March 26, 2020

RE: The Coronavirus Aid, Relief and Economic Security Act (CARES Act) - H.R. 748

Dear California Congressional Delegation:

On behalf of the California Medical Association and our more than 50,000 physician members, residents, and medical students, I am writing to share our views on the final version of the “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act), H.R. 748. We greatly appreciate your work to address the needs of Californians and physicians confronting the coronavirus pandemic. There are many provisions in the legislation that CMA promoted and that will be helpful to physicians, such as the emergency fund to provide direct payments to offset lost revenue, and the low-interest SBA loans and grants, as well as some of the tax relief. At the same time, we are extremely concerned that there is not enough immediate and direct support to maintain the viability of physician practices during the COVID-19 public health emergency. Our goal is to sustain physician practices through the crisis to ensure that physicians are able to remain on the front lines serving patients.

We are hearing from many physician practices that they may be forced to close their doors because physicians or their staff have been exposed to the virus, there is a lack of child care, there are severe shortages in personal protective equipment (PPE) and other medical supplies. Additional costs for COVID-19 related equipment and supplies, and severely reduced revenues as a result of the (appropriate) recommendations to delay non-essential office visits and procedures and to follow social distancing standards are also placing financial strain on practices throughout California and across the country. While there is some telehealth coverage and payment in the recent federal legislation and executive orders, it is not adequate. Society cannot afford to lose physicians at a time when we need them more than ever. In addition to the current California physician workforce, CMA is frantically trying to build a volunteer workforce of retired physicians, medical students and others to meet the coming surge. California will need every able-bodied physician to be available. We appreciate the support provided to hospitals in the legislation but without physicians leading the care teams, hospitals cannot respond to the outbreak. Therefore, we are urging you to partner with CMA to address these issues and to consider additional actions to sustain physician practices to meet the challenges ahead.

More specifically, we thank you for the following provisions in the CARES Act:

- Funding to increase the production of personal protective equipment, testing kits and other supplies;
- The emergency fund to provide direct financial assistance to health care providers;
- Small Business Administrative EIDL loans and grants and the new Paycheck Protection Act;
- The refundable employer payroll tax credits and the tax credits to offset the costs of paid sick and medical leave;
- Medical student loan deferrals;
- Reversing the Medicare sequestration cut of 2%;
- Medicare Telehealth expansions for dialysis and hospice;
- Public Health and Scientific Research Investments in the CDC, NIH, BARDA and NSF;
- Extension of the expiring health care programs, such as the Teaching Health Center Primary Care Graduate Medical Education program, the community health centers, community mental health centers, the National Health Service Corps, and reauthorization of the expiring health care workforce programs.
CMA asks for Congress' assistance with the implementation of the CARES Act in the following ways:

1. **CMA sincerely appreciates the CARES Act Public Health and Social Service Emergency Fund (PHSSEF) that provides a $100 billion infusion of direct financial assistance to health care providers for unreimbursed health care-related expenses or lost revenue attributable to COVID-19.**

   Due to the prevalence of financially distressed physician practices and the urgent need to sustain access to physician care, the immediate distribution of these funds is critical. Also, if the Department of Health and Human Services (HHS) requires providers to submit grants, that will create a difficult administrative barrier for physician practices. We are concerned that physicians will be disadvantaged in the process because they will be competing with large hospitals and health systems. And finally, the statutory language provides somewhat conflicting guidance to HHS between backfilling lost revenue and hospital capital expenditures.

   Therefore, we urge Congress to ask HHS to:

   - Disburse the funding immediately in a way that is not administratively burdensome for physicians;
   - Set aside a significant portion of the total funding for physicians;
   - Prioritize funding to providers in the greatest need in the areas most impacted by the outbreak;
   - Prioritize funding for distressed physician practices who have lost substantial revenue so that they can be available to care for patients during the surge.

2. **CMA appreciates the CARES Act small business administration loans and grants, and employer tax credits.**

   CMA urges Congress to ensure that these funding mechanisms are implemented as quickly as possible and that distressed physician practices are given priority in order to maintain the necessary physician workforce to respond to the COVID-19 crisis.

