



May 14, 2020

The Honorable Nancy Pelosi
Speaker
House of Representatives
U.S. Capitol Building, H-222
Washington, DC 20515

The Honorable Kevin McCarthy
Republican Leader
House of Representatives
U.S. Capitol Building, H-204
Washington, DC 20515

The Honorable Nita Lowey
Chairwoman
Appropriations Committee
House of Representatives
U.S. Capitol Building, H-307
Washington, DC 20515

The Honorable Kay Granger
Ranking Member
Appropriations Committee
House of Representatives
1026 Longworth HOB
Washington, DC 20515

Re: HEROES Act comments

Dear Speaker Pelosi, Leader McCarthy, Chairwoman Lowey and Ranking Member Granger,

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) offers feedback on several provisions of the “Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act” that directly pertain to medical groups. In general, MGMA is encouraged to see much needed amendments to the Paycheck Protection Program (PPP) and the Accelerated and Advanced Payment Program (APP). Additionally, we appreciate that the Act would increase funding for the Provider Relief Fund, however, we are concerned over certain aspects of this section and offer recommendations for improvement.

PPP provisions (sections 90001, 90004, and 90005)

MGMA has supported the PPP since it was enacted through the CARES Act as this program provides a much-needed lifeline to medical groups facing financial hardships due to COVID-19. However, there are critical issues that needed to be addressed. The program changes included in sections 90001, 90004 and 90005 of the HEROES Act go a long way in addressing these problems and **MGMA urges Congress to include these provisions in any final COVID-19 emergency legislation.** Specifically, MGMA supports the inclusion of language that would:

- Add flexibility in the covered period for borrowers by extending the 8-week period to 24 weeks;
- Extend the covered period from June 30 to December 31;
- Create a safe harbor for borrowers who cannot rehire in the prescribed timeframe;
- Eliminate the 75/25 rule on use of loan proceeds; and
- Allow PPP borrowers to use the Employee Retention Tax Credit.

APP provision (section 30206)

MGMA supports section 30206, which makes favorable changes to the APP. These much-needed updates will assist medical groups in remaining financially viable during the COVID-19 crisis and will allow them to continue treating patients effectively. MGMA supports the following critical changes to the APP and urges Congress to include them in any final package:

- Capping interest rates at 1% for Part B suppliers;
- Providing the Secretary of Health and Human Services (HHS) discretion to do the following upon request by a Part B supplier:
 - Allow up to 1 year before claims are offset to recoup payment;
 - Provide that recoupment amount shall not exceed 25%; and
 - Extend the repayment timeline to not less than 2 years from date of the first advance payment.

Provider Relief Fund provision (section 30611)

Medical group practices deeply appreciate the \$175 billion in funding that Congress appropriated to the Provider Relief Fund through previously enacted legislation. **MGMA supports increasing these funds through the HEROES Act and/or future legislation and appreciates efforts made in the Act to ensure funds are disbursed in a timely and efficient manner. However, we do not agree with certain aspects of this section and offer recommendations on how to improve them.**

Eligible Healthcare Provider

The CARES Act, which created the Provider Relief Fund, codified that an “eligible healthcare provider” is one who “...provide[s] diagnoses, testing, or care for individuals with *possible* or actual cases of COVID-19” (emphasis added). The HEROES Act would amend eligibility criteria to require that healthcare entities diagnose, treat, or care for individuals with *presumptive* COVID-19. Under the Act, an individual is presumed to have COVID-19 if medical record documentation supports a diagnosis, notwithstanding a positive test. Because not every possible case of COVID-19 is a presumptive case,¹ MGMA is concerned that this revised definition would narrow the pool of entities eligible for Provider Relief funds. As such, **MGMA strongly opposes a more restrictive definition of “eligible healthcare provider” and encourages Congress not to enact any policies that limit group practices’ access to the Provider Relief Fund.**

MGMA has heard from group practices across the country that have not treated patients with presumptive COVID-19. While not directly involved in coronavirus-related care, these group practices play a pivotal role in responding to the public health crisis by continuing to provide patients with access to quality care and coordinating care with hospitals, health systems, and other entities.

Cutting off a financial lifeline by effectively excluding these groups from the Provider Relief Fund jeopardizes their viability, which puts further strain on the healthcare system and risks driving patients into emergency rooms and hospitals that not only are more costly for the patient, but also exposes them to greater risks of virus exposure than a group practice setting. Therefore, **MGMA recommends that Congress retain the definition of “eligible healthcare provider” outlined in the CARES Act and to clarify that every patient could be a possible case of COVID-19.**

¹ See, e.g., Provider Relief [FAQs](#).

Calculation

MGMA agrees that reimbursement from the Provider Relief Fund should consider both expenses and lost revenue, but we do not agree that lost revenue should be capped at 60% with a threshold requirement that losses for a given quarter must exceed 10 percent of revenue from the corresponding quarter in 2019. This overly proscriptive approach would not only result in unnecessary complexities for group practices but also underemphasizes financial losses. Instead, lost revenue should simply be defined as the percentage of revenue losses from all payers (Medicare, Medicaid, and commercial insurers) resulting from the decline of in-person care visits. We also oppose language in the Act that would exclude reimbursement for expenses for compensation or benefits deemed “executive compensation,” as described in section 4004(a)(2) of the CARES Act.

While we continue to believe that HHS should do more to provide financial relief to group practices of all sizes and specialties, including those that have little-to-no Medicare revenue, we do not support an overly proscriptive or complex approach to disbursing Provider Relief funds. We appreciate the swift action of both Congress and the Administration in delivering financial relief to group practices, however, there remain outstanding and unresolved questions regarding existing terms and conditions, calculations, and disbursements of Provider Relief funds. Complicating future disbursements with complex formulas and nebulous attached strings risks delaying delivery, discouraging group practices from using the funds due to a lack of clear guidelines around permissible uses or terms and conditions.

Conclusion

We sincerely appreciate the work Congress has done over a short period of time, which has provided group practices with critical financial support that is necessary for them to continue furnishing patient care. Given continuing revenue shortfalls and growing economic uncertainty, there remains a need for additional support and congressional action to preserve the viability of group practices. Thank you for considering our requests.

Regards,

/s/

Anders Gilberg, MGA
Senior Vice President, Government Affairs

Cc:

Education and Labor Committee Chairman Robert C. “Bobby” Scott
Education and Labor Committee Ranking Member Virginia Foxx
Energy and Commerce Committee Chairman Frank Pallone, Jr.
Energy and Commerce Committee Ranking Member Greg Walden
Ways and Means Committee Chairman Richard E. Neal
Ways and Means Committee Ranking Member Kevin Brady
Small Business Committee Chairwoman Nydia M. Velázquez
Small Business Committee Ranking Member Steve Chabot