epidemic and where resources should be immediately directed. *However, hospitals are not the only hotspots in this crisis: By not including SNFs in this request, we risk making invisible some of the most at-risk institutions in this pandemic at a critical time when other infection control regulations are not being enforced.*

Many SNFs are already reporting infection data through the NHSN.<sup>7</sup> The new COVID-19 Patient Impact and Hospital Capacity module is not overly burdensome or time-consuming and is only one-page long.<sup>8</sup> The module consists of 13 data elements calls for reporting aggregate count data for each calendar day. With HHS collecting these data daily and centrally, we can more effectively identify hot spots and address needs quickly to avoid further spread.

In addition to reporting data to the Centers for Medicare & Medicaid Services (CMS), the agency should also require nursing facilities to inform the public – including residents, families, staff members, and the state long-term care ombudsman – when residents or staff members test positive, along with the steps the facility is taking to treat infected residents and protect other individuals. In turn, states should also release the names of facilities that have residents and staff members with confirmed positive cases.

Furthermore, given the staffing challenges in facilities due to the infection – in a care setting that always struggles to recruit and retain staff during normal times – CMS must require nursing facilities to report staffing levels on a regular basis to state survey agencies, the state long-term care ombudsman, and CMS on a daily basis. This information should be made publicly available for family caregivers to monitor, particularly at a time when in-person visits – a vital form of patient monitoring and oversight – are prohibited.

**Infection control and crisis management.** Second, it is clear that nursing homes have become the epicenter of COVID-19 spread, with horrifying stories emerging about bodies piling up inside the morgues of nursing homes.<sup>9</sup> The rampant spread of COVID-19 across nursing homes has emerged as a human rights issue – and we must do more to help our nation’s most vulnerable.

Current regulations specify that a staff member be designated part-time to act as an infection preventionist. During this time of increased COVID-19 monitoring and spread, it is vital that facilities employ a *full-time* specialist to ensure each facility has ongoing oversight of infection control protocols during this crisis. Although staffing this position during a crisis may be challenging, it is not impossible – and we should look to states that have come up with creative solutions to ensure we are protecting our nation’s most vulnerable.

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<sup>5</sup> <https://www.cdc.gov/nhsn/pdfs/covid19/57.130-covid19-pimhc-blank-p.pdf>

<sup>6</sup> <https://www.cms.gov/files/document/32920-hospital-letter-vice-president-pence.pdf>

<sup>7</sup> <https://www.cdc.gov/nhsn/about-nhsn/index.html>

<sup>8</sup> <https://www.cdc.gov/nhsn/pdfs/covid19/57.130-covid19-pimhc-blank-p.pdf>

<sup>9</sup> <https://www.nytimes.com/2020/04/15/nyregion/coronavirus-nj-andover-nursing-home-deaths.html>

The Administrator Seema Verma

April 17, 2020

Page 3

For example, Massachusetts has created a Long-Term Care (LTC) Portal to match registered health professionals with the staffing requests facilities have submitted. To incentivize registration, all individuals will receive an \$1,000 signing bonus when they register through portal to work for a certain amount of time in a nursing home. And volunteers are signing up to help through the Health Professionals Volunteer portal. We have also started offering crisis management support to long-term care facilities, contracting with a firm specializing in nursing home crisis management to provide facilities with on-site management and operational support. The firm is also supporting efforts to create dedicated COVID-19 facilities and wings/units within existing nursing facilities. I would encourage CMS to work with other states like Massachusetts to implement similar approaches.

Thank you for your expeditious attention to this important matter. If you have further questions about this letter or the questions raised, please contact Rachel Dolin at [Rachel.Dolin@mail.house.gov](mailto:Rachel.Dolin@mail.house.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard E. Neal". The signature is fluid and cursive, with a prominent loop at the end.

Richard E. Neal  
Chairman  
Committee on Ways and Means

**Congress of the United States**  
**Washington, DC 20515**

April 15, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write as Members of the Committee on Ways and Means regarding alarming reports that stimulus payments authorized under the Coronavirus Aid, Relief, and Economic Security (CARES) Act may be delayed so that the Department of the Treasury (Treasury) can print the President's name on paper checks mailed to Americans.

As you know, Congress passed the CARES Act to help Americans navigate the unprecedented crisis that they are now facing. A record number of Americans are applying for unemployment benefits, and millions more are facing job insecurity and financial distress.

Last night, it was reported that Treasury made the unprecedented decision ordering the President's name be printed on stimulus checks. As a result, Treasury staff reportedly is "racing" to implement this last-minute change, and senior officials at the Internal Revenue Service worry that it will lead to a delay in issuing the first batch of checks to Americans most in need. This is unacceptable.

The stimulus payments that Congress authorized are meant to provide urgently needed assistance to those who need it the most. It has always been Congress' priority that Americans – especially low-income taxpayers and families who do not have access to electronic payments -- receive these funds as promptly as possible.

In light of the struggles confronting families nationwide, the Administration must ensure that time is not wasted playing politics. For families, this is time and effort that should be spent making sure they receive their payments as fast as possible. Millions are waiting. It is alarming to think the Administration is further wasting time on vanity modifications to the checks going to many of the nation's most vulnerable – this is not the time for political games.

Given the extremely concerning reports, please provide answers to the following questions by no later than tomorrow, April 16:

1. Will the President's name appear on stimulus checks authorized under the CARES Act?
2. If so, what is the rationale for this unprecedented decision?




Secretary Mnuchin  
April 15, 2020  
Page 2


3. What steps are necessary to implement this change, and when were relevant Treasury and IRS personnel instructed to start implementing this change? What additional costs are associated with this change?
4. When will the first paper checks be sent?

Thank you for your prompt attention to this matter.

Sincerely,



The Honorable John Lewis, *Chairman*  
Subcommittee on Oversight



The Honorable Mike Thompson, *Chairman*  
Subcommittee on Select Revenue Measures

# Congress of the United States

## Washington, DC 20515

April 13, 2020

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

The Honorable Steven T. Mnuchin  
Secretary of the Treasury  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

The Honorable Eugene Scalia  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Azar, Secretary Mnuchin, and Secretary Scalia:

We write regarding the pressing need for the Administration to support uninsured and underinsured Americans and ensure that they have access to comprehensive coverage amidst the coronavirus (COVID-19) pandemic. We reiterate our urgent request that the Administration immediately establish a new Special Enrollment Period (SEP) for millions affected by this ongoing economic and health crisis. It is imperative that uninsured and underinsured Americans have access to comprehensive coverage through Healthcare.gov during this crisis and that further steps be taken to assist Americans who could benefit today from existing SEPs.

