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Advancing High Performance Health

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October 21, 2020

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

As part of its response to COVID-19, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Paycheck Protection Program and Health Care Enhancement Act (PPPCHE). These laws appropriated $175 billion to the Provider Relief Fund (PRF) and delegated responsibility for the fund to the Department of Health and Human Services (HHS). AMGA appreciates that HHS has moved as expeditiously as possible to distribute the funding. However, AMGA is concerned that recent changes in how providers calculate lost revenues attributed to COVID-19 may not accurately reflect our members' financial situation.

On September 19, HHS published a six-page document that revised PRF reporting requirements. This document provides additional details on the reporting process for providers that receive PRF money. Earlier PRF guidance consistently indicated that providers could calculate lost revenues attributable to COVID-19 with "any reasonable method of estimating revenue during March and April 2020 compared to the same period had COVID-19 not appeared." This included calculating the difference between "budgeted revenue and actual revenue." AMGA strongly recommends that HHS reinstate this standard.

HHS now is providing more specificity by defining a revenue loss as "a negative change in year-over-year net patient care operating income (i.e., patient care revenue less patient care related expenses for the Reporting Entity that received funding), net of the healthcare related expenses attributable to coronavirus." HHS is changing the definition to a year-over-year loss of operating income, including expenses. This will prevent our members from comparing budgeted to actual revenue.

Comparing net operating income in 2020 with 2019 will create a number of problems for AMGA members, which HHS likely did not foresee when instituting the change. For example, examining the data in this manner does not account for year-over-year clinician growth within a group practice. Under the proposed formula, when additional providers join a medical group, it may appear that revenue grew for the group. However, the increase in volume is a result of the new clinicians joining and not due to growth in volume of services delivered. COVID-19 continues to decrease patient volume, and in fact, the average revenue per clinician is well below last year's figures. The rule change would inadvertently deny PRF aid to clinicians and group practices that would otherwise qualify because of an accounting requirement. Changing the definition also will require those providers that relied on earlier guidance to reevaluate how this modification affects their use of PRF money, creating an unnecessary administrative burden and likely additional financial stress on our nation's healthcare providers.

In addition, the guidance requires that providers must apply any healthcare-related expenses due to COVID-19 against the PRF fund before any lost revenue considerations. Combined with the change in the definition of lost revenue, HHS is creating a situation in which it is possible that COVID "attributable" expenses and lost revenue is less that the amount a provider received from the PRF. This raises a number of concerns, not only about how these funds may be used, but also about possible tax implications.

To offer support to the provider community, HHS has indicated that it will offer Question & Answer sessions, and will update its Frequently Asked Questions (FAQs) materials to help providers complete the reporting process. While welcome, these methods are best suited to offering additional details or example. HHS cannot expect providers to monitor a website for a revised FAQ that may set or change a policy.

AMGA recommends that HHS reinstitute the earlier guidance that permitted providers to determine losses by calculating the difference between "budgeted revenue and actual revenue." Our members are still in the midst of fighting the COVID-19 epidemic. Accessing and using PRF dollars will enable them to continue to serve their communities. AMGA appreciates the need for an accurate and fair accounting of how providers spent these funds. However, changing the rules for how the calculations are made is creating needless complexity and uncertainly.

Thank you for your prompt attention to this situation. If AMGA or its members can be of service during this public health emergency, please do not hesitate contact Darryl M. Drevna, M.A., AMGA's senior director of regulatory affairs, at 703.838.0033 ext. 339 or at ddrevna@amga.org.

Sincerely,

Jerry Penso

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President and Chief Executive Officer
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