



Kentucky Hospital Association Policy Positions

As Congress prepares the latest COVID-19 relief bill, the Kentucky Hospital Association respectfully requests that the position of the hospitals in our commonwealth be given proper consideration. KHA, our member hospitals, and systems appreciate all the work and leadership you have provided on these issues and thank you for considering the needs of our frontline health care providers.

- KEY POSITIONS -



SUPPORT: Full forgiveness of accelerated payments under Medicare.

Rationale: Kentucky hospital losses of revenue, despite the great efforts to help them, will still be over \$1 billion through the end of the year. Hospitals are financially fragile and many are simply in no position to repay the loans. These loans should be forgiven like the small business loans under the Paycheck Protection Program.



SUPPORT: Additional revenues for the Provider Relief Fund and require a distribution of funds based on the number of days elective procedures were prohibited by state order and based on the number of staffed beds.

Rationale: Kentucky and Indiana partnered to develop a formula for distribution of one tranche of funds for hospitals that have not been helped because they were neither COVID-19 hotspots nor small rural hospitals. Multiple states including Kentucky operated under an order to stop all elective procedures. They lost billions of dollars but have not qualified for relief under any of the current distribution schemes.



SUPPORT: Continued access to the federal 340B drug program.

Rationale: To contain the spread of COVID-19, protect health care workers and conserve PPE, hospitals have reconfigured their facilities and relocated services to cohort patients testing positive and those suspected of having COVID-19. These actions have caused the DSH percentage for some 340B hospitals to fall below the required threshold. There is bi-partisan support for this measure as evinced by the co-sponsors of S.4160 which would enable hospitals that were participating in or applied for the drug discount program under section 340B of the Public Health Service Act prior to the COVID-19 public health emergency to temporarily maintain eligibility for the program.



SUPPORT: Liability Protection for Hospitals and Health Care Providers.

Rationale: KHA strongly supports Leader McConnell's efforts to include expanded liability protection. Hospitals and medical providers acting in good faith to reasonably follow federal and state public health guidance should not be held liable in COVID-related litigation. KHA also supports a cap on damages awarded in such litigation as well as the right to move the case to federal court.

- KEY POSITIONS CONTINUED -

 **SUPPORT: Temporary increase in FMAP to off-set costs due to the dramatic rise in Medicaid enrollees.**

Rationale: COVID-19's impact on Kentucky's Medicaid program added 100,000 new enrollees between February and May. Significant unemployment and the accompanying losses in tax revenue will make it extremely difficult for Kentucky to cover the costs of the program without enacting deep cuts that could cause recipients to lose coverage or have reduced access to critical health care services. Increasing each state's FMAP temporarily by 12 percent would help Kentucky and other states preserve their Medicaid programs and the enhanced federal match could be phased back as the pandemic subsides.

 **OPPOSE: Surprise billing legislation.**

Rationale: This provision is not directly related to the response to COVID-19 and should not be part of the bill. The government should not mandate a specific payment method and should leave the resolution of the dispute to the providers and insurance companies to negotiate privately, while protecting patients by capping their cost sharing at in-network levels. If providers and insurers cannot resolve the matter, it should go to arbitration or mediation. Kentucky providers and insurance companies have worked together to hold patients harmless and balance billing is rare.

 **OPPOSE: Inclusion of unrelated Medicare wage index changes to benefit selected states including re-instating a rural wage index floor for all urban states and reclassifying hospitals in New York state, i.e replay of the Bay State Boondoggle.**

Rationale: The HEROES Act contains the above mentioned wage index changes. Because Medicare wage index changes are nationally budget neutral, these manipulations which benefit selected states would be paid for by reducing payments to hospitals in Kentucky and other states. As the National Law Review explains these proposals are a pet project for north-eastern congressmen completely unrelated to the response to COVID-19. Similar to the Bay State Boondoggle during debate over the ACA, they would benefit only a few north-eastern states while raising costs for all others, including Kentucky. The National Law Review from Tuesday, May 20, 2020, says, "House Democrats seem willing to use the next bill to advance unrelated policy priorities. HEROES contains several Member pet projects, like a restoration of the a rural floor for the Medicare hospital area wage index for hospitals in all-urban states (a provision likely to benefit only providers in Delaware, New Jersey and Rhode Island) and a legislative wage index reclassification for hospitals in upstate New York." <https://www.natlawreview.com/article/house-approves-heroes-act-key-take-aways>

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Representing Kentucky hospitals and health systems