

April 2, 2020

The Honorable Steven Mnuchin
Secretary
U.S. Department of Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

The Honorable Jovita Carranza
Administrator
Small Business Administration
409 3rd Street SW
Washington, DC 20416

Dear Secretary Mnuchin and Administrator Carranza:

On behalf of physician-owned hospitals (POHs) represented by the Physician Hospitals of America (PHA), I ask that you take swift action to provide clarity that health care providers who bill Medicare and that have equity investors and business partners are eligible for the programs created by Section 1102 and 1110 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. As you may know, POHs were quick to follow guidance from the Centers for Medicare & Medicaid Services (CMS) to postpone most elective surgeries to increase social distancing and preserve medical supplies. Many of our hospitals have donated critical personal protective equipment to aid tertiary care hospitals in this fight. These postponements have resulted in serious economic harm, with many facilities suspending operations and others having to reduce the days they are open.

Ensuring that all POHs have access to these Small Business Administration (SBA) program loans will achieve the critical goals of providing needed liquidity to facilities that have lost revenue by following elective surgery guidance, ensure that nurses and other clinical staff remain employed and maintain our nation's healthcare infrastructure so that we can respond to the pandemic to provide emergent life-saving surgical care and continue to serve our communities after the crisis subsides.

Many POHs partner with other health care providers or entities that specialize in administrative duties necessary to run a small business. Even though these POHs are independently owned and operated, the SBA's current affiliation rules may link what are otherwise unrelated POHs together through common ownership, even minority ownership (e.g. 25 percent) / equity only investment at 51%, or by a management agreement with the same management company and therefore exclude them from relief under the Paycheck Protection Program. In fact, many independent POHs that may have partial ownership with a local hospital are not eligible due to the "affiliation" language. Without a regulatory change, many of these POHs would be deemed to exceed the 500-employee threshold of the legislation and be ineligible for necessary relief that these programs would provide.

PHA suggests a solution for our shared goal of ensuring that high quality, lower cost health care infrastructure remains intact:

Exempt health care providers such as POHs that are enrolled in Medicare from affiliation rules during the covered period of the COVID crisis.

Clarification around the payroll and tax information necessary to apply for the Paycheck Protection Program loans is also needed. POHs and other health care providers rely on other partners for administrative and management services, which can take the form of certain employee wages and taxes being paid by that business partner. Independently operated POHs pay these specific costs indirectly through employee lease agreements or management fees. It is imperative that lenders and borrowers have a clear indication that payroll and tax information from a business partner can be submitted as part of a POH's application.

Communities across the country rely on POHs for high quality, lower cost care and will need them more than ever as we assist tertiary care hospitals in managing the coming surge of patients as a result of the pandemic. I urge you to provide the flexibilities described above so that POHs can continue to serve patients and their families.

Sincerely,

Robb Linafelter
President, Physician Hospitals of America