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January 26, 2022

Dear New York Congressional Delegation:

On behalf of the Healthcare Association of New York State and our statewide membership, thank you for your commitment to supporting hospitals and health systems throughout the COVID-19 pandemic and beyond.

Unfortunately, the unrelenting omicron variant has prolonged this national health crisis, threatening the stability of the healthcare system like never before. Hospitals and health systems continue to absorb unprecedented economic impacts that will be felt for years to come, while mounting pressures on our healthcare infrastructure and workforce put access to care in our communities at grave risk.

Therefore, HANYS urges the delegation to work together to secure much-needed support to help New York's hospitals and health systems stay in the fight against COVID-19.

### Replenish the Provider Relief Fund

HANYS appreciates the leadership of the New York delegation to secure over \$185 billion nationally in funding for providers through the Public Health and Social Services Emergency Fund (Provider Relief Fund) and American Rescue Plan Act rural funding to help offset the extraordinary expenses and lost revenue resulting from the response to the COVID-19 pandemic.

With this persistent pandemic stretching our health system to its limits, our state's hospitals continue to rise to the challenge, **saving the lives of more than 200,000 people diagnosed with COVID-19 as of January 2022, discharging them back into their communities.**

This extraordinary effort has taken a fiscal toll on our hospitals. In 2020, New York's hospitals collectively recorded the lowest negative operating margin in 20 years, **-1.4%**, reflective of a \$3 billion downward margin swing from 2019 to 2020. These losses, extreme even in a normal year, were partially mitigated by federal support via the creation of the Provider Relief Fund. Without this federal support, our hospitals would have suffered an unfathomable statewide average operating margin of worse than **negative 10%**.

Importantly, the phase 4 general funding and ARPA rural funds currently being distributed are allocated for a period through March 31, 2021, (first quarter 2021) – meaning there will be little if any remaining funds in the PRF to help offset extraordinary expenses and lost revenues that are occurring during the most recent waves (delta and omicron).

Nationally, the seven-day average in COVID-19 cases per day spiked more than 1,100% to over 800,000 between April 1, 2021 and the most recent case peak on Jan. 14, 2022.

Hospitalizations followed a similar trend, with the seven-day average spiking 290% to about 159,000 between April 1 and the hospitalization peak on Jan. 20.

To manage the increased patient surges, hospitals once again have had to cancel elective surgeries and pay substantial increased costs for staff and materials. These numbers indicate that the financial need of providers from the COVID-19 response is not diminishing at the same rate as the existing PRF.

Moreover, hospitals continue to need as much flexibility as possible to use these funds to adapt to the ongoing pandemic, which will likely extend beyond the end of the year – the current deadline for hospitals and health systems to use their funds.

**HANYS urges Congress to provide \$25 billion in additional funding in the PRF to support the ongoing and evolving challenges facing hospitals and health systems in New York and across the nation as a result of the COVID-19 pandemic's latest delta and omicron variants.**

**HANYS also urges Congress to pass the Provider Relief Fund Improvement Act (H.R. 5963), which would allow hospitals and health systems to quickly access any remaining funds from the PRF and would give them more flexibility in how and when the funds can be used.**

#### **Extend Medicare sequestration relief**

HANYS appreciates that Congress acted in December on a bipartisan basis to halt harmful and imminent Medicare cuts to hospitals and physicians by eliminating a 2% Medicare sequestration reduction, delaying implementation of over \$130 million in cuts for New York hospitals.

HANYS has long argued that sequestration cuts have no policy basis and further lower provider reimbursement from a payer that already does not cover the cost of care; Medicare currently pays just 90 cents for each dollar of care provided in New York.

Medicare cuts to providers of this magnitude are not acceptable any time, let alone while they continue to manage the COVID-19 pandemic and severe, systemic workforce challenges.

**HANYS urges Congress to extend the Medicare sequester relief until the end of the COVID-19 public health emergency or Dec. 31, 2022, whichever is later.**

#### **Delay repayment of Medicare Accelerated and Advance Payments**

The Medicare Accelerated and Advance Payments Programs have served as a critical lifeline to hospitals and health systems across New York state, providing crucial funding to support those treating patients on the front lines of the pandemic, build new sites of care to minimize the spread of the virus, and purchase ventilators, drugs and supplies to care for the critically ill.