As shown by the historic, unprecedented spike in new claims for unemployment benefits, millions of Americans have already lost their jobs because of COVID-19. Tragically, almost 17 million Americans have filed for unemployment benefits in the past 3 weeks and many more claims are expected in the coming months.<sup>1</sup> Since most Americans receive their health insurance through their employer, those losing their coverage along with their jobs need to know their options for obtaining insurance so they can keep themselves, their families, and their communities safe and healthy with access to health care. The Affordable Care Act's (ACA) Marketplaces and associated financial assistance can play a vital role in providing help to these families as well as others who lack access to affordable and comprehensive health coverage.

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<sup>1</sup> Department of Labor, Unemployment Insurance Weekly Claims (Apr. 9, 2020), <https://www.dol.gov/ui/data.pdf>.

The Honorable Alex M. Azar II  
The Honorable Steven T. Mnuchin  
The Honorable Eugene Scalia  
April 13, 2020  
Page 2

The federal Marketplace currently provides an SEP for people who lose their job-based health coverage. However, many remain unaware of how to sign up or the existence of financial assistance to lower their costs. Employers laying off or furloughing employees may also not know how to best communicate the availability of Marketplace coverage. Further, many people that lacked employer-sponsored insurance before the pandemic continue to struggle to enroll in comprehensive coverage. The Administration's promotion of non-ACA compliant junk plans, such as short-term limited duration plans and those offered by health care sharing ministries, causes further confusion and may expose consumers to substantial financial harm.

The COVID-19 pandemic also creates high levels of uncertainty that may make it difficult for consumers to complete the enrollment process on HealthCare.gov. Projecting annual household income may be especially daunting right now — potentially leading to inconsistencies with existing Marketplace data sources that may also require submission of certain documents or loss of financial assistance at a time when families are coping with job loss. It is incumbent on this Administration to streamline the enrollment process and take other measures to increase the awareness of coverage options that can benefit lower- and middle-income Americans.

With families facing crises on many fronts, the process for securing and maintaining comprehensive health coverage should be as straightforward as possible. Therefore, we request that answers be provided to the following questions by April 20, 2020:

1. What actions will the Administration take to increase awareness of an SEP to potentially eligible consumers? Please also provide a timeline of these actions.
2. How will the Administration reduce the burden on applicants through HealthCare.gov who may need to provide supporting documentation to prove loss of coverage?
3. How will the Administration reduce the burden on applicants through HealthCare.gov whose income data on file, such as a previous year's tax return, may trigger an income inconsistency?
4. Will the Administration provide additional protections with respect to tax filing reconciliation for applicants through HealthCare.gov who may struggle to accurately project their annual household income as a result of COVID-19?
5. What steps is the Administration taking to inform consumers about the lack of coverage non-ACA compliant plans may provide for COVID-19 and other serious medical conditions?

Thank you for your urgent attention to this matter.

The Honorable Alex M. Azar II  
The Honorable Steven T. Mnuchin  
The Honorable Eugene Scalia  
April 13, 2020  
Page 3

Sincerely,



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Richard E. Neal  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives



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Frank Pallone, Jr.  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives



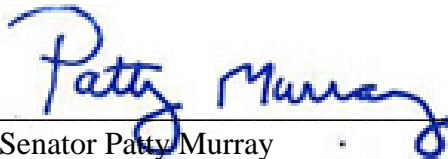
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Bobby Scott  
Chairman  
Committee on Education and Labor  
U.S. House of Representatives



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Senator Ron Wyden  
Ranking Member  
Committee on Finance  
United States Senate



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Senator Patty Murray  
Ranking Member  
Committee on Health, Education, Labor, and Pensions  
United States Senate

RICHARD E. NEAL  
MASSACHUSETTS,  
CHAIRMAN

# Congress of the United States

## U.S. House of Representatives

### COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING

(202) 225-3625

Washington, D.C. 20515-0348

<http://waysandmeans.house.gov>

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RON ESTES, KANSAS

GARY ANDRES,  
MINORITY STAFF DIRECTOR

BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

April 10, 2020

The Honorable Steven T. Mnuchin  
Secretary  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Dear Secretary Mnuchin,

We write today to urge the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) to use their disaster authority to provide relief related to the development of affordable rental housing.

As you know, the Low-Income Housing Tax Credit (LIHTC) program is our nation's most effective affordable rental housing development program. Now more than ever, with the coronavirus pandemic requiring Americans to shelter in place and causing loss of income for so many, having affordable homes in which families can take refuge is essential. As of today, the President has approved Major Disaster declarations in 47 states, the District of Columbia, and four U.S. territories. These Major Disaster declarations provide the IRS with wide discretion to waive program rules, including statutory requirements that create unnecessary hindrances given current circumstances.

In light of these declarations and the breadth of social distancing recommendations, we ask that Treasury and the IRS take action to extend certain deadlines and remove barriers in the LIHTC program, including deadlines related to the 10% Test for carryover allocations,<sup>1</sup> placed-in-service dates,<sup>2</sup> and rehabilitation expenditures.<sup>3</sup> We also urge you to consider relief related to additional deadlines that impact the LIHTC program—for example, a 12-month extension of the 25-month rehabilitation period currently allowed to properties that suffered a casualty loss<sup>4</sup>—and relief from other review and reporting requirements that you deem appropriate during this crisis.

<sup>1</sup> IRC Sec. 42(h)(1)(E)(ii) and Treas. Reg. sec. 1.42-6.

<sup>2</sup> IRC Sec. 42(h)(1)(E)(i).

<sup>3</sup> IRC Secs. 42(e)(3) and (e)(4).

<sup>4</sup> See IRS Rev. Procs. 2014-49 and 2014-50.

Secretary Mnuchin

April 10, 2020

Page 2

Thank you for your leadership during this difficult time. We look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard E. Neal".

The Honorable Richard E. Neal, *Chairman*

A handwritten signature in blue ink, appearing to read "Suzan K. DelBene".

The Honorable Suzan K. DelBene

RICHARD E. NEAL  
MASSACHUSETTS,  
CHAIRMAN

# Congress of the United States

## U.S. House of Representatives

### COMMITTEE ON WAYS AND MEANS

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GARY ANDRES,  
MINORITY STAFF DIRECTOR

BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

April 1, 2020

The Honorable Michael R. Pence  
Vice President of the United States  
Coronavirus Task Force  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Vice President Pence,

I write concerning the shortage of personal protective equipment (PPE) that health care providers and states suffer from while attempting to protect Americans from the coronavirus (COVID-19) pandemic. As Chairman of the House Committee on Ways and Means, I respectfully ask the Coronavirus Task Force to provide information to Congress and the public regarding the steps it is taking to ensure our frontline health care workers have access to critical medical resources, such as PPE.

