NATIONAL HEALTH COUNCIL
Celebrating 100 Years

National Health Council
1730 M St NW, Suite 500
Washington, DC 20036-4561
(202) 785-3910

June 26, 2020

The Honorable Lamar Alexander
United State Senate
Washington, DC 20510

Dear Chairman Alexander:

The National Health Council (NHC) appreciates the opportunity to provide input on the White Paper on "Preparing for the Next Pandemic." This issue is a critical one to avoid the health and economic devastation in future public health emergencies that we have seen during the COVID-19 emergency.

Created by and for patient organizations 100 years ago, the NHC brings diverse organizations together to forge consensus and drive patient-centered health policy. We promote increased access to affordable, high-value, sustainable health care. Made up of more than 140 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient organizations. Other members include health-related associations and nonprofit organizations including the provider, research, and family caregiver communities; and businesses representing biopharmaceutical, device, diagnostic, generic drug, and payer organizations.

The recommendations that are included in the White Paper are aligned with the areas we agree are the most critical in preparing for the next public health emergency (PHE). They primarily focus on improving the public health infrastructure, improving the development of treatment and vaccines, and coordinating federal response. These are all areas that we have seen as barriers to the nation's COVID-19 response. We fully agree that we should "take stock now of what parts of the local, state, and federal response worked; what could work better; and how." Additionally, the pandemic has highlighted a number of inefficiencies and examples of fragmentation in our health care system that has made it difficult or impossible for people with chronic diseases

and disabilities to access the care they need during a public health emergency. As Congress considers important steps to prevent and manage the next pandemic, the NHC urges you to include considerations for ensuring ongoing care.

First and foremost, we urge the federal government to **increase stakeholder outreach during and after PHEs.** Meaningful engagement with the patient and caregiver communities will enhance information already available to the Department of Health and Human services, such as the Centers for Medicare and Medicaid Services' (CMS') claims database or through data collected by the Food and Drug Administration (FDA), to increase the data needed to identify high-value flexibilities and enhanced payments that improve the outcomes patients care about most. The NHC and its members stand ready to help collect this data through tools like surveys, focus groups, and other methods.

Accelerate Research and Development Into Tests, Treatments, and Vaccines

The White Paper focuses on the question of how to better accelerate research and development into tests, treatments, and vaccines. We have been pleased to see the increase in both flexibilities at the FDA and the increased level of public-private partnerships that have emerged during the COVID-19 emergency. These flexibilities and partnerships appear likely to increase the speed of research and development for COVID-19 testing, treatment, and vaccines. We encourage Congress to work with the FDA to analyze the impacts of these factors and consider ways to support this progress in future pandemic responses and apply the lessons to other areas of drug development including emerging new needs that have arisen due to COVID-19 infections such as anti-microbial resistance.

Provisions to Ensure Coverage During Future PHEs

The pandemic has underscored the importance of meaningful, affordable health insurance coverage. Making sure that the greatest number of people possible have coverage during a PHE is critical to assuring that patients and our health care system are protected during a PHE. For instance, in order to give people access to the coverage they need during this PHE many states have opened special enrollment periods in their exchanges. This allows people to responsibly respond to the PHE by making sure they have adequate insurance now that they may better understand its necessity.

Another critical step to consider is subsidizing coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA). This could be a useful tool to allow people who lose their employer-sponsored coverage to affordably stay in their health plan. When paired with federal support, COBRA provides an existing mechanism that reduces disruption for the impacted employee by allowing them to maintain their current provider relationships. Additionally, many people, especially those with chronic conditions, will benefit greatly from staying in their existing plan, as long as premiums

are affordable, because they have already made significant contributions to their deductible and out-of-pocket limit.

Another lever to protect coverage is making sure that states have the resources they need to meet the increased costs, number of people eligible for Medicaid, and increased Medicaid enrollment during a PHE. The increased Federal Medical Assistance Percentage (FMAP) that Congress has put in place during the current PHE has been effective in helping states weather the impact of growing Medicaid costs and enrollment.

We recommend that the opening of special enrollment periods, meaningful federal support to maintain existing employer sponsored coverage, and increasing the FMAP during a PHE be studied and considered as automatic flexibilities that are triggered by a PHE.

