American Hospital Association™
Advancing Health in America

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June 29, 2021

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Dear Secretary Becerra:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, **we urge you to allow providers that received funding prior to June 30, 2020 to use their COVID-19 Provider Relief Fund (PRF) payments through the end of the COVID-19 public health emergency (PHE) or, at a minimum, through the end of 2021. Moreover, we support HHS continuing to allow those providers that received phase 3 funding in early 2021 to continue to utilize those funds through June 30, 2022.**

The AHA appreciates your leadership in ensuring hospitals and health systems are able to meet the enormous challenges brought forth by the global pandemic and are able to continue to care for our patients, communities and front-line health care workers. We thank you for taking steps to extend the deadline for some recipients of PRF payments. However, as we discussed last week, not only are all hospitals and health systems continuing to respond to the COVID-19 pandemic, but the uncertainty in federal rules has hindered many providers' abilities to use the funds within the allotted timeframes. In addition, the four different deadlines will be confusing to administer and will disproportionately impact some providers more than others.

Continued Need for COVID-19 Response

Hospitals continue to grapple with the COVID-19 pandemic and, as noted in our most recent letter, COVID-19 infections are again rising in a number of communities around the nation. As a result, hospitals and health systems continue to need to make investments in staffing, supplies and capital projects specifically to respond to COVID-19, and these costs will continue until the PHE abates. We question the rationale for limiting access to the allotted funds while the PHE continues, especially when

Congress did not include such a limit when it authorized these funds.

Below are examples of how hospitals continue to need access to the PRF funds to care for their communities' amidst the ongoing public health emergency:

***Workforce*:** The COVID-19 pandemic has taken a heavy toll on our frontline health care heroes, many of whom are suffering from trauma, burnout and increased behavioral health challenges. Many hospitals have relied on the PRF funds to ensure an adequate workforce; specifically, many hospitals have had to rely on staffing agencies to secure sufficient personnel. The intense demand for nurses across the nation has driven up these costs considerably. Without continued access to the PRF funds, many hospitals will struggle to finance these additional costs. For example:

- One hospital reported that they have had to rely more heavily on traveling nurses and their staffing company is only currently able to meet 44% of their requests due to illness, burnout and lack of applicants for open positions. A loss of their remaining PRF funding will further stress their ability to acquire nursing staff.
- Another hospital that has relied on travel nurses to help care for COVID-19 cases and maintain operations noted that agency rates have jumped to $110/hour. They need their remaining PRF funds to continue financing the staffing costs, as well as other increased costs for COVID-19-specific supplies.

***Public Health Emergency Capital Improvements*:** Many hospitals report that they will be unable to finish COVID-19-related capital improvement projects prior to the June 30, 2021 deadline as a result of shortages in labor, supplies and equipment, and, as we discuss more below, ongoing uncertainty around the rules governing the use of the funds. We strongly urge HHS to enable these capital improvements to move forward by giving providers certainty that they can access these funds through the end of the PHE or June 30, 2022, whichever is later. These investments will not only enable providers to continue our fight against COVID-19, but they will ensure hospitals are better prepared to respond to future pandemics. Below are several examples of how HHS' deadline for use of funds will hamper providers' abilities to reshape their physical plants to better care for patients during a pandemic:

- One small, rural hospital reported that they are in the midst of the construction of an isolation room in one of their rural health clinics but that construction has been delayed as a result of an inability to obtain the necessary supplies and equipment. This is just one of several similar projects the hospital is undertaking to prepare and respond to its community needs during the COVID-19 pandemic.
- Another rural hospital reported receiving funding on May 6, 2020, yet is still in the middle of a major construction renovation directly in response to the COVID-19 pandemic. Specifically, the hospital is expanding its isolation room capacity by two beds, expanding its emergency department from one bay to three, and is modifying patient reception, lab and nursing stations to minimize the spread of infectious disease. Completion of these projects is scheduled for no later than Dec. 31, 2021. However, under the current

guidance, the hospital will be unable to use its funds to finalize this work.

Remaining Uncertainty in Use of Funds

Hospitals and health systems have been unsure about the appropriate use of COVID-19 funds given significant changes in Health Resources and Services Administration (HRSA) guidance over the past 15 months. Many hospitals delayed PHE-specific projects while awaiting clarity in federal rules. Specifically, HRSA issued unique Terms & Conditions for each of the different distributions,[1] and updated the Frequently Asked Questions related to the PRF 32 times between May 2020 and today.[2]

Many hospitals report that they have delayed projects and other expenditures while awaiting final guidance via HHS' reporting portal, which is set to open July 1, 2021. Hospitals did not realize that the availability of their funding would now be based on the date their funds were received. It was not until June 11, 2021 that certain providers – specifically those that received PRF prior to July 1, 2020 – were informed that the deadline to use their funds would be June 30, 2021, the day before the portal opened and clarity about reporting requirements would become available.

Impact on Vulnerable Communities

The impact of HHS' decision to close the window for using more than half of the PRF dollars by June 30, 2021 will disproportionately impact providers serving vulnerable communities, including those in stressed urban and rural areas. Significantly, many of the earlier PRF distributions went to providers in communities that were experiencing a large number of COVID-19 cases; providers serving a high percentage of vulnerable populations, including the uninsured and those on Medicaid; and providers in rural areas.

In many instances, even before the PHE, these providers faced the greatest challenges recruiting and retaining an adequate workforce, combined with negative operating margins and lack of access to outside capital to invest in infrastructure upgrades and additional supplies and equipment. These hospitals looked to the PRF funds to create additional emergency capability, more negative air flow pressure capacity, decontamination units, and alternative care sites for testing and vaccination, all of which require lead time and, often, regulatory approval.

While all hospitals will struggle to meet the ongoing demands of the PHE without access to their initial PRF distributions, those in vulnerable urban and rural communities will most certainly fare worse. This disparity across communities will only exacerbate longstanding inequities in our health care system, and pull critical funding from providers serving those most in need.

Hospital and health systems take seriously the receipt of government funding. They are prepared to comply with all terms and conditions for the funds, including

[1] https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/for-providers/index.html#terms-and-conditions
[2] May 6, 2020; May 12, 2020; May 20, 2020; May 21, 2020; May 29, 2020; June 3, 2020; June 8, 2020; June 12, 2020; June 13, 2020; June 19, 2020; June 22, 2020; June 23, 2020; June 30, 2020; July 10, 2020; July 22, 2020; July 30, 2020; August 4, 2020; August 10, 2020; September 3, 2020; October 5, 2020; October 9, 2020; October 28, 2020; November 18, 2020; December 4, 2020; December 11, 2020; December 18, 2020; December 28, 2020; January 12, 2021; January 28, 2021; February 24, 2021; March 31, 2021; June 11, 2021. Source: https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/faqs/index.html

all auditing and compliance; they understand that they will need to return any unused portions to the treasury. However, we are still dealing with the pandemic

and remain in a state of emergency. Now is not the time to require providers to give back money that Congress intended them to have to help fight the pandemic.

We urge you to revise HHS' recent guidance and enable providers that received funding prior to June 30, 2020 to use their COVID-19 Provider Relief Fund (PRF) payments through the end of the COVID-19 public health emergency (PHE) or, at a minimum, through the end of 2021.

Please feel free to contact me or have a member of your team contact Ashley Thompson, AHA's senior vice president for public policy, at athompson@aha.org.

Sincerely,

/s/

Richard J. Pollack
President and Chief Executive Officer