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Chairman of the Board

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April 16, 2020

Ms. Seema Verma, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

RE: Lift Additional Regulatory Barriers to Effective Hospital/Home Health Agency
COVID-19 Collaboration

Dear Administrator Verma:

We write to you with our national colleagues, LeadingAge and Elevating Home /VNAA. In addition, we are joined by state associations representing hospitals and home health agencies (HHAs) from across the country. Our combined members are on the front lines battling COVID-19, working to save as many lives as possible, ***but we urgently need CMS to address regulatory barriers that today are preventing effective collaboration and patient care and unnecessarily putting patients and caregivers at risk.***

We applaud the American Hospital Association for making this same request in a [separate letter](#) to you.

With hospitals needing every available bed to treat patients suffering from COVID-19, HHAs are essential to the rapid discharge of patients to their homes. HHAs must also continue their vital role in caring for patients safely at home to prevent hospital admissions and preserve facility resources. CMS and many state agencies have encouraged the use of telehealth to reduce community spread and preserve PPE. A significant percentage of hospital discharges during the COVID-19 crisis can be safely

managed at home by HHAs through a limited number of clinically necessary, in-person visits accompanied by regular telehealth visits and remote patient monitoring.

On March 14th, you convened a call with the CEOs of several large HHAs to discuss what HHAs require to support the nation's fight against COVID-19. We are encouraged by the flexibilities CMS has since granted HHAs in the Interim Final Rule (IFR) [CMS-1744-IF], including: allowing non-physician practitioners (NPPs) to order home care and certify/recertify patients for eligibility; relaxing the homebound requirement; allowing initial assessments and homebound status to be performed remotely or by record review; and acknowledging the current necessity of providing home health services via telecommunication systems and allowing HHAs to reduce the number of in-person visits required under plans of care based on benefits garnered from medically appropriate virtual visits.

However, key barriers remain unaddressed, threatening HHAs' ability to serve as effective partners to hospitals during the COVID-19 crisis. Most notably, in order to ensure the near- and long-term viability of HHAs, it is essential that home care rendered via telecommunication systems count for payment purposes and that verbal orders and documented certifications of eligibility, including certifications of face-to-face encounters, be permitted to substitute for signed orders and written eligibility certifications without undermining HHAs' right to payment.

- **Telehealth constraints:** Virtually all other provider groups have been permitted, in accordance with waiver authority that the Secretary exercised under Section 1135 of the Social Security Act, not just to perform but to receive Medicare payment for telehealth services in lieu of in-person visits. While CMS is allowing and even encouraging HHAs to maximize telehealth during this crisis, it is not allowing HHAs to count telehealth encounters as in-person visits for payment purposes, and at the same time has compounded strains on HHAs by adding new documentation requirements. This puts HHAs in the untenable position of forfeiting adequate reimbursement to better protect their staff and patients (an ethical choice many HHAs are already making), all while suffering from the heightened regulatory burden of new documentation requirements.
- **Signed document constraints:** Physicians or NPPs must sign written orders and certify in writing that patients are eligible for home care in order for HHAs to bill for services. In the current environment, physicians and NPPs are increasingly unavailable to sign home care documents, making even electronic signatures extremely difficult to obtain. Having the flexibility to rely on documented verbal orders and eligibility certifications would expedite safe discharges and referrals to home care.

As you know, the COVID-19 crisis has worsened precipitously with each passing day, making the need for provider collaboration and sustainability all the more urgent. Our members' patients and staff require action on the foregoing issues immediately. If not addressed, they will severely hamper HHAs' ability to assist hospitals in the safe and rapid discharge of patients necessary to make room for the ongoing surge of COVID-19 patients. These issues, if not remedied, will also put home care workers and patients at greater risk of COVID-19 exposure and spread, increase the risk of hospital readmissions, and place further strain on the nation's limited stock of PPE.

We recognize that legislative action to expand Secretary Azar's authority under Section 1135 of the Social Security Act would establish a clear pathway for CMS to address these urgent issues in a thoughtful and nuanced manner. Your support of such action would be invaluable. Time is clearly of the essence, however, and we do not wish to foreclose additional rule-making or other action within the scope of CMS's authority that would allow our members to do what is desperately needed: collaborate to provide the highest quality of care to our shared patients *and* keep our heroic health care workers as safe as possible. We implore you to consider such options as well, and would be grateful if you would be willing to convene a meeting with representatives of this coalition in the coming days to discuss in greater detail.

Thank you for your attention to these important matters. If you would like to discuss this matter, please contact me at 202-236-6992 or wad@nahc.org.

Yours truly,



William A. Dombi

On behalf of:

National Association for Home Care & Hospice
LeadingAge
Elevating Home/VNAA

Arizona Association for
Home Care
LeadingAge Arizona

Home Care & Hospice
Association of Colorado

Home Care Association of
Florida
LeadingAge Florida

HomeCare Association of
Arkansas

Connecticut Association for
Healthcare at Home
Connecticut Hospital
Association

LeadingAge Georgia

California Association for
Health Services at Home
LeadingAge California

LeadingAge Connecticut

LeadingAge DC

Healthcare Association of
Hawaii

Idaho Health Continuum of Care Alliance	Missouri Alliance for Home Care LeadingAge Missouri	Oklahoma Association for Home Care LeadingAge Oklahoma
Illinois HomeCare & Hospice Council	Mississippi Association for Home Care	Oregon Association for Home Care LeadingAge Oregon
Indiana Association for Home and Hospice Care, Inc. LeadingAge Indiana	Montana Hospital Association	Pennsylvania Homecare Association LeadingAge Pennsylvania
Iowa Center For Home Care LeadingAge Iowa	Nebraska Association for Home Healthcare and Hospice LeadingAge Nebraska	Rhode Island Partnership for Home Care Hospital Association of Rhode Island LeadingAge Rhode Island
Kansas Home Care & Hospice Association LeadingAge Kansas	Granite State Home Health & Hospice Association (New Hampshire) New Hampshire Hospital Association	Texas Association for Home Care & Hospice
Kentucky Home Care Association	Home Care & Hospice Association of NJ LeadingAge New Jersey & Delaware	Homecare and Hospice Association of Utah
Home Care Association of Louisiana	New Mexico Association for Home & Hospice Care New Mexico Hospital Association	VNAs of Vermont Vermont Association of Hospitals and Health Systems
Home Care & Hospice Alliance of Maine Maine Hospital Association	Home Care Association of New York State Greater New York Hospital Association Healthcare Association of New York State LeadingAge New York	Virginia Association for Home care LeadingAge Virginia
Maryland National Capital Area Home Care Association LeadingAge Maryland	Association for Home and Hospice Care of NC LeadingAge North Carolina	Home Care Association of Washington Washington State Hospital Association LeadingAge Washington
Home Care Alliance of Massachusetts Massachusetts Health & Hospital Association		West Virginia Council of Home Care Agencies
Michigan HomeCare & Hospice Association	Ohio Council for Home Care & Hospice LeadingAge Ohio	LeadingAge Wisconsin
Minnesota HomeCare Association Minnesota Hospital Association LeadingAge Minnesota	Ohio Health Care Association	