

Congress of the United States
Washington, DC 20515

May 4, 2020

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, Southwest
Washington, D.C. 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma:

We are writing to reiterate our concern about the devastating impact of the coronavirus disease 2019 (COVID-19) pandemic on the residents and workers of long-term care facilities, including nursing homes and other congregate living settings. We request that a portion of the emergency funding appropriated by Congress as part of the Paycheck Protection Program and Health Care Enhancement Act (the “Act”) be allocated to states specifically for the development, purchase, administration, or provision of COVID-19 diagnostic tests for long-term care facilities.¹ Diagnostic testing remains one of the most essential tools we can utilize to contain COVID-19 and prevent future spikes.

As you know, the COVID-19 global health crisis has already taken a severe toll on long-term care settings. Nearly 12,000 nursing home residents have died, with likely thousands more fatalities in other congregate living settings.² Despite this, two-thirds of our nation’s 15,600 nursing homes still struggle to access enough tests, with those that do relying “on luck and contacts.”³ When nursing homes and other facilities do secure tests, they often face long delays in getting results: one large nursing home system reported waiting three to four days for test results despite having thousands of confirmed COVID-19 cases among staff and residents.⁴ Inadequate testing has allowed the coronavirus to silently infect thousands in long-term care facilities. Of the long-term care residents who have been tested and tested positive for COVID-19, 70 percent were asymptomatic or did not display obvious symptoms.⁵ Therefore, separation of residents based on infection status, as recommended by the Centers for Disease Control and Prevention, cannot be successfully accomplished without testing.⁶

Due to Congressional action, the Department of Health and Human Services (HHS) now has an additional \$25 billion for expenses related to COVID-19 testing, including manufacturing,

¹ PL 116-139.

² NBC News, “Nursing home industry pushes for immunity from lawsuits during coronavirus emergency,” Laura Strickler and Adiel Kaplan, April 27, 2020, <https://www.nbcnews.com/health/health-care/nursing-home-industry-pushes-immunity-lawsuits-during-coronavirus-emergency-n1192001>.

³ Associated Press, “11,000 deaths: Ravaged nursing homes plead for more testing,” Bernard Condon, Matt Sedensky, and Jim Mustian, April 23, 2020, <https://apnews.com/e34b42d996968cf9fa0ef85697418b01>.

⁴ Ibid; CNN, “Nursing homes still struggle to get protective gear and quick testing,” Katelyn Polantz, Ali Zaslav, and Donald Judd, April 21, 2020, <https://www.cnn.com/2020/04/21/politics/nursing-homes-supplies-testing/index.html>.

⁵ Wall Street Journal, “Coronavirus Deaths in U.S. Nursing, Long-Term Care Facilities Top 10,000,” Jon Kamp and Anna Wilde Mathews, April 22, 2020, <https://www.wsj.com/articles/coronavirus-deaths-in-u-s-nursing-long-term-care-facilities-top-10-000-11587586237>.

⁶ U.S. Centers for Disease Control and Prevention, “Key Strategies to Prepare for COVID-19 in Long-term Care Facilities (LTCFs),” <https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care-strategies.html>.

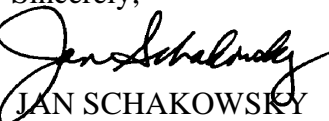
purchasing, administering, or expanding capacity for COVID-19 tests to effectively monitor and suppress coronavirus. Of that funding, \$6.25 billion was further allocated to States, localities, and territories for necessary expenses to develop, purchase, administer, process, and analyze COVID-19 tests. We urge you to direct States to prioritize long-term care facilities in any guidance you may offer to them as you distribute this funding.

Further, under the Act, each state is required to submit its plan for testing to HHS within the next month, including number of tests needed, month-by-month estimates of capacity, and a description of how the state, locality, territory, tribe, or tribal organization will use its resources for testing. These plans must offer a strategy to surge tests to nursing homes and long-term care facilities as soon as possible. We ask you to stringently assess whether each state has adequately prioritized “senior and other congregate living settings” within their plan, as recommended by the White House’s Testing Blueprint.⁷

Though the Centers for Medicare & Medicaid Services (CMS) has seemingly heeded our call to collect and publicly report facility level data on COVID-19 cases and fatalities among nursing home residents, it will be impossible for long-term care facilities to accurately count without providing every resident and worker with a COVID-19 diagnostic test.⁸ The number of COVID-19 cases and fatalities in nursing homes increases exponentially almost every day; in order to decrease further loss of life, we must ensure facilities across the country can access adequate and accurate diagnostic testing. We await more details and actual implementation of this data collection as it is of critical importance, long overdue, and must be paired with increased testing.

Again, we urge HHS and CMS to immediately work with states to ensure that a significant portion of the newly allocated funding from the Act is utilized for testing in nursing homes and other congregate living facilities. We cannot successfully slow, contain, and mitigate the spread of the coronavirus in long-term care settings unless we implement a testing strategy that reaches older Americans, individuals with disabilities, veterans, and all those living in nursing homes and congregate living settings, alongside the dedicated workers who care for them.

Thank you for your attention to this matter. If you have any questions, please contact Osaremen Okolo of Congresswoman Schakowsky’s staff at (202) 225-2111.

Sincerely,

JAN SCHAKOWSKY
Member of Congress

⁷ The White House, “Testing Blueprint: Opening Up America Again,” <https://www.whitehouse.gov/wp-content/uploads/2020/04/Testing-Blueprint.pdf>.

⁸ “Schakowsky Joined By 77 House Democrats To Urge Federal Officials To Track and Publish Coronavirus Cases at Nation’s Nursing Homes and Long-Term Care Facilities,” <https://schakowsky.house.gov/media/press-releases/schakowsky-joined-77-house-democrats-urge-federal-officials-track-and-publish>; U.S. Centers for Medicare & Medicaid Services, “Upcoming Requirements for Notification of Confirmed COVID-19 (or COVID19 Persons under Investigation) Among Residents and Staff in Nursing Homes,” <https://www.cms.gov/files/document/qso-20-26-nh.pdf>.

/s/

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