National Rural Health Association

October 30, 2023

The Honorable Cathy McMorris Rodgers
Chairwoman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kay Granger
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Representatives McMorris Rodgers, Pallone, Granger, and DeLauro:

On behalf of the below-listed hospitals, health systems and associations and our thousands of members across the country, we write to urge your timely continuation of a provision that is critical to at-risk hospitals and the well-being of patients who depend on them.

We respectfully request extension of a provision passed as part of Section 121 of the Consolidated Appropriations Act of 2022 ("the Act") that provides temporary relief to 340B hospitals at risk of losing access to the program due to impacts associated with the Public Health Emergency on the disproportionate share (DSH) percentage threshold.

Although the PHE is officially over, its lingering effects continue to seriously impact hospital eligibility for the 340B program, particularly among smaller, rural institutions, at a time when many hospitals are already experiencing profound financial challenges. A loss of 340B eligibility could jeopardize hospitals' ability to provide critically needed services within their communities and in some cases contribute to closures. **More than 400 hospitals – including many small, rural hospitals – across 47 states are at-risk of losing eligibility in the coming months** because of pandemic-era effects continuing to lower their DSH percentages. These facilities reported an uncapped DSH percentage within 2 percent of their applicable eligibility threshold in their most recent publicly available Medicare cost reports (2021 or 2022).

To remedy this issue, we ask for your support for a two-year extension of the 340B eligibility protections that were authorized in the Act. Safety-net hospitals were protected from losing 340B status due to changes in their DSH threshold through cost reporting periods in 2022. Unless relief is extended, protections will expire when at-risk hospitals file their next Medicare cost reports, a process that will begin as early as November for some hospitals. That means these hospitals are in jeopardy of completely losing access to the program or experiencing a major loss of 340B savings used to provide critically needed care in their communities. As before, only those hospitals who were participating in the 340B program before the beginning of the PHE would be eligible for this relief.

PHE-related factors that continue to affect 340B DSH threshold eligibility include:

The Medicaid redetermination process: Millions of Medicaid enrollees – many of whom remain eligible for the program – are nonetheless losing coverage due to procedural issues with

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the redetermination process.[1] These problems are so severe that the Centers for Medicare and Medicaid Services ordered some state Medicaid offices to temporarily halt eligibility redeterminations. The redetermination process, a direct consequence of the PHE, is artificially reducing the number of Medicaid patient days that can be attributed to hospital Medicare DSH adjustment percentages, negatively impacting eligibility for the 340B program while simultaneously squeezing hospitals financially through increased unreimbursed care.
The unwinding is disproportionately impacting rural areas, where residents are more dependent on Medicaid and face greater hurdles to renewing coverage such as longer distances to eligibility offices and less access to the Internet.[2] This threatens the health of families and places rural hospitals at greater risk of losing 340B eligibility.

The historic disability claims crisis facing the Social Security Administration: More than 1 million Americans, many of them poor or elderly, are waiting months or years to learn whether they will receive disability benefits because of massive application processing delays that began during the PHE and remain unresolved due to persistent staffing problems within Social Security Administration and state disability agencies.[3] Because of these historic delays, many otherwise qualifying Medicaid and Medicare Supplemental Security Income patient stays cannot be applied toward the formula used to calculate 340B eligibility.[4]

Delayed care: Because patients delayed care due to the pandemic, many 340B hospitals continue to see more patients with higher acuity. This has resulted in longer lengths of stay than before the PHE, and a significant number of these patients do not fall into the "low-income" category. At the same time, many hospitals are seeing a decrease in the number of Medicaid patients they are treating due to Medicaid redetermination, the disability claims crisis and other factors. The result: a precipitous drop in the ratio of services provided to Medicaid patients that is negatively affecting DSH adjustment percentages and 340B eligibility.

Skilled nursing shortages: Another major factor contributing to increased length of stay is the inability of many hospitals across the country to discharge patients in a timely manner because of continued workforce shortages among skilled nursing facilities and other post-acute providers that began during the pandemic and are persisting. Nursing homes lost more than 210,000 jobs during the pandemic, putting overall employment within the industry at its lowest levels since 1994, according to a January 2023 report.[5] As a result of these staffing shortages, more than half of nursing homes across the country are limiting new admissions.[6] These delays negatively affect patient outcomes and slow recoveries by forcing patients to stay in the hospital longer than medically necessary. Meanwhile, the inability to transfer patients out of acute care is also resulting longer lengths of stay among hospital patients who are neither low-income Medicare nor Medicaid beneficiaries, distorting hospital DSH percentages and negatively affecting 340B eligibility.

