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July 29, 2020

The Honorable Ron Johnson
United States Senate
Washington, DC 20515

The Honorable Tammy Baldwin
United States Senate
Washington, DC 20515

The Honorable James Sensenbrenner
U.S. House of Representatives
Washington, DC 20515

The Honorable Ron Kind
U.S. House of Representatives
Washington, DC 20515

The Honorable Gwen Moore
U.S. House of Representatives
Washington, DC 20515

The Honorable Mark Pocan
U.S. House of Representatives
Washington, DC 20515

The Honorable Glenn Grothman
U.S. House of Representatives
Washington, DC 20515

The Honorable Mike Gallagher
U.S. House of Representatives
Washington, DC 20515

The Honorable Bryan Steil
U.S. House of Representatives
Washington, DC 20515

The Honorable Tom Tiffany
U.S. House of Representatives
Washington, DC 20515

Dear Members of Wisconsin’s Congressional Delegation:

Thank you for your continued support of Wisconsin health care. With your support, our members have met the many challenges faced throughout COVID-19 head on and have maintained Wisconsin’s high-quality, high-value health care system.

Yet, we recognize that many challenges lie ahead of us and more support will be needed from Congress to get through this pandemic. With the House and Senate having put forward proposals for an additional COVID relief package, and negotiations to bridge the gap between the two houses continuing, we write to outline what we believe will be most helpful to help sustain Wisconsin health care during this uncertain time.

Hospitals and Health Systems Need Additional Financial Support

WHA and our members sincerely appreciate the support from Wisconsin’s Congressional Delegation for the \$175 billion put into the Provider Relief Fund and your advocacy efforts with the Trump administration to ensure the dollars made their way back to Wisconsin. Unfortunately, it remains very difficult to determine exactly how much funding Wisconsin hospitals and health systems have received to date. The best data from HHS suggests **Wisconsin hospitals and health systems have received just over \$1 billion in relief, which represents less than 1% of the \$115 billion that has been spent from the fund so far. While these funds have been very helpful, our members have experienced more than \$2.5 billion in lost revenue due to COVID,** primarily due to the pausing of elective procedures called for by CMS and the Surgeon General. More support is sorely needed to keep our health care system strong during much continued uncertainty.

As the House and Senate negotiate aid to hospitals, we suggest more consideration be given to hospitals that have fallen through the cracks and have not received any special distributions. While the general distribution and rural distributions were very helpful to a large number of Wisconsin hospitals, subsequent distributions such as hotspot funding and safety-net funding have only benefited a small number of our hospitals. It is important to note that all hospitals have faced higher costs and lower revenues as a result of COVID. ***Congress should appropriate an additional \$100 billion in Provider Relief funds with particular consideration given to those hospitals that have been largely missed by the federal relief disbursed thus far.***

Increase the Federal Matching Medicaid Rate - FMAP

As you may remember, the Wisconsin Congressional Delegation was instrumental in fixing language from the Families First Coronavirus Act to ensure that Wisconsin was able to receive enhanced federal matching dollars for its Medicaid program during this public health emergency. We are extremely grateful for this assistance, as Medicaid caseloads have increased by more than 90,000 members already, and the state projects that number to grow to more than 230,000 by this time next year. Quite simply, our state budget would be facing a massive shortfall without this funding, which could translate into significant Medicaid or other budget cuts.

WHA supports an additional FMAP boost to ensure states like Wisconsin have the resources they need to keep Medicaid fully funded during a time where the health care system is needed more than ever. Wisconsin hospitals and health systems will face a significant decrease in reimbursement as more people switch from commercial insurance to Medicaid, which pays only about 67% of the cost to provide its services in Wisconsin. The prospect of further provider cuts from the state as it deals with budgetary pressures would create significant stresses on the health care system.

Make COVID Telehealth Extensions Permanent

As we mentioned in our June 25th letter to the delegation, Wisconsin health care providers and patients have benefitted greatly from the expanded Medicare telehealth services made available during COVID. Put simply, patients will not want to go back in time to the days when telehealth wasn't an option for many of the services they have the convenience of receiving via telehealth today. Our letter laid out a number of important extensions for Congress to consider even after special extensions related to COVID expire, including: waiving expanded site and geographic extensions, continuing to allow the expanded suite of services and eligible practitioners, continuing to allow telehealth via Rural Health Clinics and Federally Qualified Health Centers, maintaining audio only options, and removing special restrictions on telehealth.

WHA strongly supports including the Protecting Access to Post-COVID-19 Telehealth Act of 2020 in the upcoming COVID package. This legislation has been introduced by a bipartisan group of lawmakers and contains many of the aforementioned provisions to allow Medicare patients to maintain access to telehealth.

Meet the COVID Challenges of Behavioral Health Care

One of the themes we keep hearing from our members is the added anxiety and stress from COVID that has led to an increase in behavioral health patients seeking care. This underscores another benefit making telehealth extensions permanent, as there are many positive stories of how the telehealth expansion has increased access to behavioral health care. Unfortunately, government underfunding of behavioral health services have made it extremely difficult to sustain or grow these services commensurate to the demand. Congress should recognize the linkage between these issues and include necessary funding.

