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National Hospice and Palliative Care Organization

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Alex M. Azar
Secretary
US Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20101

Re: Provider Relief Fund Reporting Guidance

Dear Secretary Azar:

On behalf of the National Hospice and Palliative Care Organization (NHPCO), I thank you for your continued leadership in keeping Americans safe and supporting our health care providers as we face the coronavirus pandemic together. NHPCO is the largest membership organization representing the entire spectrum of hospice and palliative care programs and professionals in the United States. NHPCO is comprised of almost 4,000 hospice locations with more than 57,000 hospice staff and volunteers, as well as 48 state hospice and palliative care organizations. We appreciate your ongoing collaboration with the hospice and palliative care community in responding to the COVID-19 public health emergency.

After hearing from hospice providers that are continuing to serve seniors and the most vulnerable populations across the country, we urge you to consider repealing the COVID-19 Provider Relief Fund (PRF) reporting requirements outlined in the September 19, 2020 notice issued by the Department of Health and Human Services (HHS). Of specific concern is that guidance issued by HHS on June 19, 2020 defined lost revenue as “any revenue that… a health provider lost due to coronavirus,” and that flexibility appears to have been removed in the September 19 guidance.

PRF payments have served as an essential resource to hospices that have worked to provide care uninterrupted through the COVID-19 pandemic. Hospice providers are extremely grateful for this support which has facilitated the ability for patients and their families to receive high quality hospice care during an extraordinarily difficult period. However, the September 19 guidance issued by HHS puts hospices’ capacity to care for these patients and families at risk.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation increased funding for the Public Health and Social Services Emergency Fund in order to reimburse eligible health care providers for health care-related expenses and lost revenues attributable to COVID-19. According to the initial Frequently Asked Questions (FAQs) that were released by HHS on April 25, 2020 "[l]ost revenue can be estimated by comparing year-over-year revenue, or by comparing budgeted revenue to actual revenue." Moreover, according to FAQs that were released by HHS on June 19 (and that remain in the current version on HHS's website), PRF recipients are permitted to calculate lost revenue as "any revenue that … a health care provider lost due to coronavirus." These FAQs further clarify that providers can "use any reasonable method of estimating the revenue during March and April 2020 compared to the same period had COVID-19 not appeared. For example, if you have a budget prepared without taking into account the impact of COVID-19, the estimated lost revenue could be the difference between your budgeted revenue and actual revenue. It also would be reasonable to compare the revenues to the same period last year." However, on September 19, HHS appears to have redefined lost revenue, stating that it "was represented as a negative change in year-over-year net patient care operating income." This appears to mean that hospices would only be able to apply PRF money toward lost revenue up to their net patient operating income in 2019.

Additionally, NHPCO is concerned that the way in which HHS defines "revenue" in the September 19 guidance may result in PRF recipients no longer being able to apply their PRF payments to fundraising revenue that was lost due to the coronavirus. Hospice providers rely on both fundraising and direct donations to fund and budget for patient care. **During the COVID-19 pandemic, many hospices and their foundations have had to cancel fundraising events or switch to virtual fundraising events, incurring significant losses to an important revenue source for patient care. Accordingly, NHCPO requests that HHS clarify that PRF payments may be used to reimburse fundraising revenue that was lost in 2020 or 2021 by PRF recipients or their foundations and that would have been used to fund the PRF recipients' patient care.**

HHS's new guidance will require many hospices to return PRF funds based on a new formula and set of metrics that are simply unfair and operationally unreasonable. This new standard for lost revenue would force hospices to report what would be considered inaccurate estimates for lost revenue and would punish hospices which prudently cut expenses during the pandemic. This could result in some hospices facing closure or significant cuts to their already struggling programs which serve many underserved areas.

The requirements issued on September 19 offer a substantially different definition of COVID-19-related lost revenue than that which has been used by HHS since April, and under which hospices have been planning their use of PRF payments and budget plans for the coming months. This change would not only negatively impact hospices that have made difficult and necessary financial decisions but creates an administrative burden. As we approach the end of the fiscal year, forcing hospices to re-evaluate their "books" at the last moment causes providers to scramble to understand their new financial situation, and explain its implications to auditors.

On behalf of NHPCO, I urge you reaffirm the reporting requirements as laid out by HHS since the spring and reiterated in the guidance published on June 19, 2020 and repealing those set forth in the September 19, 2020 guidance. Hospices have relied on PRF payments throughout this pandemic; and maintaining these funds as initially understood will significantly help hospices to continue to provide high quality patient care through the coming months.

We thank you for your consideration of the immediate needs of the hospice and palliative care community and welcome the opportunity to discuss our requests with you. You or your staff should reach out to Hannah Yang Moore, Chief Advocacy Officer at hmoore@nhpco.org with questions or to schedule a meeting. We look forward to continued collaboration with the Administration to strengthen the US health care system and to serve patients and families during this public health emergency.

Sincerely,

Edo Banach, JD
President and CEO