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[1] https://www.kff.org/medicaid/issue-brief/medicaid-enrollment-and-unwinding-tracker
[2] https://ccf.georgetown.edu/2023/08/03/medicaids-coverage-role-in-small-towns-and-rural-areas/
[3] http://www.ssa.gov/open/data/Combined-Disability-Processing-Time.html
[4] In order to qualify for the 340B program, hospitals must meet several rigorous criteria. One of the primary 340B eligibility criteria is the Medicare disproportionate share hospital (DSH) adjustment percentage, which is based on a hospital's volume of inpatient Medicaid and Medicare Supplemental Security Income (SSI) patients as reported by the hospital on its most recently filed Medicare cost report.
[5] https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/LTC-Jobs-Report-Jan2023.pdf
[6] https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/SNF%20Survey%20Mid-Year%202023.pdf

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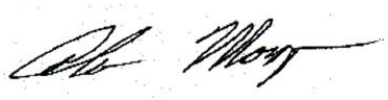
Even a temporary loss of 340B savings can seriously jeopardize safety-net hospitals, particularly smaller, rural institutions that are already facing serious financial challenges.

Therefore, we ask your support for a two-year extension of the 340B eligibility protections that were authorized in the Act.

Thank you for your consideration of this request. If you or your staff members have questions or would like additional information, please feel free to contact me or Alexa McKinley, Regulatory Affairs Manager, at amckinley@ruralhealth.us.

Sincerely,



Alan Morgan
Chief Executive Officer
National Rural Health Association

Joined by:

Arkansas Hospital Association
Representing hospitals across the state of Arkansas for 90 years

Georgia Hospital Association
Representing 145 hospitals in Georgia

Michigan Health & Hospital Association
The leading voice in Michigan in health care representing all community hospitals and health systems in Michigan

Minnesota Hospital Association
Representing Minnesota's hospitals and health systems since 1917

Mississippi Hospital Association
Representing more than 100 hospitals, health care systems, networks, care-providers and a pool of over 50,000 employees in Mississippi

North Carolina Healthcare Association
Representing 130 hospitals, health systems and other health care entities across the state of North Carolina

South Carolina Hospital Association
Representing more than 100 member hospitals and health systems across the state of South Carolina

Vermont Association of Hospitals and Health Systems
Representing Vermont's network of entirely non-profit hospitals

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Adirondack Health
Serving five counties in the rural Adirondack Mountains region of Upstate New York

AdventHealth Gordon
Serving Calhoun County, Georgia

AdventHealth Hendersonville
Serving western North Carolina

Athens-Limestone Hospital
Serving Limestone County, Alabama, and the surrounding areas

Auburn Community Hospital
The sole provider of hospital services in rural Cayuga County, New York, and the surrounding areas

Ballad Health
Serving 29 counties in the Appalachian Highlands of northeast Tennessee, southwest Virginia, northwest North Carolina and southeastern Kentucky

Baptist Health
Serving Kentucky and Indiana at nine hospitals and more than 400 points of care

Bassett Healthcare Network
Serving an eight-county region in Central New York

Bayhealth
Serving central and southern Delaware

Beaufort Memorial Hospital
Serving Beaufort County, South Carolina

Cookeville Regional Medical Center
Serving Putnam County, Tennessee, and the surrounding region

FirstHealth of the Carolinas
Serving 15 counties in the mid-Carolinas

Granville Health System
Serving northcentral North Carolina

Heywood Healthcare
Serving northcentral Massachusetts and southern New Hampshire

Illinois Critical Access Hospital Network
Serving all 54 critical access hospitals and four rural community facilities across the state of Illinois

Madison Health
Serving Madison County, Ohio

National Rural Health Association

Mile Bluff Medical Center
Serving an eight-county region in southcentral Wisconsin

Newberry County Memorial Hospital
Serving Newberry County in South Carolina

Oneida Health
Serving the greater Oneida, New York, area and surrounding communities

ProMedica Health System
Serving communities in 28 states across the U.S.

Rochester Regional Health
Serving Western New York, the Finger Lakes Region and St. Lawrence County in New York

Roper St. Francis Healthcare
Serving Charleston, Berkeley and Dorchester counties in South Carolina

Self Regional HealthCare
Serving Greenwood, Abbeville, Laurens, Saluda, McCormick, Edgefield and Newberry counties in South Carolina

Southwestern Vermont Medical Center
Serving Bennington and Windham counties in Vermont, eastern Rensselaer and Washington counties in New York and northern Berkshire County in Massachusetts

Spartanburg Regional Health System
Serving Spartanburg, Cherokee, Greenville and Union counties in South Carolina; Polk and Rutherford counties in North Carolina

Sweetwater Hospital Association
Serving parts of Meigs, McMinn, Roane, Loudon and all of Monroe County, Tennessee

Tidelands Health
Serving Horry, Georgetown and Williamsburg counties in South Carolina

University of Rochester Medical Center
Serving the Finger Lakes and Southern Tier regions of New York