

**Congress of the United States**  
**Washington, DC 20515**

June 29, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

First, we want to thank you for your continued leadership and thoughtful response to the coronavirus (COVID-19) pandemic. We are writing to you on behalf of the long-term care (LTC) provider community, which includes skilled nursing facilities (SNF) in our districts that largely serve communities of color. As we well know, these often-underserved communities have been inordinately impacted by ravages of the pandemic. While the clinical outlook for these communities continues to improve, the operational challenges SNF providers face is worse than ever.

Unfortunately, there have been an unprecedented level of LTC centers shuttered across the country, with underserved areas bearing the brunt of these closures. In fact, more than 300 nursing homes have closed over the course of the pandemic (2020-2022), mostly due to staffing shortages or financial challenges. Based on current financial metrics, it is estimated that more than 400 nursing homes could soon close. **Nursing homes that close tend to be smaller facilities in urban settings where most residents rely on Medicaid. These proposed cuts would also exacerbate current challenges and potentially lead to the closure of rural facilities—a fate rural America cannot afford.** Simply put, nursing home closures are devastating to residents, their families, staff, and the entire health care system. The chronic underfunding of nursing homes combined with the ongoing toll of the pandemic and a historic labor shortage has been too much to bear for many facilities across the country.

While we greatly appreciate the assistance some LTC centers have received via the Provider Relief Fund throughout this pandemic and the needed extensions of the public health emergency, we remain concerned that unless more is done, additional centers in communities of color will close and vulnerable individuals will lose access to quality care. It is of vital importance that we work to address disparities in the health of our communities, who have no doubt been disproportionately affected by the COVID-19 pandemic. Losing access to critical LTC will only hurt these individuals, who already have health care access challenges.

It is also vital to note that due to the pandemic LTC facilities are facing a historic labor crisis, losing more than 406,000 caregivers since the beginning of the pandemic, and workforce levels are at a 15-year low. SNF communities are facing the worst job losses among all healthcare professions, and the shortage is impacting access to care for our nation's seniors and individuals with disabilities. More than half of nursing homes were limiting new admissions in recent months—at a time when overwhelmed hospitals needed assistance to free up precious beds due

to the Omicron surge. **While we support the intent of your proposal of establishing mandatory minimum staffing levels at SNFs – we are concerned that our constituent facilities will have a challenging time meeting the mandate without an increased supply of caregivers in underserved markets. Our constituent facilities usually compete with large health systems that pay significantly higher wages and benefits. Due to the higher prevalence of Medicaid patients in these centers and the financial fragility of these communities we are concerned that the mandates may be unattainable.** As noted above, the SNFs in our communities are already in a precarious state and having an unfunded staffing mandate could cause further closures and those most in need to lose access to needed LTC.

The viability of SNFs is essential. These LTC centers provide around-the-clock care to those most in need as well as rewarding jobs and careers for local residents. They are an economic hub that allow seniors who have lived in our communities for their entire life to remain close to their support structure when LTC is needed. Study after study has shown that these social connections and visitations from their loved ones and long-term friends in all communities are very important for their health and well-being.

Now more than ever, long term residents and staff need the Agency's support. At this critical time, CMS has proposed a negative 4.6 percent SNF Medicare Part A PPS parity adjustment effective October 1, 2022. CMS proposes no phase-in period to allow providers time to prepare. Per the CMS FY 2023 SNF PPS proposed rule issued on April 11, 2022, the parity adjustment would result in removing \$1.7 billion from the annual net market basket update CMS otherwise projects to be a positive 3.9 percent. The net result is that instead of increasing SNF payments in FY 2023, CMS proposes to reduce SNF payments by \$320 million in aggregate. The SNF sector cannot absorb such a dramatic cut at this critical time.

We ask that CMS recognize the sector's considerable labor and economic challenges as it considers public comment on the proposed parity adjustment. We are concerned about the potential risk for significant SNF closures across the country that could reduce access to care for our most vulnerable citizens if CMS implements a full 4.6 percent SNF PPS parity adjustment on October 1. It is also important to note that this will have an impact on the entire health care system as beneficiary access to hospitals and critical access hospitals could be disrupted if these providers cannot serve acute care needs based on having all their beds filled with LTC residents that they cannot discharge.

**We specifically request CMS to consider a three-year phase-in of the finalized parity adjustment, so payment reductions are avoided in FY 2023.** This approach solves two issues. First it allows the Federal Government to make the needed adjustments to ensure that payments remain consistent with the previous system. Second, it provides predictability to payments going forward, allowing fragile facilities to absorb the reduction over time. The phase-in approach will prevent a serious disruption of valuable resources necessary for SNF providers to furnish quality care. We stand ready to partner with you to ensure the most frail and vulnerable in our country are not put at further risk for displacement. Disparities in access to needed care and services for communities of color can be avoided with continued focus and support from CMS.

The health and well-being of our nation's most vulnerable is our top priority, and we look forward to continuing to work with you to meet that goal.

Sincerely,



J. Luis Correa  
Member of Congress

/s/

Michael F. Q. San Nicolas  
Member of Congress



James P. McGovern  
Member of Congress



Deborah K. Ross  
Member of Congress



Ron Kind  
Member of Congress



Tom O'Halleran  
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Marie Newman  
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Tony Cárdenas  
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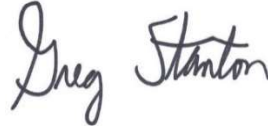
Stephen F. Lynch  
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/s/

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Greg Stanton  
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Chrissy Houlahan  
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