One important area WHA has sought funding for is critical access hospitals with distinct-part inpatient psychiatric units. Because these units are separate from the main hospital they are not funded at the same rate and can be a huge financial strain on the overall hospital despite the great service they are to the

surrounding community. WHA strongly supports a behavioral health package that gives health care providers the funding needed to sustain and grow these vital services.

Pause New Federal Regulations that would Further Burden Hospitals

Hospitals and health systems have stepped up significant time and resources to meet the challenges of COVID head on. While it has been challenging enough to weather this storm with the huge revenue losses, lack of adequate testing supplies, and scarcity of adequate personal protective equipment, we are also dealing with a number of proposed Federal Regulations that could add further to hospitals' regulator or financial burden. We ask Congress to consider language that would pause the imposition of the following proposed federal regulations at least through the end of the COVID-19 pandemic.

1. **Medicaid Fiscal Accountability Rule.** While Wisconsin has taken a very cautious approach to funding its Medicaid budget, there are numerous provisions within the current Medicaid Fiscal Accountability Rule (MFAR) that would give CMS significant latitude and potentially jeopardize matching federal funding for Wisconsin's Medicaid program. For instance, CMS would be able to potentially undo previous agreements that have been approved by prior administrations. While it is unclear what the impact would be, the prospect of creating even further state funding challenges for the Medicaid program should be avoided at this time.
2. **Transparency Provisions in the 2020 OPPTS Rule.** The FY 2020 Outpatient Rule included new regulations that require hospitals to create machine readable files containing all negotiated rates that appear in their chargemasters while also creating consumer friendly tools on their websites. While Wisconsin hospitals and health systems support the move toward giving consumers easier access to understanding the cost and quality of their health care, this bureaucratic requirements in this rule impose significant burdens on hospitals and are of questionable value to consumers.
3. **"Site-Neutral" payment cuts.** The 2018 OPPTS rule imposed cuts totaling \$440 million over 10 years to around 40 Wisconsin hospitals that operate off-campus hospital outpatient departments (HOPDs). These cuts were made by CMS despite Congress's clear intent in passing a statute intended to grandfather existing HOPDs and prevent them from facing such cuts. While a lawsuit filed by hospitals against CMS had prevailed last fall, a federal appeals court recently reversed the decision, bringing back the prospect that these cuts could soon take effect. On top of the losses hospitals have experienced due to COVID, these cuts would be very difficult for many Wisconsin hospitals. ***Congress could and should clarify in this upcoming COVID package that these cuts were not lawful and prevent them from taking effect.***

Do not Penalize Rural Hospitals Who Received Paycheck Protection Program (PPP) Loans

Because Congress acted so swiftly to authorize relief during this pandemic, there have been numerous federal agencies developing guidelines surrounding federal relief. WHA was recently made aware of a concern from rural Critical Access Hospitals that received PPP loans and are now told those loans will be offset by their cost-reporting due to how policies between the Small Business Administration and CMS interact.

This appears to be a classic case of two federal agencies not properly communicating with each other. While the intent seems clear – to prevent double dipping of taxpayer funds, it does not seem to properly understand cost-based reimbursement. Rural CAH's were eligible to apply for PPP funding to retain their employees during COVID like any other business that met eligibility criteria. However, because CAHs are paid based on their costs, it has been suggested that they will have to deduct this additional revenue from their cost reports. This would in effect nullify most of the PPP support received as these payments would essentially be recouped by lower Medicare payments than the actual cost borne by these CAHs.

Do not Include Harmful Wage Index Provisions from House Heroes Act

The Heroes Act, as passed by the U.S. House of Representatives on May 15 included a provision that would reimpose the imputed rural floor wage index calculation for urban states. This unfair wage index provision functioned to artificially inflate Medicare wages for hospitals in urban states at the expense of Medicare wages for states like Wisconsin that also have rural hospitals.

Most states have a rural floor that requires an urban hospital's wage index to be paid at least at that level, regardless of actual wage data. However, because Delaware, New Jersey, and Rhode Island have no rural hospitals, they have no rural floor and were instead allowed for a time make up an "imputed" rural floor which allowed them to average their hospitals wage index values and use that average as a multiplier. Due to national budget neutrality rules, any time a hospital benefits from this higher payment in an urban state, it necessarily takes away from the pot of funds for wage index values in states with rural hospitals. Recognizing the inherent unfairness in this policy, particularly because urban wage index values are typically already higher than those in rural states, CMS allowed this policy to expire at the end of 2018. There is simply no reason for Congress to bring this policy back and make an already unfair wage index system unjustly benefit three urban states at the expense of all others, including Wisconsin.

Thank you again for your continued support of Wisconsin's health care system. We look forward to Congress quickly approving a package that helps keep Wisconsin hospitals and health system running strong throughout these challenging times.

Sincerely,

A handwritten signature in black ink that reads "Eric Borgerding". The signature is written in a cursive style with a prominent loop at the end.

Eric Borgerding
WHA President & CEO