Adequate PPE is important to protecting the very workers needed to provide health care to Americans during the COVID-19 pandemic. In China, nearly four percent of COVID-19 cases were health care workers and 63 percent of these cases were among health providers working in the Wuhan province, where the virus was first identified.<sup>1</sup> In Italy, nearly nine percent of confirmed cases have been health care workers.<sup>2</sup> Initial reports from the United States show similar dynamics — with four leading hospitals in Massachusetts already having nearly 350 employees test positive.<sup>3</sup> At a time when some communities face shortages in health care workers and workers need to be able to move around the country to meet needs, providing PPE and other critical medical resources should be a nationally organized and coordinated effort.

The current situation does not appear to meet the needs of the very brave workers fighting to save American lives. Health care providers in Massachusetts and across the country are fabricating their own face masks, which put their staff and patients at risk for catching and spreading COVID-19. I hope that

<sup>1</sup> JAMA, Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China (Feb 24, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2762130>.

<sup>2</sup> JAMA, Coronavirus Disease 2019 (COVID-19) in Italy. (March 17, 2020), <https://jamanetwork.com/journals/jama/fullarticle/2763401>.

<sup>3</sup> NPR, *4 Boston Hospitals Report Significant Number Of Employees Have Coronavirus* (Mar. 30, 2020), <https://www.npr.org/sections/coronavirus-live-updates/2020/03/30/824170756/four-boston-hospitals-report-significant-numbers-of-employees-have-the-coronavir>.

The Honorable Michael R. Pence

April 1, 2020

Page 2

we can work together to ensure that adequate PPE and supplies reach our frontline health care workers and our most vulnerable patients, and that we can prevent the spread of COVID-19 among health care staff and those for whom they provide care.

Challenges at the state level to securing PPE suggest potential discrepancies and other obstacles in obtaining PPE from the Strategic National Stockpile (SNS) and other channels.<sup>4</sup> For example, recent reports show that states, including Massachusetts, Maine, and Colorado, have only received a fraction of the PPE requested from the SNS. At the same time, Florida has received the full amount of PPE it requested. It is also concerning that several states have disclosed that various PPE and supplies received from the SNS to date have expired — raising fears that such equipment will not protect health care staff during this emergency.<sup>5</sup>

Given the inability of the SNS to fully meet the needs of states, the Administration should also work collaboratively to help states secure PPE from private vendors. States should not be forced into a bidding war against other states, or even the federal government. As the Governor of Michigan recently indicated, her state has faced PPE contracts being canceled or delayed.<sup>6</sup> While the federal government must play a role in ramping up the production of PPE to protect against the virus, such efforts should not hamper the ability of states to directly secure PPE.

During a national crisis that threatens every community, no state should have an unfair advantage and the management of the SNS must be guided at all times by public health needs. The Coronavirus Task Force must strive to guarantee that every health care provider — regardless of where they are located — has the resources to protect their staff and patients.

As management of the SNS has recently shifted from the Department of Health and Human Services to the Federal Emergency Management Agency, I hope that the Coronavirus Task Force is working to ensure that appropriate coordination is occurring among these federal agencies as well as with states. Clear direction by the Administration over the SNS can help ensure that the requisite expertise of federal officials needed to navigate this crisis will be fully put to use.

Therefore, I request that the Coronavirus Task Force answer the following questions and provide the requested information by April 7, 2020:

1. Please provide a detailed workflow or organizational memo outlining the process for receiving, evaluating, and approving state and locality requests for, as well as disbursing materials from, the SNS. Please include information regarding the position, office, or agency for the lead Administration official or employee at each step.

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<sup>4</sup> See The Washington Post, *Governors plead for medical equipment from federal stockpile plagued by shortages and confusion* (Mar. 31, 2020), <https://www.washingtonpost.com/politics/governors-plead-for-medical-equipment-from-federal-stockpile-plagued-by-shortages-and-confusion/2020/03/31/?arc404=true>.

<sup>5</sup> ABC News, *Feds send supplies from stockpiles but some items are old or expired, officials say* (Mar. 24, 2020), <https://abcnews.go.com/Health/feds-send-supplies-stockpiles-items-expired-officials/story?id=69770784>.

<sup>6</sup> CNN, *Michigan governor says shipments of medical supplies 'canceled' or 'delayed' and sent to federal government* (Mar. 27, 2020), <https://www.cnn.com/2020/03/27/politics/michigan-governor-medical-supplies-cnn/index.html>.



The Honorable Michael R. Pence

April 1, 2020

Page 3

2. Please provide the spreadsheet maintained by the Administration of PPE requests made by states from the SNS and associated shipments to date.
3. What criteria guide the Administration's assessment of requests made by states for PPE from the SNS? If the Administration has decided to prioritize fulfilling certain requests over others, please provide a public health rationale to justify such prioritization.
4. Please specify all existing federal contracts in place to procure PPE, and identify any new contracts initiated over the past 90 days.
5. Has the Administration conducted any analysis regarding the extent to which PPE from the SNS has expired? If so, please provide any associated analyses or memorandum.
6. What actions has the Administration taken in order to assist states in their efforts to procure PPE from private vendors? Has the Administration adopted any measures to prevent unnecessary delays or bidding wars?
7. What other Federal sources of PPE beyond the SNS has the Administration identified? How are these additional PPE stockpiles being managed and deployed to meet the needs of the Country?

Thank you for your prompt attention to this matter.

Sincerely,



Richard E. Neal  
Chairman  
Committee on Ways & Means  
United States House of Representatives

# Congress of the United States

## Washington, DC 20515

March 27, 2020

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Secretary DeVos,

We appreciate the steps you and the Administration have taken to provide relief to borrowers, including halting all collection activity on certain defaulted federal student loans during the COVID-19 national emergency. Earlier this week, you announced that the Department of Education (Department) would return approximately \$1.8 billion that had been garnished from borrowers since March 13, 2020. While this decision provides meaningful relief to those borrowers, we ask you also to consider returning to all borrowers all amounts collected from federal tax refunds through the Treasury Offset Program (TOP) during this filing season, which began on January 27, 2020, and to halt collections on all federal student loans not covered by your initial action.

By March 13, the Internal Revenue Service already had processed 73.5 million federal tax returns. Of those, 59.2 million were eligible for a federal tax refund, which then would have been subject to offset through TOP, including for delinquent student loans.

Traditionally, low-income taxpayers file their tax returns at the start of the filing season, as they rely on their federal tax refunds to purchase basic necessities and pay their rent. Many of these taxpayers receive refundable tax credits, such as the Earned Income Tax Credit (EITC) and the Additional Child Tax Credit (ACTC), which are powerful anti-poverty tools that provide needed assistance for millions of low- and moderate-income families. Since taxpayers receiving the EITC and ACTC tend to file early in the filing season, it is very likely that offsets to their federal tax refunds would have been made before March 13.

