March 12, 2020

The Honorable Alex Azar, Secretary  
The Honorable Seema Verma, Administrator  
U.S. Dept. Of Health and Human Services  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Azar, Administrator Verma and Members of the Coronavirus Task Force,

On behalf of the approximately 1,200 inpatient rehabilitation hospitals and units across the country, the American Medical Rehabilitation Providers Association (AMRPA) seeks timely guidance from the Trump Administration concerning COVID-19 as our members engage in unprecedented pandemic response efforts. Given the anticipated strain on the health care system in the coming weeks, particularly for hospitals, the approximately 300 free-standing rehabilitation hospitals and 900 rehabilitation units of acute-care hospitals stand ready to assist in responding to this public health crisis. As the sole trade association dedicated to inpatient rehabilitation hospitals and units (referred to by Medicare collectively as “IRFs”), we want to ensure our members are able to respond and assist with the coming surge of hospitalizations due to COVID-19 to the maximum extent possible.

Rehabilitation hospitals are duly licensed hospitals (or units of hospitals), subject to the same certification requirements as acute-care hospitals. Therefore, these facilities are capable of caring for many types of patients, beyond patients in need of specialized medical rehabilitation, who may be in need of care and unable to secure a bed at an acute-care hospital during this crisis. In fact, many of our members report that they have already received requests from administrators and local officials to prepare to handle overflow from acute-care hospitals.

AMRPA greatly appreciates your leadership in prior public health crises, including your recognition of the vital role that IRFs play in helping in the national response. We commend the Administration for its previous guidance and waivers of Medicare rules in order for IRFs to meet the needs of their communities (for example, during the catastrophic 2017 hurricanes). AMRPA believes that the unprecedented nature of the COVID-19 response demands additional forms of regulatory relief (tailored to both the rehabilitation and non-rehabilitation patients that IRFs will be treating) on an immediate, national scale. Specifically, AMRPA asks CMS to implement the following waivers for the duration of the COVID-19 crisis:

- The waiver of 42 C.F.R. § 412.29, which conditions an IRF’s excluded status on 60 percent of IRF patients having one of 13 conditions (this is consistent with CMS’ prior actions in response to hurricanes and other localized disasters, such as for Hurricane Irma in 2017).\(^1\) In addition, a waiver of the other requirements at 42 C.F.R. § 412.29, which would be inappropriate to apply to non-rehabilitation patients.

\(^1\) Waiver available at https://www.cms.gov/About-CMS/Agency-Information/Emergency/Downloads/QAs-FL-Irma-1135-Waivers.PDF
Guidance on the restrictions to commingling of a rehabilitation unit bed and acute-care patient beds in accordance with 42 C.F.R. § 412.25. AMRPA recognizes that, in typical circumstances, these restrictions have some merit. However, during extraordinary circumstances when the unit is being used as overflow from the acute-care portion of the hospital, this unnecessary restriction would lead to less hospital beds being available.

Any waiver that may be necessary in light of the anticipated workforce shortages and capacity issues facing IRFs, such as the requirement a patient receive 15 hours per week of therapy or that a physician with training and experience in rehabilitation medicine visit the patient 3 days per week.

The waiver of the IRF Quality Reporting Requirements (found at 42 C.F.R § 412.634). IRFs will have notably reduced capacity to comply with the requirements of these programs during this crisis, and reporting should be waived in favor of providers devoting maximum resources to medical care. Relatedly, we ask CMS to waive all other non-essential reporting and documentation requirements for the duration of the pandemic when treating both rehabilitation and non-rehabilitation patients.

Finally, CMS should also issue detailed instructions on how an IRF should submit claims to Medicare for treatment of an acute-care patient. This question will be of particular concern to freestanding rehabilitation hospitals that are not part of an acute-care hospital.

In addition to these specific actions identified to date, we encourage CMS to proactively issue any other waivers or guidance that deems appropriate that would facilitate IRFs caring for patients by allowing our hospitals to accept non-rehabilitation patients during this pandemic. This should also include a blanket waiver allowing IRFs to forgo any coverage, participation or reporting requirements that do not jeopardize patient safety when the IRF is unable to meet those demands as a result of this public health crisis.

As this situation is rapidly developing, we intend to remain contact with CMS and your Administration on an as-needed basis and welcome outreach from CMS if AMRPA can be of any specific assistance to the government’s broader response to the COVID-19 pandemic. AMRPA and our member institutions are eager to work collaboratively with the government to ensure rehabilitation hospitals are part of the systematic preparedness and response effort. Please feel free to contact Kate Beller, Executive Vice President of Government Relations and Policy Development (KBeller@amrpa.org/973-224-4501) or Jonathan Gold, Director of Government Relations and Regulatory Counsel (JGold@amrpa.org/314-210-0356) at any time to discuss.

Sincerely,

Robert Krug M.D.
Chair, AMRPA Board of Directors
President, Mount Sinai Rehabilitation Hospital
Regional Vice President, Trinity Health of New England
CC:
The Honorable Eric D. Hargan, Deputy Secretary
Demetrios Kouzoukas, Principal Deputy Administrator for Medicare
Brady Brookes, Deputy Administrator and Deputy Chief of Staff
Marc Short, Chief of Staff, Vice President Mike Pence
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James Williams, Special Assistant to the President for Domestic Policy
Sandra Pace, Acting Director, Survey and Operations Group