

Congress of the United States
Washington, DC 20515

May 8th, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-232, U.S. Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
H-204, U.S. Capitol
Washington, D.C. 20515

Dear Speaker Pelosi and Minority Leader McCarthy:

Our nation's safety-net hospitals have always served on the front lines of health care for the medically underserved and uninsured. During the COVID-19 pandemic, these essential providers are stepping up to provide more care and services to their communities. As the outbreak continues and more COVID-19 patients are in need of hospital care, we are concerned that the impact of COVID-19 could temporarily affect hospitals' ability to meet 340B eligibility requirements in ways that could potentially cut off their access to the 340B drug discount program ("340B Program"). To support our safety net hospitals through this crisis, we write to ask that any future supplemental relief bill include policies to temporarily protect these hospitals from losing 340B eligibility due to the COVID-19 pandemic.

To qualify for the 340B Program, hospitals that participate as Medicare disproportionate share ("DSH") hospitals, free-standing children's and cancer hospitals, sole community hospitals (SHCs), and rural referral centers (RRCs) must maintain a minimum DSH adjustment percentage on their most recently filed Medicare cost report. In addressing the surge of COVID-19 patients, hospitals are increasing bed capacity and shifting care from inpatient beds to outpatient settings to reserve space for the critically ill. While such operational changes are essential to build capacity for crisis response at this time, ensuing shifts in payer mix could potentially reduce a hospital's DSH adjustment percentage and jeopardize their eligibility for the 340B Program.

340B eligibility requirements also restrict certain hospitals from using a group purchasing organization (GPO) to purchase covered outpatient drugs. Facing drug shortages and distribution challenges due to COVID-19, some providers are struggling to maintain adequate drug supply while adhering to the GPO prohibition. HRSA has recently recognized this problem and issued guidance providing some flexibility to 340B hospitals to temporarily purchase drugs through a GPO in certain cases without seeking HRSA approval. However, HRSA indicated it is unable to temporarily waive the GPO prohibition¹.

¹ HRSA, OPA, COVID-19 Resources, <https://www.hrsa.gov/opa/COVID-19-resources>

Therefore, we ask that Congress consider providing hospitals with temporary flexibility related to 340B program eligibility rules in any future supplemental relief bill. We look forward to working collaboratively with you on this important issue to ensure that our safety-net providers relying on the 340B program can continue to provide vital care to low-income and vulnerable communities during and after the public health emergency.

Sincerely,



Chris Stewart
Member of Congress



Doris Matsui
Member of Congress

/s/

Brian Fitzpatrick	Don Bacon	Lisa Blunt Rochester
David B. McKinley P.E.	Veronica Escobar	Ayanna Pressley
Joseph D. Morelle	Eddie Bernice Johnson	Bonnie Watson Coleman
Joseph P. Kennedy, III	Cindy Axne	Bob Gibbs
Jerry McNerney	Vicky Hartzler	Jamie Raskin
Sanford D. Bishop, Jr.	Joyce Beatty	Peter Welch
Ben McAdams	Mike Simpson	Chellie Pingree
Dwight Evans	Tulsi Gabbard	Stephen F. Lynch
Steven M. Palazzo	Juan Vargas	Tony Cárdenas
Tom O'Halleran	Jackie Speier	Al Green
James P. McGovern	Diana DeGette	Steve King
Marcia L. Fudge	Rob Bishop	Mike Thompson
Madeleine Dean	Jimmy Panetta	John B. Larson
Tom Cole	David Trone	Emanuel Cleaver, II
TJ Cox	Lauren Underwood	Bruce Westerman, P.E.

Troy Balderson	Collin C. Peterson	Ann Wagner
Robert B. Aderholt	Wm. Lacy Clay	Bill Johnson
John Katko	Jahana Hayes	A. Donald McEachin
Peter J. Visclosky	Joaquin Castro	David P. Joyce
Brenda L. Lawrence	John Curtis	Mark Pocan
David N. Cicilline	Rodney Davis	Jason Crow
C.A. Dutch Ruppersberger	William R. Keating	Alcee L. Hastings
Andy Levin	Bradley Byrne	John Yarmuth
Jeff Van Drew	Ann McLane Kuster	Angie Craig
Susan A. Davis	Mike Doyle	Debbie Wasserman Schultz
Dusty Johnson	Jim Himes	Ben Ray Luján
Ilhan Omar	Michael F.Q. San Nicolas	Deb Haaland
Juan Vargas	Peter A. DeFazio	Susan Wild
Ross Spano	Nanette Diaz Barragán	Suzanne Bonamici
John P. Sarbanes	Eddie Bernice Johnson	Debbie Dingell
Bobby L. Rush	David Rouzer	Anthony Gonzalez
Abby Finkenauer	Adrian Smith	Jan Schakowsky
Jeff Fortenberry	Mike Gallagher	William R. Timmons, IV
Mary Gay Scanlon	Martha Roby	Xochitl Torres Small
Brendan F. Boyle	Derek Kilmer	Pete Stauber
Steven Horsford	Mark Takano	Russ Fulcher
Danny k Davis	Abigail D. Spanberger	
Hal Rogers	Fred Keller	
Terri A. Sewell	Bryan Steil	
Earl Blumenauer	Paul D. Tonko	
Elissa Slotkin	Sheila Jackson Lee	
Gwen Moore	Darren Soto	
André Carson	Don Young	