3. **Mass Production of Personal Protective Equipment and Testing Kits**

   We cannot emphasize enough the urgent need for immediate deployment of personal protective equipment and testing kits with the appropriate supplies (media and swabs) prioritized for health care workers and emergency responders in the nation's hot zones.

CMA strongly recommends that Congress take the following additional actions:

1. **Require all payers (Medicare, Medicaid, Private Insurers, including Self-Insured ERISA plans, VA, TriCare) to cover and pay for audio-only TELEPHONE consultations between physicians and patients. Telephone service payment must be the same as in-person payment rates during the COVID-19 emergency.**

   Giving physicians the capability to provide services to patients via telehealth and telephone is essential to preventing the spread of the virus to physicians, their staff and the public. However, not all patients, particularly the elderly, can navigate virtual visits with both audio and video capabilities. Therefore, it is essential that telephone visits also be covered and paid for. As physicians across California are suspending non-essential procedures and converting in-office visits to virtual ones, practices are experiencing financial difficulties. The California Department of Managed Health Care just issued a directive to the private state-regulated health plans to cover and pay for all telehealth and telephone visits and at the same rates as in-person care. We urge Congress to do the same for all other payers. It will protect patients from the virus, sustain physician practices, and provide an easier option within telehealth.

2. **Provide Medicaid and Medicare Enhanced Payments to Physicians During the COVID-19 Emergency**

   As discussed earlier, to help maintain and improve access to care for all patients during the COVID-19 crisis, CMA recommends enhanced payments to cover the additional costs of treating patients with COVID-19, the
additional costs of personal protective equipment, testing kits, and other related medical supplies, the additional costs related to staff sick and medical leave associated with higher exposure risks, and the downturn in revenues because physicians were asked to reduce non-essential services. The CARES Act provided an enhanced 20% Medicare payment increase for hospitals during the COVID-19 crisis. We believe that such a payment increase is also warranted for physicians who are on the front lines.

Medicaid physician payment rates in most states, like California, are extremely low. On average, California's rates are 50% below Medicare. Helping physicians maintain access to these most vulnerable patients – children, pregnant women, the elderly and disabled – is important.

Therefore, we urge the following:

- **Increase Medicaid rates to Medicare levels for all specialties for the duration of the COVID-19 public health emergency.**
- **Allow Medicare reimbursement up to 110% of Medicare payment rates for physicians and hospitals caring for uninsured patients with a COVID-19 diagnosis.**
- **Increase in Medicare physician reimbursement rates up to 110% of Medicare for the duration of the COVID-19 public health emergency.**

3. **Enact grant programs to sustain physician practices, such as the “Immediate Relief for Rural Facilities and Providers Act of 2020” amendment introduced by Senators Bennett and Barrasso. CMA was disappointed that this amendment was not included in the final CARES Act. We encourage you to consider its inclusion if there is subsequent legislation.**

4. **Urge the Centers for Medicare and Medicaid Services (CMS) to withdraw the proposed Medicaid Fiscal Accountability Rule (MFAR) that would cut state and federal Medicaid funding by as much as 50% in all 50 states. We urge Congress to block implementation of this rule in the face of the COVID-19 crisis. There is broad recognition that states will need Medicaid resources to fight the outbreak, particularly among the fragile elderly and disabled who are served by Medicaid. If this rule is implemented, state budgets will be devastated at a time when health care resources are needed more than ever.**

5. **We urge Congress to require all payers to suspend unnecessary prior authorization requirements during the crisis so that physicians can focus on patient care.**

CMA sincerely appreciates your swift action to protect the nation’s health and economic viability. CMA stands ready to continue working with you to provide additional legislative assistance and regulatory guidance to protect physicians who are so essential to our nation’s recovery. If you need additional information, the CMA contact is Eliabeth McNeil, Vice President, Federal Government Relations, at emcneil@cmadocs.org.

Sincerely,

Peter N. Bretan, Jr., M.D.
CMA President