July 6, 2020

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

Dear Mr. Secretary:

On behalf of our more than 14,000 skilled nursing facilities (SNF), assisted living communities (AL) and intermediate care facilities for individuals with intellectual disabilities (ICF/IID) member providers, the American Health Care Association and the National Center for Assisted Living (AHCA/NCAL) urges you to extend the public health emergency (PHE) beyond its current July 26, 2020 expiration date so that long term and post-acute care providers can continue to offer the most efficient and effective care possible during the continuing COVID-19 pandemic. With the virus continuing to surge across the country, now is not the time to stand down HHS’ extensive supports and flexibilities to combat the virus.

Experts agree that additional waves of infection are likely this fall and winter or until a vaccine becomes available. Vulnerable populations such as those served by AHCA/NCAL members will continue to be at serious risk. Additionally, because of the ongoing and unpredictable battle long term and post-acute care (LTC/PAC) providers must continue to wage against COVID-19, we strongly encourage you to continue to extend the PHE declaration and maintain the related Section 1135 and Section 1812(f) waivers until the following criteria are met:

1. **The supply chain is able to continuously meet the increased demand for personal protective equipment (PPE).** An efficient and targeted PPE supply chain is needed to keep health care workers safe while treating and interacting with residents with and without COVID-19, and able to meet the demand for laboratory testing supplies and treatment medications necessary to safely and effectively treat COVID-19. Currently, nearly 20% of nursing homes report to CDC that they either do not have or have less than a one-week supply of PPE, and more than half of ALs have less than a two-week supply of N-95 masks and gowns. N-95 masks are still not available and were not included in the FEMA shipments to nursing homes. We need to rebuild an emergency supply, which is not yet possible.

2. **A vaccine becomes available, since long term care providers will need to remain hypervigilant given the ongoing and additional waves of infection that are predicted.** Facilities need the Section 1135 waiver provisions and Section 1812(f) waivers to mitigate the entry and spread of the virus from the community and into the facility (see below). This virus disproportionately impacts older adults, particularly those over 80 with chronic diseases, which comprises the majority of the population we serve. This is why nearly half of all deaths in the United States have occurred among the elderly, of which many reside in long term care settings. Additionally, when a vaccine becomes available, we urge that priority be given to our residents/patients and health care workers, since those we care for are most vulnerable to this virus.
3. **Nursing homes rebuild their staffing levels of employees to pre-COVID levels, based on the payroll-based journal data that is collected and publicly reported on Nursing Home Compare.** Having the necessary staff support remains a significant challenge in responding to this ongoing pandemic. Long term care staff are being asked to do more to keep residents safe, such as providing more one-on-one care, adapt activities to adhere to social distancing guidelines, screen all personnel and any visitors coming into the building, and more. However, due to the virus and continued lack of adequate PPE, many staff have become sick or have had to quarantine themselves out of caution and some have even lost their lives. These tragic and ongoing challenges require emergency waivers to continue to ensure long term care facilities have the necessary staff support to provide care to the residents/patients.

The COVID-19 pandemic has presented challenges to the entire health care continuum and specifically to the LTC/PAC profession. As shown in the attachment, the presence of COVID-19 in a community has profound impacts on long term care providers and the people they support. Providers and state governments have struggled to acquire the resources required to manage COVID-19 outbreaks and care for patients. However, with your help, our members can access key tools available through the PHE declaration to help respond to this unprecedented challenge.

The past few months have been devastating for the LTC/PAC profession, but despite significant loss, we have also witnessed thousands of residents recover and countless acts of heroism. Without a PHE extension and related Section 1135 waiver and Section 1812(f) waiver extensions, the challenges will be exponentially more difficult and the moments of success too few. We anticipate the challenges associated with COVID-19 that our members and communities face every day will continue for many months, and potentially another entire year if we continue to experience increased cases despite extensive efforts to mitigate the spread among our membership. Additionally, we respectfully request if HHS and/or the Centers for Medicare and Medicaid Services make any changes which remove or rescind provisions of the Section 1135 or Section 1812(f) waivers, that the stakeholder community be provided notice before changes are made. Any abrupt changes with no or little advance notice will be extremely disruptive and result in reduced patient access to care as well as insufficient provider capacity to meet nationwide demands.

AHCA/NCAL appreciates the support and assistance that HHS is providing to LTC/PAC providers, so that they are best positioned to care for their residents, patients and communities. The health and well-being of our nation is our top priority, and we look forward to continuing to work with you to serve that goal.

Sincerely,

Mark Parkinson  
President & CEO  
AHCA/NCAL

cc: Deputy Secretary Hargan