For context, during the 2019 tax filing season, about \$3.2 billion was offset through TOP from one million federal tax refunds containing the EITC and ACTC refundable credits. According to the National Consumer Law Center, the consequences of offsets are devastating.<sup>1</sup> And, in light of the COVID-19 pandemic, we are deeply concerned that the economic impact of these offsets could be even more devastating this year unless the money is returned immediately to these borrowers.

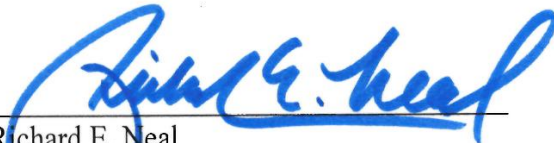
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<sup>1</sup> See National Consumer Law Center, [\*Voices of Despair: Student Borrowers Trapped in Poverty When the Government Seizes Their Earned Income Tax Credit\*](#) (May 2018).


Additionally, it is not clear that your policy applies to all federal loans. The Department's announcement indicates that it has instructed "private collections agencies... to halt all proactive collections activities." Because the Department's private collections agencies only collect on defaulted debts owned by the government, which exclude some older, commercially held loans in the Federal Family Education Loans program, some borrowers may not be impacted by this action.<sup>2</sup> Roughly 15 percent of borrowers with federal student loans (about 6.2 million individuals) hold at least one commercially held Federal Family Education Loan.<sup>3</sup> We encourage you to extend all halted collections to these borrowers.

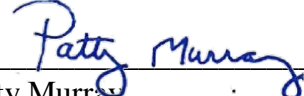
Accordingly, we respectfully request that the Department return all amounts collected through offset of federal tax refunds for delinquent student loans since January 27 to taxpayer-borrowers and extend halted collections to the borrowers mentioned above. Thank you, in advance, for your consideration.


Sincerely,

  
Richard E. Neal  
Chairman  
Committee on Ways & Means  
United States House of Representatives

  
Ron Wyden  
Ranking Member  
Committee on Finance  
United States Senate

  
Robert C. "Bobby" Scott  
Chairman  
Committee on Education and Labor  
United States House of Representatives

  
Patty Murray  
Ranking Member  
Committee on Health, Education, Labor &  
Pensions  
United States Senate

  
Linda T. Sánchez  
Member of Congress

<sup>2</sup> Dept. of Education, *Secretary DeVos Directs FSA to Stop Wage Garnishment, Collections Actions for Student Loan Borrowers, Will Refund More Than \$1.8 Billion to Students, Families*, (Mar. 25, 2020) available at <https://www.ed.gov/news/press-releases/secretary-devos-directs-fsa-stop-wage-garnishment-collections-actions-student-loan-borrowers-will-refund-more-18-billion-students-families>.

<sup>3</sup> Dept. of Education, *Federal Student Aid Portfolio Summary*, last accessed Mar. 26, 2020.

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BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

# Congress of the United States

## U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING  
(202) 225-3625

Washington, DC 20515-0348

<http://waysandmeans.house.gov>

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GARY ANDRES,  
MINORITY STAFF DIRECTOR

March 10, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Azar:

We have received a letter dated March 6, 2020, in response to our letter to you, regarding employees of the Administration for Children & Families (ACF) and potential COVID-19 exposure. We appreciate that the U.S. Department of Health & Human Services (HHS) is investigating the whistleblower's allegation and understand that the investigation is not yet complete.

Despite providing some information, your response did not fully answer several of our questions that we expected HHS should have been able to answer even before the investigation was undertaken, including:

1. Were the U.S. Repatriation Program staff deployed to March Air Reserve Base and Travis Air Force Base properly trained in responding to infectious disease situations, and were they provided proper personal protective equipment?
2. Have all of the ACF employees deployed been tested now that they have the option? Has HHS been monitoring the ACF staff's contact with the public to determine whether they may be asymptomatic carriers or otherwise tracking their movements after leaving the quarantine area?
3. Was the HHS request for a \$9 million increase in the cap on U.S. Repatriation Program spending intended to fund new COVID-19-related activities by U.S. Repatriation Program staff? If not, what was the intended use of the additional \$9 million?

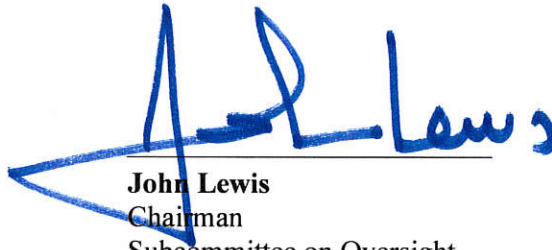
We also are attaching a detailed list of additional questions that should be answered in the course of a thorough investigation, if not sooner, and look forward to receiving a response to them as soon as information is available.

Thank you for your attention to this matter. We would appreciate receiving an answer to our outstanding questions, and a timeline for completion of your fuller investigation, by Monday, March 16, 2020.

Sincerely,



**Richard E. Neal**  
Chairman  
Committee on Ways & Means



**John Lewis**  
Chairman  
Subcommittee on Oversight  
Committee on Ways & Means



**Lloyd Doggett**  
Chairman  
Subcommittee on Health  
Committee on Ways & Means



**Danny K. Davis**  
Chairman  
Subcommittee on Worker & Family Support  
Committee on Ways & Means



**Jimmy Gomez**  
Committee on Ways & Means

CC:

Sara Arbes, Acting Assistant Secretary for Legislation, Office of the Assistant Secretary for Legislation,  
U.S. Department of Health & Human Services

Lynn Johnson, Assistant Secretary, Administration for Children & Families, U.S. Department of Health  
& Human Services

Robert R Redfield, Director, Centers for Disease Control & Prevention, U.S. Department of Health &  
Human Services

## ATTACHMENT

We recognize the Department's assertion that there is an expeditious ongoing investigation into the COVID-19 response and associated issues related to the use of human services staff. Over the course of your ongoing investigation, we seek answers to additional questions, which are detailed below:

