

April 22, 2022

Carole Johnson
Administrator
Health Resources and Services Administration
U.S. Department of Health and Human Services
5600 Fishers Lane
Rockville, MD 20857

Re: Follow-Up to Meeting on Reopening the Reporting Period 1 for Provider Relief Fund

Dear Administrator Johnson:

On behalf of the physician and medical student members, the American Medical Association (AMA) appreciates the meeting held on April 14, 2022, with your colleagues and continues to urge the Health Resources and Services Administration (HRSA) to allow for late reporting of Period 1 Provider Relief Funds (PRF) by those recipients who did not report through the HRSA PRF Reporting Portal by the November 30, 2021, deadline. We continue to be very concerned that the outreach to the more than 16,000 physicians, with just two weeks for them to complete the Request to Report Late form is insufficient to reach the physicians who missed the deadline. Based on the dire financial situation that physician practices faced in spring 2020 when the Centers for Medicare & Medicaid Services recommended postponing non-essential procedures and many patients cancelled appointments to stop the spread of COVID-19, we firmly disagree that the outstanding non-reporters are strategically waiting for HRSA to collect their Provider Relief Funds. Instead, we believe non-reporters are primarily small and rural providers who are overwhelmed and have not received sufficient communications about the reporting requirements. We urge HRSA to release data about these physicians so we can launch a full-court communications press to reach them. This would also necessitate more time—at least two additional weeks—to submit a request to report late. At a minimum, HRSA should establish an appeal process for those physicians who will now receive a demand letter for repayment of Provider Relief Funds.

As emphasized in our meeting, we list below our continued concerns with the communications approach during the Request to Report Late Due to Extenuating Circumstances and its closure after just 11 days:

- **Volume of physician practices that were unaware of the reporting deadline is staggering.** Whereas we were previously under the impression that the number of providers who missed the deadline was around 10,000, we were frankly astonished to learn the actual number is closer to 16,000. The 60 percent increase over the original published number underscores the scope of the problem of outreach and connecting to the outstanding recipients. These recipients account for just two percent of the total Period 1 Provider Relief Funds, indicating that they are smaller and rural practices that will be substantially harmed by recoupment of their Provider Relief Funds. To be clear, HRSA would become a creditor jeopardizing the livelihood of small business owners who are trying to continue to provide care in communities across the country, including rural

areas where care is more difficult to access. We believe this is directly counter to Congress' intent in the CARES Act and to HRSA's mission.

- **Failure to creatively communicate with recipients who have not yet reported on the use of their funds.** While we acknowledge HRSA's efforts of sending two emails and one U.S. postal letter, we remain concerned that this is repeating the same thing and expecting a different result. For instance, we have heard from many physicians that they only became aware of the option to submit a request to report late via communications from the AMA or their specialty society, and have not received any communications from HRSA. In one case, we heard from a physician who received a letter from HRSA on April 15 that was dated April 6. This physician is based in New York City, and it took seven business days for the letter to reach his office. Despite the AMA's offer to assist with targeted outreach to call and message physicians who have not yet submitted a report or a request to report later, HRSA refused to release any information that would be helpful in identifying those physicians.
- **The 11-day Request to Report Late Due to Extenuating Circumstances period overlapped with spring break, religious holidays, and Tax Day.** Compounding our concerns that 11 days was too short for the late reporting request period, the timing of the reopening was challenging for small and rural practices. We have heard that some practices had difficulty reaching their accountants due to the April 18 Tax Day and planned vacation time after that deadline. We also heard that staff were out of the office due to school spring break schedules and religious holidays. These absences could mean that emails and letters went unopened during the 11-day grace period.
- **Debunking the notion that physicians do not need Provider Relief Funds.** According to an AMA [report](#) that looked at a claims-based analysis of changes in Medicare physician spending in 2020, the estimated reduction in Medicare physician spending associated with the pandemic was \$13.9 billion (a 14 percent decrease compared to expected). Physician specialties that were particularly hard-hit included otolaryngology (-24 percent), cardiac surgery (-20 percent) and ophthalmology (-19 percent). At the state level, impacts ranged from a nine percent reduction in Oklahoma to a 22 percent reduction in Minnesota. The AMA commissioned a [nationwide survey](#) of patient care physicians in July and August of 2020 to assess the financial impacts of the COVID-19 pandemic. The results, based on the responses of 3,500 physicians, found that 81 percent of physicians said revenue was still lower than pre-pandemic and the average drop in revenue was 32 percent. Moreover, physician practices had a new significant expense—personal protective equipment (PPE). The average increase in PPE spending was 57 percent. Supplies were difficult to acquire, especially for smaller practices that lack purchasing power or vendor relationships to compete with larger health systems in the marketplace. We know that the plight of the physicians challenges the position raised during the meeting that physicians are not responding to the reporting portal because they do not wish to retain the Provider Relief Funds. We strongly believe that the recipients who have yet to report the use of the PRF Period 1 monies through the HRSA portal are not signaling they wish for the funds to be recouped. The notion that this is the position of those who have not responded is in direct contrast to what our members have expressed to the AMA, their specialty societies, and to their state medical associations.
- **COVID-19 continues to impact small and rural practices.** As discussed, we understand that many providers who failed to meet the Period 1 reporting deadline were from small and rural areas. These practices will be especially impacted from the potential recoupment of funds. We urge HRSA to consider that the funds provided to these small and rural practices have been used