Continuity of Care Flexibilities Should Be Automatically Triggered During Future PHEs

Another issue that the current PHE has brought to light is the need to enact flexibilities that allow people to continue to receive access to necessary health care during a pandemic while protecting them from exposure to new health risks. During the COVID-19 pandemic there have been several flexibilities that have been put in place. While we greatly appreciate swift action by Congress and the Administration, even slight delays in care can often lead to severe negative consequences. Thus, we encourage Congress to work with CMS to determine which of these flexibilities should be automatically triggered upon the declaration of a PHE. A few notable flexibilities that may provide the greatest benefit from an automatic trigger include:

- Temporarily creating targeted changes to prescription refill policies to allow people to safely access enough of their medications during a stay-at-home order while monitoring supply chains to mitigate unintended hoarding that may create drug shortages or access issues; and
- Allow people to have their medications administered at home that they normally would be required to receive in a clinic, hospital, or doctor's office if deemed appropriate by the patient and their provider.

In addition, the current PHE has shown the disparate impact that pandemics can have on different populations. We recommend that in future PHEs demographic data, including race, gender, and disability status, is collected, reported, and analyzed to review impact for different populations.

Permanently Continuing Certain Flexibilities to Ensure Continuity of Care During a Pandemic

CMS' current series of initiatives to drive health care delivery system changes, while adapting to an evolving public health crisis, have been crucial in enabling providers to meet the challenges of this national emergency and serve their patients. The current

PHE has highlighted access hurdles that even patients who are insured face when seeking medical care under ordinary circumstances, and these challenges will persist beyond resolution of the COVID-19 pandemic. These access hurdles contribute to and perpetuate health care disparities for minority populations, which has led to a disproportionate burden of chronic conditions, both in prevalence and in poorer health outcomes.[1] The National Health Council recommends that Congress work with federal agencies to identify those flexibilities put in place during the current crisis that have ongoing value in preparing for future PHEs and ongoing health care needs. Those flexibilities that meet patient needs, are effective, and prove cost-efficient, should be made permanent either through legislation or regulation.

For example, the current emergency accelerated CMS' path toward broader adoption and utilization of telemedicine. The NHC applauds the Senate Committee on Health, Education, Labor, and Pensions on already holding a hearing to examine the impact of these flexibilities on patient access to care, especially for those with chronic diseases and disabilities. Expanded access to telemedicine alternatives in minority, low income, and rural communities may hinge on CMS' continuing implementation of PHE-related flexibilities such as permitting use of mobile telephones, including audio-only devices. Given recent estimates attributing approximately $93 billion in excess medical care costs and $42 billion in lost productivity per year to health care disparities, the NHC urges you to consider permanent adoption of telemedicine flexibilities that prove successful in expanding access to care during a PHE.[2]

In particular, we want to assure that any permanent decisions are implemented in accordance with existing non-discrimination protections. Examples of flexibilities that appear to have best facilitated care that should be considered include:

- Making current Medicare telehealth authority permanent to ensure continuity of care and access to medically necessary services for Medicare beneficiaries. This includes ensuring provider payment parity and lifting restrictions related to geographic location, originating and distant sites, and provider types not currently authorized to provide telehealth services beyond the pandemic. It must also be done to assure equity by making sure telehealth is accessible, regardless of disabilities, socioeconomic status, English proficiency, access to equipment or broadband service, or region.
    - Allowing for telehealth to be delivered via audio only in certain cases may help solve for some issues related to equity and should also be considered as a permanent flexibility;
- Examining the impact of utilization management in Medicaid, Medicare Part D, Medicare Advantage, and Exchange plans. Identifying therapeutic categories and disease states for which utilization management tools

[1] See, e.g., https://www.kff.org/disparities-policy/issue-brief/disparities-in-health-and-health-care-five-key-questions-and-answers/ (March 4, 2020).

[2] Ani Turner, The Business Case for Racial Equity, A Strategy for Growth, (W.K. Kellogg Foundation and Altarum, April 2018), https://altarum.org/publications/the-business-case-for-racial-equity-a-strategy-for-growth.

increase patient and provider burden without a proportional cost reduction would enable plans to more appropriately focus those utilization management efforts; and

- Reviewing the impact that CMS' suspension of documentation requirements associated with oxygen equipment and other durable medical equipment has had on costs for those items and supplies, enhancing CMS efficiencies in managing the DME benefit.

These flexibilities that have been implemented during the COVID-19 emergency, have been critical both in supporting the continuity of care as well as preventing the spread of COVID-19. In future pandemics it will be critical to either have the flexibilities made permanent or ready to be put in place during an emergency.

Once again, the NHC appreciates the opportunity to provide input into this important White Paper. Please do not hesitate to contact Eric Gascho, the National Health Council's Vice President of Policy and Government Affairs, if you or your staff would like to discuss these issues in greater detail. He is reachable by phone at 202-973-0545 or via e-mail at egascho@nhcouncil.org.

Sincerely,

Marc Boutin, JD
Chief Executive Officer National Health Council