1. In the event the U.S. Department of State determines that individuals with little means need to be repatriated, and therefore require the temporary assistance of the US Patriation Program at HHS, what process is in place if it is determined that these citizens may have been exposed to a communicable disease and that a foreign or domestic quarantine may be appropriate prior to domestic relocation?
2. Which HHS Operating Division, Program Office, or Staff Division has responsibility for leading repatriations when U.S. citizens have been quarantined?
3. What training, including infectious disease training, is provided to ACF Repatriation Program staff and other individuals from the ACF Office of Human Services Preparedness & Response (OHSEPR) in assisting with repatriation? Please describe the scope of training, and the extent to which the training is reviewed and kept current.
4. What resources are ACF Repatriation Program staff and others within the ACF OHSEPR unit provided to safely conduct their repatriation responsibilities in the presence of an infectious disease outbreak?
  - a. What training do these individuals receive on how to properly utilize this equipment, including personal protective equipment?
  - b. What steps are taken to ensure that staff always have access to necessary personal protective equipment?
5. Has the U.S. Repatriation Program ever repatriated Americans following a foreign or domestic quarantine?
  - a. If so, please provide specific examples, including documentation or agreements outlining which offices have responsibility during these situations.
6. How does HHS determine the financial needs of the U.S. Repatriation Program, including when to ask Congress for additional funding and how much funding is needed?
7. Why was U.S. Repatriation Program responsibility transferred from ACF's Office of Refugee Resettlement over to ACF's Office of Human Services Emergency Preparedness & Response?
  - a. How did the operations, procedures, dedicated staff change as a result of this transfer?
  - b. What policies and procedures do CDC and ASPR have for domestic quarantines in the context of repatriating US citizens under this program?
8. How have Americans participating in the U.S. Repatriation Program been screened to determine that it is safe to evacuate them to the United States?
  - a. What actions are taken if an individual selected for repatriation is determined to be a health risk to others, before, during, and after transporting them to the United States?
9. For the COVID-19 repatriation response, how many federal agency officials—or others—may have been exposed to COVID-19 without the use of proper personal protective equipment?
  - a. How is HHS responding to potential concerns about the safety of its employees?
  - b. How steps can HHS take to improve the safety of its employees and the public?

# COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, DC 20515

March 6, 2020

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Ave., S.W.  
Washington, DC 20201

**Re: Coverage for Coronavirus (COVID-19) testing by non-ACA compliant plans**

Dear Administrator Verma:

I am concerned about the respiratory virus COVID-19 and its potential spread in the United States. Many additional cases are expected to be identified as tests become more available and the true scope of the outbreak becomes clearer.<sup>1</sup> Health officials believe Americans will face more community spread of COVID-19, and the Centers for Disease Control and Prevention (CDC) has warned that the virus's spread is "inevitable."<sup>2</sup> As no vaccine currently exists, the breadth of COVID-19's spread and its impact are difficult to predict. Though about 80 percent of patients with the virus have a mild illness, about 14 percent develop severe pneumonia and about five percent develop critical illness requiring intensive care unit stays.<sup>3</sup>

As part of preventing the spread of COVID-19, health officials have urged Americans experiencing flu-like symptoms to seek care from a health professional, but out-of-pocket costs are a significant barrier to care. Though the CDC has recently updated its guidance on who qualifies as a person under investigation for coronavirus<sup>4</sup> and has expanded the definition, access to testing has not expanded quickly enough. Health providers should be able to make the final decision on who should be tested. If tests are not available quickly, we will continue to be behind the virus's spread<sup>5</sup>. COVID-19 has likely been in circulation for several weeks in the

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<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

<sup>2</sup> <https://www.washingtonpost.com/us-policy/2020/02/25/cdc-coronavirus-inevitable/>

<sup>3</sup> Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China. *JAMA* (2020). Available at:

[https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm\\_source=For\\_The\\_Media&utm\\_medium=referral&utm\\_campaign=ftm\\_links&utm\\_content=ftl&utm\\_term=022420](https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=ftl&utm_term=022420)

<sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/hcp/clinical-criteria.html>

<sup>5</sup> <https://www.cdc.gov/coronavirus/2019-ncov/lab/guidelines-clinical-specimens.html>

United States already, and the CDC's delays have left us dangerously behind the curve and unable to get ahead of this likely pandemic.

For individuals who have coverage under the non-ACA compliant plans, such as short-term limited duration insurance plans and health sharing ministries, non-government lab tests for COVID-19 and the services related to administering the COVID-19 diagnostic tests are not required to be covered and can cost patients thousands of dollars. High out-of-pocket costs, uncovered services, and large deductibles prevent consumers from seeking care. Unfortunately, the chance of having a test not covered or used against an individual seeking coverage for future treatment will likely interfere with preventing public health crises. Furthermore, the resultant treatment for coronavirus and related health problems may be excluded from coverage.

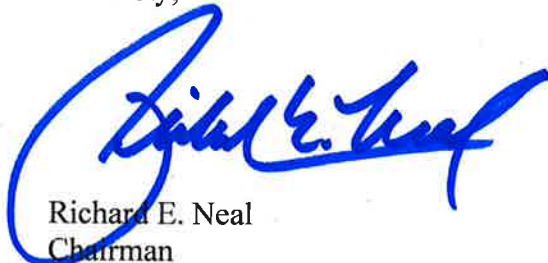
I have previously raised the issue of junk plans and my concerns that the Administration is pushing these inadequate insurance products on consumers. Now is not the time to undermine the ACA, especially when our nation's public health is at great risk.

To that end, we request the Centers for Medicare & Medicaid Services (CMS) respond to the following questions within 72 hours:

1. Has the COVID-19 taskforce of which you are a member discussed the issue of limited coverage for COVID-19 treatment and the implications of such limits on the spread of the virus?
2. Has the Administration issued, or does it plan to issue, guidance non-ACA compliant plans regarding coverage of testing and treatment of COVID-19?
3. Has the Administration issued, or does it plan to issue, guidance non-ACA compliant plans regarding coverage of the vaccine to ensure that vaccinations are available nationwide without cost barriers?
4. Will the Administration ensure that access to testing is widespread and guided by local clinical experts and practitioners? If yes, how?

Thank you for your immediate attention to this matter – the health of many Americans depends on a swift and effective response. Please contact Melanie Egorin of the Committee on Ways and Means at (202) 225-3625 if you have any questions about this inquiry.

Sincerely,



Richard E. Neal  
Chairman

Committee on Ways and Means



**Congress of the United States**  
Washington, DC 20510

March 5, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Verma,

We write to express our growing concern about the threat that Coronavirus Disease 2019 (COVID-19) poses to senior citizens and people with underlying health conditions, particularly those living in group care settings, such as nursing homes. The Trump Administration's continued weakening of nursing home safety standards, including the rollback of infectious disease control and emergency preparedness regulations, is especially troubling given that seniors who contract COVID-19 are experiencing the highest rates of serious illness and death. Therefore, we write to highlight our concerns and questions in light of the Centers for Medicare & Medicaid Services' (CMS) announcement of survey actions related to COVID-19 on March 4<sup>th</sup>, 2020.

