

United States Senate
WASHINGTON, DC 20510-3203

October 12, 2020

The Honorable Alex Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue
Washington, DC 20201-1114

Dear Secretary Azar:

I write to express deep concern regarding the impact of the Provider Relief Fund Post-Payment Notice of Reporting Requirements published on Sept. 19, and specifically the changes to the definition of lost revenue that hospitals and health care providers can claim through the Provider Relief Fund. This change comes months after you issued your initial guidance, which care providers have relied upon as they develop plans for handling the financial devastation of the COVID-19 pandemic.

One of my top priorities throughout the COVID-19 relief negotiations has been securing funds to support our health care providers who are leading the fight against the pandemic.

In New York State, hospitals and health systems at the epicenter of the pandemic were forced to take drastic measures to mitigate the impact of the virus and slow its spread. They canceled non-emergent procedures while investing tremendous resources in personal protective equipment, and other actions to increase and maintain health care capacity during the public health emergency. Though necessary, these actions had a tremendous negative fiscal impact on New York's providers and economy. As New York was the early epicenter of the pandemic and needed to bear a disproportionate effect of these safety measures, many New York providers are experiencing financial shortfalls that are expected to continue at least through 2021, even after considering the Federal relief received to date.

The \$175 billion Provider Relief Fund I negotiated with my Republican counterparts was intended to ensure that hospitals and other providers have the tools and resources necessary to care for patients and communities in the face of an extraordinary pandemic response and dire economic challenges. It was also intended to help secure providers' short and long-term futures, so that this pandemic would not have negative effects on communities' ability to access health care moving forward. As such, the funding was intentionally designed to offset lost revenues.

The initial PRF guidance you issued in June recognized the need for flexibility by defining lost revenue as "any revenue that you as a healthcare provider have lost due to coronavirus" and that providers may use "any reasonable method of estimating lost revenue...." As such, providers relied on this guidance to make operational and financial decisions over the past several months

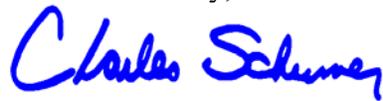
with an expectation that they would be able to use the PRF funds to address their revenue gaps accordingly.

However, the Sept. 19 guidance changes the definition of lost revenue to “a negative change in year-over-year net patient care operating income.” This new guidance does not account for any cost-cutting measures providers have taken in 2020 to manage the losses from the pandemic, changes to services, new contracts with payers or other extenuating circumstances. Moreover, it restricts the needed flexibility I mentioned above. In addition, the September 19 requirements add significant, complex reporting burdens at a time when providers are still grappling with the pandemic.

I have serious concerns that this new guidance could result in health care providers across the country, including safety-net and rural providers serving our most vulnerable populations, being forced to return these critical funds that have served as a lifeline.

Therefore, I urge you to reinstate the June PRF reporting guidance.

Sincerely,

A handwritten signature in blue ink that reads "Charles Schumer". The signature is written in a cursive, flowing style.

Charles E. Schumer
United States Senator