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to address staffing shortages, high priced medical equipment, and to compensate for reduced patient encounters. We know that our smaller practices need the relief they received, and we caution HRSA from recouping the funds from physicians so quickly.

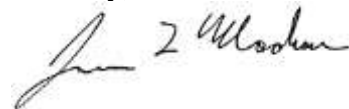
We heard during the meeting that HRSA is limited in what information can be publicly shared regarding which practices have and have not responded to the outreach. We reiterate our request for data that can shed light on the breakdown of the providers who have yet to complete the Period 1 reporting so we can maximize our outreach to physicians, directly and through collaboration with our state and medical specialty federation members. Information by state or by specialty might allow for more specific targeting of the late reporting message. We ask HRSA to continue to explore how information can be shared in a more dynamic way to prevent the unfair recoupment of Provider Relief Funds from 16,000 recipients because they were not aware of the reporting requirements. At a minimum, we strongly urge HRSA to create an appeal process so physicians can challenge a demand for repayment of their funds based on extenuating circumstances that prevented them from reporting on the use of those funds.

In addition, the AMA has heard that some physicians have repaid the Provider Relief Funds after receiving the letter of non-compliance from HRSA and prior to the start of the request to report late period. In one case, a physician would clearly have qualified for an extenuating circumstances late reporting request because he had to terminate a staff member who was not forwarding letters and emails and also was engaging in fraudulent activities. However, this physician, a solo practitioner, thought he was required to repay the funds and had to take out a line of credit to repay the approximately \$23,000. This physician was not contacted by HRSA or presented with the opportunity to complete the request to report late form when the reporting period was reopened. It is unfair to exclude physicians in this and similar situations from the opportunity to come into compliance due to extenuating circumstances. We urge HRSA to allow physicians in this circumstance to submit a request to report late and recover their funds or, at a minimum, appeal.

We are appreciative of HRSA's decision to establish the reopening Period 1 opportunity. We reiterate our desire to work together with HRSA to get as many physicians as possible to report on Period 1. While we have disseminated messages throughout our communication channels, we believe more can be done together. Please contact Margaret Garikes, Vice President of Federal Affairs, at 202-789-7409 or margaret.garikes@ama-assn.org if we can do more to inform those who have yet to complete the Period 1 reporting.

As always, we thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Madara". The signature is fluid and cursive, with a large initial "J" and "M".

James L. Madara, MD

cc: Diana Espinosa
Kim Derwinski
Sharon Loper