The World Health Organization recently reported that people over the age of 60 and those with underlying medical conditions are at the highest risk for severe disease and death due to COVID-19. Recent data from the Republic of Korea also show higher mortality rates among senior citizens diagnosed with the disease.<sup>1</sup> Furthermore, the unfolding crisis at the Life Care Center in Washington underscores that the rapid spread of COVID-19 in nursing homes can have ripple effects beyond residents—spreading the disease to health care workers, first responders, and visitors, which puts additional strain on health care systems.

The Trump Administration has repeatedly weakened nursing home safety standards that put residents at greater risk to infectious disease outbreaks. In 2016, the Obama Administration updated and enhanced Federal health and safety standards in nursing homes.<sup>2</sup> In a July 2019 rule, the Trump Administration proposed removing the requirement implemented in 2016 that infection preventionists work at nursing facilities at least part-time or have frequent contact with the infection prevention and control program staff at the facility.<sup>3</sup> Even in typical times, nursing

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<sup>1</sup> <https://www.who.int/docs/default-source/COVID-19e/who-china-joint-mission-on-covid-19-final-report.pdf>;  
<https://www.cdc.go.kr/board/board.es?mid=a30402000000&bid=0030> (Update 171, March 4, 2020)

<sup>2</sup> <https://www.govinfo.gov/content/pkg/FR-2016-10-04/pdf/2016-23503.pdf>

<sup>3</sup> <https://www.govinfo.gov/content/pkg/FR-2019-07-18/pdf/2019-14946.pdf#page=1>

homes are hotspots for infection and disease. In the United States, one to three million serious infections occur in nursing homes each year,<sup>4</sup> and more than 60 percent of facilities have been cited for deficiencies relating to infection control since the beginning of 2017.<sup>5</sup>

The proposed rollback of infectious disease controls followed a final rule issued by the Trump Administration in September 2019 that removed the requirement that nursing homes coordinate with local, tribal, regional, state, and federal emergency preparedness officials or participate in collaborative and cooperative planning in the community.<sup>6</sup> *Sheltering in Danger*, a Senate Finance Committee Minority Staff report examining the impact of Hurricanes Irma and Harvey on nursing homes, found that CMS's emergency preparedness regulations, as promulgated in 2016, were already inadequate to address resident needs during an emergency.<sup>7</sup> For example, a Florida nursing home where more than a dozen residents died following Hurricane Irma was not required to establish, and did not establish, any coordinated health care arrangements with the regional hospital across the street from the home.<sup>8</sup>

The Administration has also made changes to the imposition of enforcement remedies associated with Federal nursing home requirements. In guidance released in July of 2017, CMS instructed surveyors to rely increasingly on civil money penalties on a per-instance basis rather than on a per-day basis.<sup>9</sup> In a "Patients over Paperwork" newsletter, CMS explicitly indicated that it had "reduced the penalty amounts for non-compliance with Requirements of Participation," and, according to Kaiser Health News, aggregate fines on nursing homes fell from \$41,260 in 2016 to \$28,405 in 2017.<sup>10 11</sup> These penalty reductions exacerbate the already almost-nonexistent enforcement for deficiencies relating to crucial health requirements like infection control. In 2017, less than one percent of infection control deficiencies resulted in a high-level citation that could be associated with a financial penalty.<sup>12</sup>

The Administration's efforts to weaken nursing home oversight leaves seniors more likely to be in the care of facilities that are unprepared for an emerging infectious disease, such as COVID-19. The outbreak of COVID-19 at the Life Care Center of Kirkland demonstrates the tragic consequences of emerging infectious diseases for nursing home residents and underscores the need for robust emergency preparedness and infection control requirements and response.

On March 4<sup>th</sup>, CMS announced that State Survey Agencies and Accrediting Organizations would be directed to prioritize inspections on infection control, along with noncompliance associated

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<sup>4</sup> <https://www.cdc.gov/longtermcare/index.html>

<sup>5</sup> <https://khn.org/news/COVID-19-preparedness-infection-control-lapses-at-top-rated-nursing-homes/>

<sup>6</sup> <https://www.govinfo.gov/content/pkg/FR-2019-09-30/pdf/2019-20736.pdf>

<sup>7</sup> [https://www.finance.senate.gov/imo/media/doc/Sheltering%20in%20Danger%20Report%20\(2%20Nov%202018\).pdf](https://www.finance.senate.gov/imo/media/doc/Sheltering%20in%20Danger%20Report%20(2%20Nov%202018).pdf)

<sup>8</sup> [https://www.finance.senate.gov/imo/media/doc/Sheltering%20in%20Danger%20Report%20\(2%20Nov%202018\).pdf](https://www.finance.senate.gov/imo/media/doc/Sheltering%20in%20Danger%20Report%20(2%20Nov%202018).pdf)

<sup>9</sup> <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-17-37.pdf>

<sup>10</sup> <https://www.cms.gov/Outreach-and-Education/Outreach/Partnerships/Downloads/JanuaryPoPNewsletter011818.pdf>

<sup>11</sup> <https://khn.org/news/nursing-home-fines-drop-as-trump-administration-heeds-industry-complaints/>

<sup>12</sup> <https://khn.org/news/COVID-19-preparedness-infection-control-lapses-at-top-rated-nursing-homes/>

with serious health and safety risks. We share the agency's concern about the spread of COVID-19. To that end, we request responses to the following questions as soon as possible.

1. Has CMS identified such a survey suspension in previous emergency planning, or was the policy developed specifically in reaction to the current COVID-19 outbreak? Has a similar suspension happened in response to any previous emergencies? What statutory basis did CMS identify to carry out the survey suspension? How long does CMS expect the survey suspension to be in place, and will the duration be associated with the length of the current or future public health emergency declarations?
2. Which facilities does CMS anticipate will be surveyed under the following priority categories provided in the March 4<sup>th</sup> memorandum regarding the suspension of survey activities?<sup>13</sup>
  - a. Facilities with complaints alleging infection control concerns and facilities with potential COVID-19 or other respiratory illnesses;
  - b. Facilities that have a history of infection control deficiencies at the immediate jeopardy level in the last three years; and
  - c. Facilities that have a history of infection control deficiencies at lower levels than immediate jeopardy.
3. Will the names of the facilities in these and all other priority categories be released publicly in real time? If so, by what communication channels?
4. What will be the process to prioritize facilities for inspection between CMS and the State Survey Agencies?
5. Will surveyors be assessing facilities based on compliance with the standard infection control requirements under Medicare Conditions of Participation, including as required by the Code of Federal Regulations (CFR) §483.80?
6. Will surveyors be assessing facilities based on adherence to infection control guidelines specific to coronavirus? If so, please provide the standards against which facilities will be assessed.
7. What, if any, infection control training will surveyors be required to undertake before entering facilities with potential cases of COVID-19 to ensure they are not at risk of contracting the virus and that they do not inadvertently spread the disease into the community or to other facilities?
8. What steps is CMS taking to ensure nursing homes are effectively coordinating with relevant local, tribal, regional, state, and federal emergency preparedness and response officials? Will surveyors be assessing facilities' coordination with these groups as part of the targeted infection control surveys?
9. The CMS announcement of survey guidance does not include a mention of additional funds for focused surveys relating to infection control. How is CMS planning to allocate resources, including surveyor time, across the priority areas defined in the memorandum?

