



April 15, 2020

The Honorable Alex M. Azar, II
 Secretary
 Department of Health and Human Services
 Hubert H. Humphrey Building
 200 Independence Avenue, SW
 Washington, D.C. 20201

Dear Secretary Azar:

The current COVID-19 pandemic is putting unprecedented pressure on our nation's health care system and the people who rely on that system for life-saving care. Cancer patients and survivors are particularly vulnerable during this time. In 2020, 1.8 million people will be diagnosed with cancer.¹ Another 16.9 million people are living with a history of cancer.² For these individuals – along with millions of other Americans with chronic conditions – the ability to access affordable medical services right now is truly a matter of life and death.

The undersigned organizations representing cancer patients, survivors, providers, and caregivers appreciate all the steps the Department of Health and Human Services (HHS) is taking to ensure that our nation's health care system continues to operate during this time of crisis. At the same time, we believe there are additional administrative changes, discussed in this letter, that are within the HHS' authority that would make accessing care easier for cancer patients and survivors.

¹ American Cancer Society. *Cancer Facts & Figures: 2020*. Atlanta: American Cancer Society, 2020.
<https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/annual-cancer-facts-and-figures/2020/cancer-facts-and-figures-2020.pdf>

² *Id.*

Ensure Plan Networks Do Not Hinder Access to Care

Cancer patients and survivors need access to timely medical treatment during this public health crisis. Some cancers are aggressive – especially when diagnosed at later stages – and delaying the start of treatment can be detrimental to the patient. For patients who have already started treatment, their cancer therapy regimens can be very structured and delaying treatment could negatively impact the patient and reduce the likelihood of the success of the treatment.

Our organizations continue to hear from cancer patients, survivors and caregivers daily that they are encountering difficulties in accessing treatment – in some cases because their provider or facility has temporarily closed, had to prioritize COVID-19 treatments, had to conserve personal protective equipment, or because their treatment was not determined to be essential. Some patients may also be sheltering in place/quarantining in a location that is too far from their provider or are unable to travel. While we understand the difficult decisions providers face in having to close their doors to cancer patients, unfortunately cancer doesn't wait for the abatement of the pandemic.

Cancer patients who are enrolled in plans that utilize a network of providers can be limited in their choice of providers – which will cause unique challenges during this time. We ask that HHS ensure that all plans that utilize provider networks – including Medicare Advantage plans and Qualified Health Plans (QHPs) – enhance their network adequacy requirements during this crisis. Up-to-date network adequacy would help ensure that if one provider or facility is temporarily off-line, understaffed, or otherwise unable to meet patient needs due to COVID-19 concerns, cancer patients will have access to another provider or facility that can provide comparable services. Patients should not incur delays in seeking care from alternative providers or facilities, even if these providers or facilities were out-of-network prior to the crisis.

Further, if a cancer patient or survivor needs to utilize services from an alternative facility or provider because their preferred provider or facility is unavailable due to COVID-19 concerns, the patient's cost-sharing or any other financial exposure should be no higher as a result. All the patient's cost-sharing should count towards their in-network deductible and maximum annual out-of-pocket costs.

We have also heard from cancer patients who are concerned about delaying treatment – and some are unable to reach their providers to talk through their options. We urge HHS to work with plans and physicians to provide cancer patients with information regarding how they can continue to access treatment during the COVID-19 pandemic, including who to contact if they encounter treatment delays or if their provider can no longer provide treatments as scheduled. We also encourage HHS to work with stakeholders in the cancer community to ensure this information is distributed to the larger patient community and we would be happy to work with you in that regard.

Waiving Facility-specific Pre-certification and Prior Authorization

Cancer patients generally get their treatment at a designated location, e.g. a hospital or an infusion center. The patient often gets pre-certification and/or prior authorization from his/her insurer for the treatment at the specified location. Because of the pandemic, some infusion centers and hospitals are temporarily suspending their infusion services or are unable to treat their typical number of patients in order to comply with social distancing protocols. This necessitates cancer patients finding other locations where they can be treated. For some this may mean a move from a hospital to an oncology center or vice versa. To ease the transition for patients and avoid delays in cancer treatment, we urge

HHS to require public and private insurance plans subject to federal regulation to waive site-specific pre-certification and prior authorization for cancer treatment. This would not necessarily preclude pre-certification and prior authorization for the treatment itself but simply for the location, so that cancer patients can more easily find a site of care.

Considerations for Home Infusion Services

During the pandemic, some are proposing expanding access to cancer therapies by allowing greater access to home infusion of cancer drugs. Indeed, the Centers for Medicare & Medicaid Services (CMS) has taken regulatory action to facilitate home infusions for drugs administered through the Medicare Part B benefit. While we recognize that the pandemic creates challenging situations for cancer patients, we believe that everything should be done to ensure that cancer patients' health and safety is not compromised. The determination of whether cancer patients can receive home infusion services (including possibly chemotherapy) is a medical decision. As such, we urge HHS to ensure that Medicare, Medicaid and private insurers carefully weigh a host of factors including: (1) the positions of the medical societies that are experts in the administration of cancer therapies; (2) the safety and efficacy of expanding home infusion therapy for cancer therapies; and (3) the cost implications for patients. The final decision to utilize home infusion should be one that is made through a shared decision-making process between a patient and their provider. We also urge HHS to make clear to insurers that plans should not pressure patients or health care providers to choose one site over another site.

