

May 11, 2020

The Honorable Don Harmon
Illinois Senate President
329 Capitol Building
Springfield, IL 62706

Dear President Harmon:

I would like to take this opportunity to thank you for your leadership and support for the re-authorization of the Illinois Hospital Assessment Program. Your appointees to the Medicaid Legislative Work Group and the administration joined together in an incredible bi-partisan effort to preserve \$3.8 billion in Medicaid hospital payments, including nearly \$450 million in new federal healthcare revenues that will be available to the state's Medicaid program beginning July 1st.

This exceptional work product may not receive the public recognition it deserves, but our members understand what was accomplished and the stability and financial certainty it will provide to our hospitals in this unprecedented and very challenging environment.

I also want to emphasize the importance of the state's continued support of hospitals and health systems and the patients and communities they serve by protecting and preserving the Medicaid program during the ongoing COVID-19 pandemic. Now more than ever, we must maintain the healthcare safety net and not impose any Medicaid cuts. Even before the pandemic, one in four Illinoisans relied on Medicaid for their healthcare coverage to access needed services. With the economy in a serious downturn, many more thousands of Illinoisans will need Medicaid. And with the very real prospect of future, multiple COVID outbreaks – including a possible second surge this fall and winter – it is critical that the state ensure hospitals and health systems have the resources they need to prepare for and deal with such extraordinary circumstances.

I now need to bring several key COVID-19-related requests to your attention that, if acted on by the legislature, will not only protect the frontline healthcare professionals who are the true heroes of this pandemic, but also allow the healthcare sector of the Illinois economy to lead the state's re-opening efforts.

Civil, Criminal and Administrative Liability Protections: Request to Codify Executive Order 19

Governor Pritzker's Executive Order 19 issued on Tuesday, April 1 provided civil liability protections for both healthcare facilities and healthcare providers. Unfortunately, Executive Order 19 extends enumerated liability protections effective April 1 forward despite the fact that the Governor declared a state of emergency on March 9. Due to this gap, facilities and providers are left completely exposed for nearly a month prior to Executive Order 19. Additionally, any Governor's executive powers only go so far. Some states, namely New York, but others as well, have or will be taking the additional action of enacting legislation to bolster

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their Governor's Executive Orders should they be challenged in court as being beyond the scope of a Governor's executive powers.

Since the General Assembly adjourned on March 6, three days prior to the declared State of Emergency, it was responsible and reasonable for Governor Pritzker to issue Executive Order 19 as there was no other available course of action. However, when the General Assembly reconvenes, we request that the General Assembly extend and legislate provisions of Executive Order 19 into statute retroactive to March 9 to coincide with Illinois' declared state of emergency as part of any COVID-19 legislative relief package.

Re-opening Illinois' Healthcare Sector: Expansion of Telehealth Coverage and Reimbursement under Medicaid and Private Insurance

In order for Illinois' economy to make a comeback, a gradual re-opening process is likely to unfold that will, by necessity, need to account for the virus continuing to circulate in the population as shelter-in-place restrictions are lifted.

Prior to the pandemic, states were already moving towards enhanced access to telehealth services by covering non-traditional modes of communication and providing reimbursement at the same rate as if the services were delivered in-person. Many of these important flexibilities, including coverage and payment parity, are now temporarily required for both Illinois Medicaid and private payers as a result of the COVID-19 emergency declarations.

In the absence of the public health emergency, Illinois Medicaid covers certain telehealth services, but has no laws that require telehealth to be considered equivalent to in-person services for coverage and reimbursement purposes. For private payers, Illinois law does not require coverage of telehealth services at all and, to the extent payers choose to cover telehealth, the law provides very limited consumer and provider protections.

These policy barriers created a situation in which Illinois healthcare providers needed to quickly mobilize new equipment and administrative resources to meet patient needs across the healthcare delivery system during a pandemic. Hospitals and health systems have made significant financial investments to provide virtual access to critical care, and these efforts should not be abandoned after the immediate threat passes. The health care system is now well positioned to build upon its new telehealth capacity to simultaneously manage the next wave of COVID-19 infections and provide at-risk patients continued access to safe, timely, and appropriate care.

To accomplish this, we request that the General Assembly temporarily extend the coverage and reimbursement flexibilities granted in the Medicaid telehealth emergency rules necessitated by COVID-19 for a period of one year following the public health emergency. Similarly, we ask that private health plans be required to cover telehealth, with stronger financial protections for patients and providers.

Using Enhanced Federal Medicaid Matching Rate to Pay Down Medicaid Bill Backlog and Provide Enhanced Medicaid Support for COVID-19 Patients

Given the current COVID-19 protocols in place at our hospitals, the healthcare sector is uniquely positioned to lead the re-opening of the Illinois economy. Unfortunately, our hospitals are seeing the loss of thousands of good paying jobs and billions of dollars in revenue during this national emergency. We believe the state should use the enhanced federal Medicaid matching funds to safeguard what was the leading sector of our state's economy to survive this unprecedented crisis and get back to work.

First, we applaud the action already taken by the administration to expand the hospital assessment payments in the last quarter of the current fiscal year by approximately \$75 million, through the use of the expanded federal matching funds during the crisis. Additionally, if the crisis extends beyond the end of the current quarter we encourage the continuation of this initiative, which is providing much needed financial support. Furthermore, if the state were to pay down the current backlog of Medicaid bills, during this period of enhanced federal matching, we believe that an additional \$50 million could be paid to hospitals – at no cost to the state.

Second, IHA urges legislative budget makers to give serious consideration to either using the state's short-term borrowing authority or the \$2 billion in bill backlog bonding authority the General Assembly provided to the administration in this year's budget, to maximize the use of the temporary increase in the federal Medicaid matching rate and aggressively pay down the current Medicaid bill backlog. Since a significant amount of this backlog is owed to the Medicaid managed care organizations ("MCOs"), we recommend that this pay down should be linked to a requirement that the MCOs use those funds to expedite payments to hospitals and other providers currently owed millions of dollars by the state's Medicaid MCOs. In addition to this guidance to the MCOs, we request that the MCOs be directed to suspend many of the current prior approval and billing hurdles in place, to facilitate more timely payment to providers.

Third, IHA urges the Medicaid program to mirror the actions of the federal Medicare program by: (1) increasing the payment rate by 20% for COVID-19 testing, diagnosis and treatment, to help recognize the added costs to hospitals for treating COVID-19 patients; and (2) offering Periodic Interim Payments ("PIP" or advance payments) to hospitals, under both fee-for-service and by the Medicaid MCOs, for a six-month period that are at least equal to the average payments to the hospitals for July – December 2019.

Your consideration of these requests is greatly appreciated. I thank you for your longstanding and steadfast support of our hospital and health system members.

Sincerely,

A.J. Wilhelmi
President & CEO
Illinois Health and Hospital Association