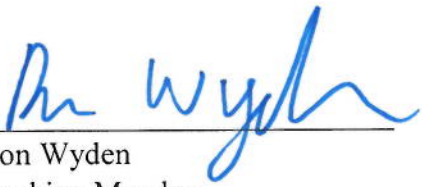
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<sup>13</sup> <https://www.cms.gov/files/document/qso-20-12-allpdf.pdf-1>

10. Will the surveys performed under the survey suspension guidance, including those specific to infection control, be included in the Five-Star Ratings System methodology and displayed on the Nursing Home Compare website?
11. Does CMS have a plan in place to triage survey resources if additional cases or outbreaks of COVID-19 are identified in additional nursing facilities?
12. How will CMS ensure that facilities facing a shortage of personal protective equipment (PPE) or other essential infection control supplies are connected with appropriate resources? Will inspections under the March 4<sup>th</sup> guidance include an assessment of the adequacy of PPE supplies?
13. How is CMS ensuring that facilities have the necessary capabilities, resources, and guidance to test residents for the COVID-19 appropriately and effectively? Will inspections under the March 4<sup>th</sup> guidance include information regarding testing protocols and access to tests?
14. How will CMS ensure that vulnerable nursing home patients continue to receive necessary care during an outbreak if staff become ill with COVID-19 and can no longer provide direct patient care?
15. The Department of Health and Human Services Deputy Secretary Eric Hargan announced on March 4<sup>th</sup> that there will be a CMS liaison to the Centers for Disease Control and Prevention (CDC). Who will fill this role and what will their specific responsibilities be? Will they be empowered to make decisions regarding the response to coronavirus in nursing homes? How will they communicate their activities and related updates on CMS and CDC actions and guidance to stakeholders and Congress?

Thank you for your prompt attention to this matter. If you have any questions, please contact Kristen Lunde with the Senate Committee on Finance at 202-224-4515 or Rachel Dolin with the House Committee on Ways and Means at 202-225-3625.

Sincerely,



Ron Wyden  
Ranking Member  
Committee on Finance, U.S. Senate



Richard E. Neal  
Chairman  
Committee on Ways and  
Means, U.S. House of  
Representatives

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BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

# Congress of the United States

## U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

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GARY ANDRES,  
MINORITY STAFF DIRECTOR

March 3, 2020

Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Ave., S.W.  
Washington, DC 20201

Re: CMS response to Coronavirus (COVID-19) outbreak in nursing homes

Dear Administrator Verma:

We are concerned about the respiratory virus COVID-19 and its potential spread in the United States. We expect many additional cases to be identified as tests become more available, and the true scope of the outbreak becomes clearer.<sup>1</sup> Health officials believe Americans will face more community spread of COVID-19, and the Centers for Disease Control and Prevention (CDC) has warned that the virus's spread is "inevitable."<sup>2</sup> As no vaccine currently exists, the breadth of COVID-19's spread and impact is difficult to predict. Though about 80 percent of patients with the virus have a mild illness, about 14 percent develop severe pneumonia and about five percent develop critical illness requiring intensive care unit stays.<sup>3</sup>

On Saturday, February 29, we learned of an outbreak at the Life Care Center of Kirkland, Washington, near Seattle, that resulted in seven deaths.<sup>4</sup> More than 50 residents and staff in the nursing home have displayed possible COVID-19 symptoms.<sup>5</sup>

<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

<sup>2</sup> <https://www.washingtonpost.com/us-policy/2020/02/25/cdc-coronavirus-inevitable/>

<sup>3</sup> Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China. *JAMA* (2020). Available at:

[https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm\\_source=For\\_The\\_Media&utm\\_medium=referral&utm\\_campaign=ftm\\_links&utm\\_content=tf1&utm\\_term=022420](https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf1&utm_term=022420)

<sup>4</sup> <https://www.cnn.com/2020/03/03/health/life-care-center-nursing-home-coronavirus/index.html>

<sup>5</sup> <https://khn.org/news/nursing-home-outbreak-spotlights-coronavirus-risk-in-elder-care-facilities/>

The effects of the COVID-19 vary by age and underlying health status and are particularly acute for vulnerable individuals – specifically, older people with cardiovascular disease or Diabetes mellitus.<sup>6</sup> In China, the case fatality rate was 2.3 percent on average but was as high as 14.8 percent in those aged 80 years and older and 10.5 percent for those with chronic diseases like cardiovascular disease.<sup>7</sup> These rates are significantly worse than influenza, which has a case fatality rate between 0.5-1 percent. Such associations make it all the more crucial that nursing homes across the country exercise swift and effective responses to the spread of the virus.

The CDC has issued guidance on approaches to prevent the spread of COVID-19 in long-term care facilities.<sup>8</sup> Guidance identifies strategies to prevent introduction of the virus into facilities, spread within the facility, and spread between facilities.

To that end, we request the Centers for Medicare & Medicaid Services (CMS) respond to the following questions within 72 hours:

1. What current procedures does CMS have in place to assist skilled nursing facilities (SNFs) and nursing facilities (NFs) in addressing the spread of viruses among nursing home residents and front-line workers?
  - a. How is CMS disseminating CDC's prevention guidance for long-term care facilities?<sup>9</sup>
  - b. What types of prevention protocol is CMS requiring nursing homes follow?
  - c. What types of testing protocol is CMS requiring nursing homes follow?
  - d. What types of isolation protocol is CMS requiring nursing homes follow when concerns of COVID-19's presence arise?
  - e. What types of other protocol is CMS requiring nursing homes follow to ensure workers are protected when residents get sick?
  - f. To what extent is CMS encouraging nursing homes to implement policies around paid sick leave to ensure workers are not pressured to work when they are sick?
  - g. Is CMS conducting additional surveys in homes that have a suspected outbreak?
  