90 Day Supply of Medications

Section 3714 of the Coronavirus Aid, Relief, and Economic Security Act (CARES) requires Medicare prescription drug plans and Medicare Advantage plans to allow fills and refills of covered Part D drugs for up to a 3-month supply during the public health emergency period. This patient protection allows patients who rely on oral and self-administered cancer medications to minimize their trips to in-person pharmacies and empowers them to maintain sufficient medication supply to avoid treatment interruption due to pandemic-related circumstances.

We urge HHS to take the necessary next step of requiring this same patient protection within federally regulated commercial plans. We appreciate that, on March 24th, CMS released "FAQs on Prescription Drugs and the Coronavirus Disease 2019 (COVID-19) for Issuers Offering Health Insurance Coverage in the Individual and Small Group Markets"³ encouraging issuers to lift fill restrictions for beneficiaries, when appropriate. We believe this patient protection should be available to all patients.

We encourage CMS to work with state Medicaid programs to provide a 3-month supply (while also noting that this will improve compliance, which not only makes people healthier but also reduces complications (like possible ED visits and/or more physician visits) which should be avoided during the pandemic.

We encourage CMS to work with state Medicaid programs to provide Medicaid beneficiaries up to a 3-month supply of their medications during the COVID-19 emergency period. This will allow individuals who have Medicaid coverage to access to their medications without unnecessarily exposing themselves to the virus at the pharmacy every 30 days. This change is particularly important for those who are

³ <https://www.cms.gov/files/document/faqs-rx-covid-19.pdf>.

immunocompromised or who have multiple chronic conditions that could impact their health, such as cancer patients and survivors.

Several states have already chosen to extend the supply of prescriptions to Medicaid beneficiaries, such as the District of Columbia⁴ and Massachusetts.⁵ However, a more unified approach across states through an administrative change at HHS would prevent confusion and ensure that all Medicaid beneficiaries across the U.S. have similar access to critical prescription drugs and prevent further community spread.

It is also important to note that unfortunately, even a 30-day supply of many cancer medications is often associated with extraordinary patient cost-sharing, and this financial barrier may prove prohibitive for many patients who would otherwise avail themselves of this flexibility. With this in mind, we urge HHS to encourage states that charge copayments for prescription drugs to lift those copayment requirements during the public health emergency. The cost of a 3-month supply of medications may dissuade low-income Medicaid beneficiaries from accessing and adhering to their medications. Similarly, we urge HHS to require Medicare Part D plans and federally regulated commercial plans to provide enrollees with a mechanism to pay over time for their cancer medications accessed under this provision, in order to maximize the number of patients who can benefit from this flexibility.

Clarification of Telemedicine Improvements

During this pandemic, it is critically important that cancer patients and survivors, many of whom are immunocompromised, have reliable access to telehealth services. Telehealth services can reduce their risk of exposure to the coronavirus while also ensuring access to their providers when a face-to-face visit is not advised. We appreciate all the measures CMS has taken in the interim final rule to expand access to telehealth services in this public health emergency. Ability to offer audio-only service is especially meaningful for Medicare beneficiaries who may not have or be comfortable with video technology.

We applaud the new CMS “Office Hours” on COVID-19 as well as the Special Open-Door Forum addressing Telehealth in Medicare during COVID-19 on April 8. The CMS “Dear Clinician” Letter of April 6 is also helpful in promoting the billing codes for telehealth services and encourages CMS to continue to find additional ways to educate providers about the billing codes.

Given that the changes to telehealth are still very new, we expect to discover in the upcoming weeks challenges patients, especially vulnerable low-income and elderly patients, encounter in seeking care and urge HHS to both monitor these issues and consider further improvements.

Conclusion

Thank you for your consideration of these issues. We stand ready to work with HHS to ensure that cancer patients, survivors and all Americans have access to necessary health care throughout the duration of the pandemic and beyond. If you would like to discuss any of these issues further please reach out to Keysha Brooks-Coley, Vice President, Federal Advocacy with ACS CAN at keyscha.brooks-coley@cancer.org.

⁴ <https://coronavirus.dc.gov/release/public-notice-covid-19-medicaid-providers>.

⁵ <https://www.mass.gov/info-details/masshealth-coronavirus-disease-2019-covid-19-applicants-and-members>.

Sincerely,

American Cancer Society Cancer Action Network
Association for Clinical Oncology
Association of American Cancer Institutes
Cancer Support Community
Friends of Cancer Research
National Comprehensive Cancer Network
The Leukemia & Lymphoma Society
AliveAndKickn
American Liver Foundation
American Lung Association
American Society for Radiation Oncology
Asbestos Disease Awareness Organization (ADAO)
CancerCare
Children's Cancer Cause
Colorectal Cancer Alliance
Deadliest Cancers Coalition
Debbie's Dream Foundation
Esophageal Cancer Action Network
Fight Colorectal Cancer
FORCE: Facing Our Risk of Cancer Empowered
Global Liver Institute
GO2 Foundation for Lung Cancer
International Myeloma Foundation
KidneyCAN
Kids v Cancer
Livestrong
LUNgevity Foundation
Lynch Syndrome International
Mattie Miracle Cancer Foundation
Melanoma Research Foundation
Men's Health Network
METAvivor
National Association of Chronic Disease Directors
National Brain Tumor Society
National Cancer Registrars Association
National Coalition for Cancer Survivorship
National Marrow Donor Program/Be The Match
National Pancreas Foundation
National Patient Advocate Foundation
Oncology Nursing Society
Ovarian Cancer Research Alliance
Pancreatic Cancer Action Network
Prevent Cancer Foundation
Sarcoma Foundation of America
Society for Immunotherapy of Cancer
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Susan G. Komen
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