

**Congress of the United States**  
**Washington, DC 20515**

July 22, 2020

Mr. Calder Lynch  
Deputy Administrator and Director, Center for Medicaid and CHIP Services  
Centers for Medicare and Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Mr. Lynch,

We thank you for the discretion CMS is providing to state governments in the response to the COVID-19 pandemic, in particular the flexibilities for Colorado's Department of Health Care Policy and Financing (HCPF) to continue providing health services while ensuring essential providers remain viable. As the pandemic introduces significant uncertainty to Medicaid programs, clear and consistent guidance from CMS on this authority is critical for providers to continue to structure operations to their members' unique needs.

Among the flexibilities HCPF authorized under its Appendix K authority was the issuance of retainer payments to certain long-term care providers for whom services may no longer be rendered due to health concerns related to the COVID-19 pandemic. These payments are essential to maintaining provider solvency and ensuring staff members continue to receive salaries, facilitating services provided over video or telephonic methods, and positioning Colorado's Medicaid providers to effectively respond to a post-pandemic setting.

Given the importance of these payments to protecting Colorado's most vulnerable and safeguarding Colorado's long-term care Medicaid providers, we were concerned to see CMS's recent [FAQ guidance](#) updated on June 30, 2020 retroactively restricting the length of HCPF's authority to issue retainer payments. Colorado was among the earliest adopters of retainer payments on March 13<sup>th</sup>, meaning providers were given limited notice between notification of this guidance and the scheduled termination of these payments on July 17<sup>th</sup>. While we acknowledge the limited term of this authority was appropriate for past crises, the continuing persistence of the pandemic restricts providers' ability to safely resume care for members at a time when extreme caution continues to be recommended for at-risk individuals by the Centers for Disease Control.

We request CMS continue flexibility for states and extend the period under which HCPF may provide retainer payments to providers for an additional 90 days and ask CMS to give a minimum 60-day notification prior to any change in policy leading to the termination of this authority. We thank you for your continued efforts to respond to this pandemic and look forward to your response.

Sincerely,



Joe Neguse  
Member of Congress



Ed Perlmutter  
Member of Congress



Michael Bennet  
Member of Congress



Cory Gardner  
Member of Congress



Doug Lamborn  
Member of Congress



Scott Tipton  
Member of Congress



Jason Crow  
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Ken Buck  
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Diana DeGette  
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