

Congress of the United States

Washington, DC 20510

March 17, 2020

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

Dear Administrator Verma,

We write to urge swift consideration of Washington state's application for a national emergency waiver under section 1135 of the Social Security Act. There are currently over 750 confirmed cases of novel coronavirus (COVID-19) in Washington state and, unfortunately, as of the writing of this letter 42 Washingtonians have died of the disease. Community transmission is occurring within the state and experts expect a significant increase in the number of cases in the coming days and weeks. As part of the state's comprehensive response to the outbreak, Governor Inslee, on behalf of the Washington Health Care Authority, submitted an application for an 1135 waiver to provide the state with needed flexibilities to respond to the outbreak.

On March 15th, Governor Inslee submitted the state's application to the Center for Medicaid and CHIP Services, urgently requesting a waiver of statutes necessary to respond to the COVID-19 outbreak. The state submitted the request following Secretary Azar's declaration, in January, of a nationwide public health emergency under Section 319 of the Public Health Service Act and the President's subsequent declaration, on March 13, of a national emergency under the Stafford Act. The Governor also made a proclamation declaring a state of emergency in Washington state and has implemented additional extraordinary measures including closing all K-12 public and private schools statewide, the prohibition of in-person classroom instruction at all public and private universities, colleges, technical schools, and apprenticeship programs, and the prohibition of gatherings of large groups. Washington state is already implementing all of the blanket waivers announced by CMS on March 13.

The state's waiver application requests a number of additional flexibilities. It requests a suspension of enforcement of the Emergency Medical Treatment and Active Labor Act (EMTALA) in order to allow hospitals to screen and triage patients at off-site locations. The state also requests a waiver of all requirements related to so-called "Institutions of Mental Disease" (IMD) to maintain continuity of coverage for patients awaiting other care sites that may not be available because of the emergency. It requests a waiver of a number of Medicare and Medicaid Conditions of Participation (CoPs) in order to, among other things, ensure that hospitals have the needed capacity to treat patients during the outbreak, mitigate the impact of shortages of personal protective equipment (PPE), and reduce the risk of transmission among

patients and with providers. Additionally, it requests a waiver of several Medicare and Medicaid Skilled Nursing Facility CoPs intended to help free up needed inpatient beds, set up temporary COVID-19 facilities, and more. The application also requests waivers of CoPs for intermediate care facilities for individuals with intellectual disabilities to mitigate shortages of PPE, minimize transmission of COVID-19, and more. The state also requests a number of flexibilities under the Medicaid and Children's Health Insurance Programs (CHIP) to free up hospitals beds, waive requirements for cost-sharing associated with COVID testing and screening, minimize disruptions to behavioral health and long-term care services, and mitigate provider shortages in the state. Finally, the state requests a number of flexibilities to promote the use of telehealth during the emergency.

We request that CMS conduct a rapid review of the Washington state 1135 waiver application. Washington state is moving rapidly to address the COVID-19 outbreak and the flexibilities requested in this application are critical to meeting the demands of this emergency and protecting Washington state families.

Sincerely,



Patty Murray
United States Senator



Maria Cantwell
United States Senator



Adam Smith
Member of Congress



Rick Larsen
Member of Congress



Jamie Herrera Beutler
Member of Congress



Suzan DelBene
Member of Congress



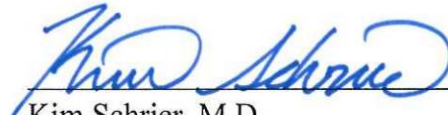
Denny Heck
Member of Congress



Pramila Jayapal
Member of Congress



Derek Kilmer
Member of Congress



Kim Schrier, M.D.
Member of Congress