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July 2, 2020

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

As the number of COVID-19 cases continues to rise across our Nation, residents and staff at skilled nursing facilities remain increasingly vulnerable to the threats of this pandemic. The Wall Street Journal estimates at least 50,000 nursing home residents have died from COVID-19—resulting in less than one percent of the U.S. population accounting for nearly half of all COVID-19 deaths. I write today concerning actions CMS may take to mitigate the spread of this disease in long-term care facilities-through utilization of the Civil Monetary Penalty Reinvestment Fund (CMPRF).

Under 42 CFR § 488.433, CMPRF funds must be approved by CMS to “be used entirely for activities that protect or improve the quality of care or quality of life for residents” and “may include, but are not limited to” certain specified uses. CMS has previously authorized some funds to be used for communications technology to connect residents with their loved ones. Other approved uses have been to increase infection control. I write seeking further information concerning other proposed uses that have been considered, including testing. Without proper testing, asymptomatic patients can carry the virus everywhere they go, including into nursing homes. Facilities, workers, families, and independent experts all agree that testing is crucial to keeping residents safe. CMS has previously denied requests to use CMPRF funds for testing, citing concerns with costs and scalability among other reasons.

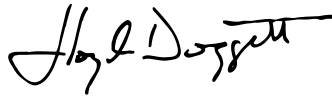
No response has been provided to my June 11 and 12 inquiries through the Congressional Affairs Group seeking additional information on the cost estimate and concerns. I am also seeking information concerning other proposals CMS evaluated to use the CMPRF fund to address COVID-19 as well as prior uses and auditing of these funds. As we continue to work to address this crisis, I request answers, in a timely manner, to the following questions.

- 1. What is the total fund balance of the Civil Monetary Penalty Reinvestment Funds across states and at CMS?** Under 42 CFR § 488.433(e), states are required to maintain an acceptable plan, as approved by CMS, for effective use of their CMPRF funds. CMS should also have data on the fund balance in each state. Please provide the total and individual fund balances for each of the last five fiscal or calendar years.
- 2. Did CMS appoint a working group to study possible uses for CMPRF funds in response to COVID-19, and if so, what recommendations were made?** Please include reasoning on proposals that were either accepted or rejected.

3. **What was the cost estimate of the purchase of rapid testing equipment that led CMS to deny the request to use CMPRF funds to purchase such equipment and how did CMS arrive at such an estimate?** The cost of rapid testing machines is estimated to be between \$4,500 and \$6,000. As is noted in CMS communications, testing is already covered by Medicare and thus should not factor into cost calculations for Medicare residents.
4. **What information on proposed projects, both those denied and accepted, does CMS have for recent years?** Please include the reasoning and metrics used to determine the denial and approval for each application.
5. **What are the terms and conditions for approved projects, including any reporting requirements on the completion and efficacy of the project?** Please include the reports on approved applications for each of the last five fiscal or calendar years.

Thank you for your attention to this very important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Lloyd Doggett". The signature is written in a cursive, flowing style with a horizontal line extending from the end.

Lloyd Doggett