



## **Lawmakers call on federal agencies to protect vulnerable communities against COVID-19**



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Several lawmakers are asking the Department of Health and Human Services (HHS) and Centers for Medicare and Medicaid Services (CMS) to make sure services that care for older adults and people with disabilities have the resources they need to protect the people they serve.

Senator Gillibrand, alongside her colleagues Senators Bob Casey (D-PA), Tina Smith (D-MN), Elizabeth Warren (D-MA), and Richard Blumenthal (D-CT), urged HHS and CMS to ensure priority access and resources for PPE for home care and hospice workers and patient protection, to allow additional flexibilities in telehealth waivers for Medicare home health agencies (HHAs), to support Medicaid HHAs and HCBS agencies and their essential workers through CARES Act funding, and to provide states with additional flexibilities to use Medicaid funds for HCBS providers.

"Across states, home care and hospice personnel have struggled to obtain and maintain adequate supplies of PPE. In some jurisdictions, home care and hospice were not even recognized by emergency management and public health authorities as essential care settings where PPE was vital for care access, health safety and protection. As the COVID-19 pandemic continues, and in the face of future emergencies, HHS and CMS must establish home care and hospice essential personnel status for PPE and other prioritization in emergency response, and direct state and local public health jurisdictions to follow," the letter states in part.

"Since the pandemic began in March, the Visiting Nurse Service of New York (VNSNY) has provided home health care to over 2,600 COVID+ patients," said VNSNY President and CEO Marki Flannery. "But to keep our frontline staff safe and our homebound patients healthy, we must have appropriate policies and financial support. That means reimbursing home health providers for vital services delivered through telehealth, sufficient Medicare and Medicaid funding for care in the home, and priority access to personal protective equipment."

The full letter can be read below.

United States Senate  
WASHINGTON, DC 20510

August 21, 2020

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

We are writing because the novel coronavirus (COVID-19) pandemic has affected the ability of older adults and people with disabilities to receive post-acute home health care and home- and community-based services (HCBS). This includes access to care and to the essential workforce, the safety and protection of patients and the operational viability of the agencies that provide these important services. Specifically, we urge you to ensure priority access to and resources for PPE for home care, personal care attendants, and hospice workers and patient protection, allow additional flexibilities in telehealth waivers for Medicare home health agencies (HHAs); support Medicaid HHAs and HCBS agencies, their essential workers through CARES Act funding; and provide states with additional flexibilities to use Medicaid funds for HCBS providers.

**Priority Access to Personal Protective Equipment**

Across states, home care and hospice personnel have struggled to obtain and maintain adequate supplies of PPE. In some jurisdictions, home care and hospice were not even recognized by emergency management and public health authorities as essential care settings where PPE was vital for care access, health safety and protection. As the COVID-19 pandemic continues, and in the face of future emergencies, HHS and CMS must establish home care and hospice essential personnel status for PPE and other prioritization in emergency response, and direct state and local public health jurisdictions to follow. In addition, individuals and families that hire personal care attendants must also have access to PPE for the providers they employ and for themselves.

**Telehealth Reimbursement for HHAs**

The Center for Medicare and Medicaid Services (CMS) has been generous in the telehealth waivers granted to many Medicare providers so far, but efforts have fallen short in regards to home health. Under current law, CMS allows HHAs to provide telehealth to those under their



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care, but they will not reimburse HHAs for those services as "virtual visits." Allowing Medicare payments to HHAs for telehealth services would increase vital access to these services and provide a way to reduce risk of transmission of the Covid-19 virus while helping to reduce the need for hospitalizations and PPE. Telehealth is already a tool employed by HHAs, who can use telehealth for evaluation and assessment of a patient's condition, teaching and training of self-care and rehabilitative activities, social work and behavioral health interventions, direct therapy services, medication management, and more.

We recognize that the payment model for home health may make telehealth reimbursement less straightforward than it is for fee-for-service medical practices. We also recognize that the Medicare home health benefit should remain an in-person service as its core, and that there should be appropriate guidelines for the use of telehealth. For instance, the ordering clinician and the patient should agree to virtual visits in the plan of care. Also, certain services should only be delivered in-person, such as wound care or surgical site care, catheter care, and start-of-care admissions. However, we believe it is imperative that you develop payment solutions that enable home health agencies and the patients they serve to benefit from telehealth.

In addition, it is important to address accessibility and access issues in the provision of telehealth at HHAs. Although telehealth could improve access to health care, some patients are not aware of the telehealth options or are unable to utilize or have access to technology.

**Support for Medicaid HHA/HCBS Providers and Workforce**

Medicaid long-term care delivered in the home and community settings is becoming more vital than ever in reducing spread of infection and caring for society's most at-risk for infection. Just as hospitals and other healthcare providers have suffered financially during the health emergency, so too have HHAs and other HCBS providers and the workers they employ. Some states have asked for and received waivers that enable states to stabilize HCBS providers. However, state Medicaid budgets are stretched thin, and the waivers only allow retainer payments to HHA/HCBS providers and employees for thirty days. The federal government must provide adequate resources for these service providers and the workers they employ. HHS should immediately release Medicaid funds for HHA/HCBS providers, and CMS should provide guidance that ensures funds are prioritized for PPE and pandemic pay for the frontline workforce that provides regular care in the home to individuals living in their own homes with long-term services and supports. In addition, CMS should provide states the flexibility to provide retainer payments for longer than three up-to-thirty days periods for certain services or provider types.

We appreciate your consideration of this request to improve care and health outcomes for patients receiving HCBS. We look forward to a response within 14 days of receipt.

Sincerely,

Kirsten Gillibrand  
United States Senator

/s/ Robert P. Casey, Jr.  
United States Senator



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/s/ Elizabeth Warren  
United States Senator

  
Tina Smith  
United States Senator



Richard Blumenthal  
United States Senator