HANYS appreciates that in recognition of the persistent challenges facing healthcare providers due to the ongoing COVID-19 pandemic, both the Centers for Medicare and Medicaid Services and Congress made changes to the terms of the existing Accelerated and Advance Payments Programs to provide additional benefits and flexibilities. Subsequently, Congress amended the

repayment terms for all providers and suppliers who requested and received Accelerated and Advance Payments during the COVID-19 public health emergency.

However, the terms to repay these funds will result in a significant reduction in Medicare reimbursement, placing hospitals and health systems in financial jeopardy while they work to recover from this unprecedented pandemic.

**HANYS urges Congress to suspend repayments for six months and allow for recoupment after the repayment suspension at 25% of Medicare claims payments for the following 12 months.**

**Modify the harmful Medicaid Disproportionate Share Hospital cap policy**

Section 203 of Title II addressing Medicaid extenders in the Consolidated Appropriations Act of 2021 changed how hospital-specific Medicaid DSH funding caps (the maximum amount of Medicaid DSH funding a hospital can receive) are calculated.

This new policy severely impacts access to essential federal supplemental support for many of New York's public safety-net hospitals that care for the highest share of low-income and uninsured individuals in the state. Effective October 2021, [Section 203](#) disallows Medicaid dual-eligible enrollees (people eligible for both Medicaid and Medicare or other third-party payers) from DSH cap calculations, removing from consideration services that hospitals often provide at a financial loss.

HANYS estimates that this policy change will result in more than \$270 million in losses annually for at least nine public hospitals in New York, with other non-public hospitals at risk of DSH funding losses. As the DSH program is intended to help mitigate hospital losses for treating indigent patients, it is wrong to enact a policy counter to that goal, particularly during the COVID-19 pandemic.

**HANYS urges Congress to work on a bipartisan basis to amend Sec. 203 and allow hospitals the flexibility to include payment shortfalls for services provided to all Medicaid dually-eligible patients in their DSH cap calculations.**

**Protect 340B eligibility**

In response to the COVID-19 pandemic, elective procedures were halted to contain the spread of the virus and many New Yorkers have avoided seeking non-urgent healthcare services.

As a result, Medicaid patient volume has decreased and compromised hospital eligibility to participate in the 340B Drug Pricing Program. Loss of eligibility would deprive these safety net providers of critical 340B savings that are used to provide affordable drugs and more comprehensive healthcare services to vulnerable patients, putting hospitals and their patients at risk of both financial losses as well as losing access to affordable lifesaving drugs. Sadly, at least one hospital in New York state has already lost access to the 340B program, and more could face this devastating reality as future cost reports are filed.

**HANYS urges Congress to pass H.R. 3203/S. 773 to hold 340B hospitals harmless in their recertification of eligibility until the COVID-19 pandemic subsides and patient volumes return to traditional levels.**

**Bolster the healthcare workforce**

Like many states across the nation, New York faces unprecedented challenges recruiting and retaining an adequate supply of healthcare professionals to meet the demand for healthcare services across the spectrum of providers. Many hospitals and nursing homes serving some of our most vulnerable populations are reaching a critical level of concern.

COVID-19 has had an undeniable and devastating impact on healthcare personnel who have provided heroic care throughout this pandemic. Many are exhausted and burned out, and as a result, are making the difficult decision to leave the healthcare field. At the same time, there is not an adequate pipeline of individuals entering this field to support the current and growing demand.

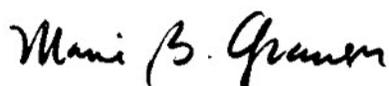
**HANYS strongly supports policy solutions that have garnered strong bipartisan support like increased funding to expand Graduate Medical Education and the Pathway to Practice to bolster clinician and other healthcare training programs, which are under consideration as part of the Build Back Better Act.**

**HANYS also urges Congress to take action to support the healthcare workforce needs of the country in ways that could have a near-term impact, such as passing the Healthcare Workforce Resilience Act (H.R. 2255/S. 1024), which would increase visas available and expedite the visa authorization process for qualified healthcare workers.**

As always, HANYS stands ready to serve as a resource for the entire delegation in support of your efforts to represent and protect your constituents. We thank you for your continued commitment and partnership as we work to overcome COVID-19 and ensure our hospitals and health systems can continue to be relied upon by our communities beyond the pandemic.

If you have questions, please contact me at [bgrause@hanys.org](mailto:bgrause@hanys.org) or 518.431.7765.

Sincerely,



Marie B. Grause, RN, JD  
President