2. In 2016, CMS issued a final rule, "Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities" (CMS-3260-F), that established an infection prevention and control program as a requirement for participation in Medicare and Medicaid to prevent, identify, and report the spread of infections and diseases among residents. The program was to be phased in over three years, but last fall, the agency rolled back part of the requirements for a trained or certified Infection Preventionist (IP) to run each nursing home's program. Instead, in November 2019, CMS finalized a rule, "Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities:

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<sup>6</sup> Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China. *JAMA* (2020). Available at:

[https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm\\_source=For\\_The\\_Media&utm\\_medium=referral&utm\\_campaign=ftm\\_links&utm\\_content=tf&utm\\_term=022420](https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf&utm_term=022420)

<sup>7</sup> *Id.*

<sup>8</sup> <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/prevent-spread-in-long-term-care-facilities.html>

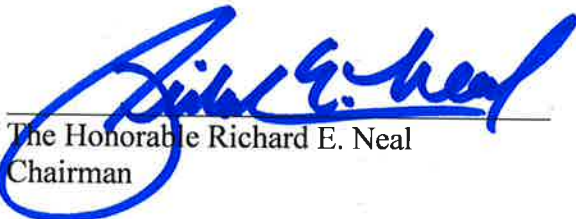
<sup>9</sup> *Id.*

Regulatory Provisions To Promote Efficiency, and Transparency, “ that loosened the credentials of these individuals and removed the requirement that these positions be a “major responsibility” for the IPs.<sup>10</sup> Given that infection prevention is vital for COVID-19 control in nursing facilities, how is the agency directing nursing homes to ensure proper personnel are available to lead prevention control efforts in these facilities?

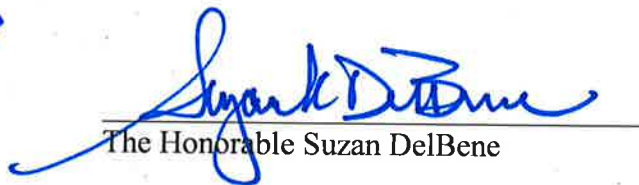
3. What additional steps has CMS taken in light of the news of COVID-19’s spread in a SNF in Washington state? Please provide the Ways and Means Committee with all relevant documentation and correspondence related to the spread of COVID-19 in the Life Care Center.
4. What is CMS doing to continuously disseminate information and monitor the spread of the COVID-19 within and across SNFs and NFs to proactively prevent its spread? Please provide the Committee with copies of the information shared with SNFs, NFs, and other Medicare providers.
5. Please provide the Committee with written information that comes out of the Administration’s COVID-19 Task Force on issues related to SNFs/NFs/other Medicare providers and the spread of COVID-19.

Thank you for your immediate attention to this matter – the health of many Americans depends on the effective response in nursing homes across the country. Please contact Rachel Dolin of the Committee on Ways and Means at (202) 225-3625 if you have any questions about this inquiry.

Sincerely,



The Honorable Richard E. Neal  
Chairman



The Honorable Suzan DelBene

<sup>10</sup> <https://www.govinfo.gov/content/pkg/FR-2016-10-04/pdf/2016-23503.pdf>

RICHARD E. NEAL,  
MASSACHUSETTS,  
CHAIRMAN

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GARY ANDRES,  
MINORITY STAFF DIRECTOR

BRANDON CASEY,  
MAJORITY STAFF DIRECTOR

February 27, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health & Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Secretary Azar,

Following up on the questions asked at today's Committee on Ways and Means (Committee) hearing, we would like a complete, immediate response to the serious concerns that have been raised about potentially dangerous management of the coronavirus. In particular, we would like a response to the allegations that the Department of Health and Human Services (HHS) used human services staff without proper training or equipment to interact directly with individuals exposed to coronavirus in quarantined areas, and the possibility that management decisions at HHS could have contributed to the spread of the virus within the United States.

In yesterday's national address, the President said "Because of all we've done, the risk to the American people remains very low." But the reports we have received of mismanagement and disregard of long-standing principles for managing public health outbreaks suggest just the opposite. We are deeply troubled that HHS seems to have ignored valid public health concerns, and also about reports that HHS immediately retaliated against a whistleblower instead of taking action to protect its staff and the public from being exposed to a potentially fatal virus. A whistleblower complaint about use of the Repatriation Program is a case in point.

We were alarmed to learn from a whistleblower that HHS deployed human services workers, including staff from the U.S. Repatriation Program within our Committee's jurisdiction—to interact with Americans evacuated because of coronavirus outbreaks. The whistleblower alleges that staff were sent into quarantined areas "without personal protective equipment, training, or experience in managing public health emergencies, safety protocols, and the potential danger to both themselves and members of the public they come into contact with."



The whistleblower also reported that when staff raised safety concerns, they were “admonished by [redacted] for ‘decreasing staff morale,’ accused of not being team players, and had their mental health and emotional stability questioned.”

We believe these potentially-exposed HHS employees have subsequently been interacting with the public, including taking commercial air flights and returning home to their families, without being tested for coronavirus or taking any other precautions. We do not have any information on whether these staff are being monitored for exposure to the virus, or whether HHS continues to put staff and the public at risk through inappropriate actions relating to quarantined individuals who may have coronavirus.

The purpose of the program is to provide temporary assistance to U.S. citizens and their dependents who have been identified by the U.S. Department of State as in need of repatriation from a foreign country. The program receives very modest annual funding of \$1 million a year, and, with Congressional authorization, has sometimes received additional funding to respond to the human services needs associated with mass repatriation due to war or natural disaster. Based on the traditional role the Repatriation Program serves, there was no reason to believe that staff or managers in this program would have any training to mitigate their risk of infection or to prevent the spread of an infectious disease or would even fully understand the risks involved with coronavirus, for them and the public.

We also have serious questions about the Administration’s request for an additional \$9 million in spending for the Repatriation Program included in the supplemental funding request.<sup>1</sup> We would like a detailed briefing of how the Administration plans to use this funding and whether this funding could be used for staff to serve in the capacities described by the whistleblower. If so, this would expand the dangerous use of non-public health staff to respond to a public health crisis. Our staff previously requested more information about your plans to increase Repatriation Program involvement in the coronavirus response; we would like to receive that information, along with information about your plans to test exposed employees for coronavirus, to track the potential spread of the disease, and to prevent additional exposure due to mismanagement.

We respectfully request that you brief the Committee within one week. Thank you for your prompt attention to this matter.

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<sup>1</sup> <https://www.whitehouse.gov/wp-content/uploads/2020/02/Coronavirus-Supplemental-Request-Letter-Final.pdf>.

Secretary Azar  
February 27, 2020  
Page 3

Sincerely,



The Honorable Richard E. Neal  
Chairman



The Honorable Jimmy Gomez

cc:

Lynn Johnson, Assistant Secretary, Administration for Children & Families, U.S. Department of Health & Human Services

Robert R. Redfield, Director, Centers for Disease Control & Prevention, U.S. Department of Health & Human Services