



Kansas Hospital
ASSOCIATION

To: Members of the Kansas Congressional Delegation

From: Tom Bell, President and CEO
Chad Austin, Executive Vice President

Date: July 31, 2020

Re: The HEALS and HEROES Acts

We are writing you today to both thank you all for your tireless work on giving our nation and Kansas hospitals the necessary resources to deal with the effects of the COVID-19 pandemic here in Kansas and to provide our perspective on various differences between the House-passed HEROES Act and the newly Senate-introduced HEALS Act. As you look to find common ground between these two bills and work toward the passage of a fourth COVID-19 legislative package, please kindly consider our requests.

Both bills include additional resources for the Public Health and Social Services Emergency Fund with the HEROES Act adding \$100 billion for a total of \$275 billion and the HEALS Act adding \$25 billion for a total of \$200 billion. The American Hospital Association has requested \$100 billion in additional funding, and we believe that this is the appropriate amount, particularly in light of how infection rates are rising throughout the country, and the slim prospects of another relief bill later this year.

The HEALS Act contains language that limits legal liability for health care providers treating COVID-19 patients to intentional malfeasance or gross neglect. This language is appropriate. Clinical best practices for COVID-19 patients are still developing, and we are far from a definitive treatment program that is universally agreed upon in the medical community. Also, there are varying levels of resources at different locations, thus creating differences in the treatment options available to providers. Because of this, these liability protections should be included in the final package.

As regards telehealth policy, both the HEALS Act and the HEROES Act make strides to help formalize the reality of the widespread and growing utilization of telehealth services by Medicare beneficiaries due to the COVID-19 pandemic. The HEALS Act keeps in place current Medicare telehealth reimbursement rates until the end of 2021 or the end of the public health emergency, whichever comes later. The HEROES Act adds \$2 billion to the Rural Health Care program administered by the Federal Communications Commission that helps defray the cost to rural hospitals of providing telehealth services. We encourage Congress to adopt both provisions.

Earlier this year, we sent you a letter outlining our concerns with the Trump Administration's proposal of a new rule that could impact important funding streams now available to hospitals. Titled the Medicaid Fiscal Accountability Rule, it contains previously undefined terms such as "totality of circumstances," "net effect," and "undue burden" as relates to provider assessments that help fund state Medicaid programs. We believe that now is not the time to explore vague regulatory changes, and we request that the HEROES Act language that delays implementation of MFAR until at least after the end of the public health emergency be included in the final bill.

Finally, one matter still requires work by Congress to help ensure that hospitals can emerge from the pandemic in good financial condition. Neither bill has provisions to forgive some or all of Medicare accelerated payments that some hospitals were forced to take to have appropriate cash flow through the early stages of the pandemic. This policy puts financial strain on hospitals that can least afford it, particularly since it is difficult to foresee how the economy will recover during the lengthened repayment windows envisioned by both bills. We ask that Congress revisit forgiveness of these accelerated payments so that hospitals that took them can start from a level balance once the public health emergency is behind us

Again, thank you for engaging with us during these challenging times, and we are appreciative for all you have done to help our health care system deal with this unprecedented challenge. As you move through negotiations on a fourth COVID-19 relief bill, we hope that you would take our requests into kind consideration.