PHILIP B. SCOTT
GOVERNOR

State of Vermont
OFFICE OF THE GOVERNOR

April 27, 2020

Rivka Friedman
Director, State Innovations Group
Acting Director, Prevention and Population Health Group
Center for Medicare and Medicaid Innovation
Centers for Medicare and Medicaid Services
Rivka.Friedman@cms.hhs.gov

Dear Ms. Friedman:

Vermont is doing everything in its power to confront the COVID-19 disease and to protect the health and safety of its residents and health care providers. Yet, the scale and strength of this public health crisis is unprecedented, and we are deeply concerned about the near and long-term survival of Vermont's health care system. Our health care delivery system is already fragile. Eight of Vermont's 14 hospitals are Critical Access Hospitals (CAHs) and many were experiencing financial challenges prior to the pandemic. Vermont also has the second oldest population in the United States and older adults are at significantly higher risk for mortality and poor disease outcomes, all of which intensify the pressure on our health care system.

As a partner in an innovative payment and delivery system reform model with the Center for Medicare and Medicaid Innovation (CMMI) our mutual goals to contain health care cost growth and improve population health outcomes must immediately be acknowledged in the context of the global health pandemic and the particular peril for Vermont.

Today, the most important objective for our state is to meet the health care needs of our residents and to ensure capacity to provide quality care for all persons, including persons with COVID-19. To this end, the predictable payments that are a part of our state's innovation model are proving an important line of defense in battling the pandemic, especially those that are truly fixed in nature and not reconciled against fee-for-service equivalents. As stated by the President of Vermont's Academic Medical Center to State Legislators, "those payments are actually now our most secure dollars in this situation." In this vein, this letter articulates our proposal for ensuring that this model in no way hinders, and rather bolsters, the ability of the health care system to respond to the rapidly evolving health care needs in Vermont.

We remain committed to the health care reform path we have chartered together, in particular our shared goal to move away from the fee-for-service reimbursement model. In the context of our six-year agreement, COVID-19 will present challenges to delivery system reform efforts that could not have been contemplated when framing this reform effort four years ago. To this end,

we request the following modifications:

1. Distribution of resources to support hospital solvency during the COVID-19 pandemic; and
2. Evaluation of the Vermont All-Payer Accountable Care Organization Model (APM or model)

Distribution of resources to support hospital solvency during the COVID-19 pandemic

Before the onset of COVID-19, Vermont hospitals and independent practices were already experiencing financial challenges, due to statewide demographic trends, growing supply costs, costs of pharmaceuticals, and workforce shortages. In FY 2019, half of Vermont hospitals experienced operating losses, with six of 14 having experienced operating losses for three or more consecutive years. As patients with COVID-19 began to arrive, hospitals came under additional pressure to shift resources and reprioritize services, causing additional financial strain in the near-term. While the costs of preparing for the pandemic mount, revenues have been seriously compromised by the cancelling of elective and non-urgent procedures; the result is rapidly declining days cash on hand and negative operating margins. Many of our hospitals are starting with less than 30 days operating cash, and assuming a 50% loss of net patient revenue, this means a corresponding loss of $115 million in operating margin each month. Some Vermont hospitals have even estimated revenue losses of more than 70%, which would suggest even more severe effects on their bottom lines.

While a fixed, All-Inclusive Population-Based Payment (AIPBP) makes up 35% of reimbursements to our participating providers (who are growing to rely on this predictable flow of funding), this has not been enough to cover losses experienced to date in fee-for-service revenues associated with foregone or postponed utilization. The Green Mountain Care Board (GMCB) and the Administration are monitoring the financial health of Vermont hospitals in near real time and are worried that these additional financial pressures, depending on their magnitude and timing, may put some of our hospitals and other providers over the edge, compromising access to care during a critical time.

Over the first years of our agreement, we have observed how provider confidence in the new payment model has increased along with the risk they are willing to take. After discussions with other Vermont state agencies, the Vermont Association of Hospitals and Health Systems, and OneCare Vermont, we propose the following actions that CMS and CMMI can take to bolster Vermont health care providers and hospitals' ability to respond to COVID-19 through the value-based payment model. With your help, this demonstration can continue to show the value of predictable, flexible payments, particularly in response to this unprecedented public health crisis.

1. Adjustments to the Vermont Medicare ACO Initiative
    a. Invoke the exogenous factors clause under Section XII of the Medicare contract with OneCare Vermont to allow the 2020 benchmarks to be reevaluated as

appropriate, to the extent it will ensure that providers are not financially harmed or penalized for forces that are outside of their control. The effects of this pandemic could not have been contemplated when providers agreed to participate in the program, and they should not be held unfairly accountable for them.

b. Eliminate downside risk and adjust the initiative to be shared savings only for 2020. This would increase fiscal certainty for hospitals (which bear the risk of repaying losses) and would allow OneCare Vermont to distribute much needed funds to providers that would otherwise be required to purchase reinsurance against downside risk.
c. Make 2020 a "reporting only" year for purposes of quality measurement given the impact that responding to COVID-19 will likely have on providers' ability to meet quality targets. This would allow OneCare Vermont to release funds that it has already withheld to its resource-constrained provider network.
d. Allow the 2020 All-Inclusive Population-Based Payment to be a true capitated payment should the fee-for-service equivalent be less than AIPBP at reconciliation, holding providers harmless for severe unanticipated swings in utilization.
e. Provide an extension for the submission of the final Medicare provider participation roster for 2021. By extending the due date to September 30, 2020, this would enable providers to continue responding to COVID-19 instead of performing administrative tasks associated with continued model participation. It will also allow risk bearing hospitals to understand if their financial situation, after the peak of responding to COVID-19, coupled with the requested programmatic changes will enable them to move forward with the risks and investments needed to participate in a 2021 program. This extension will be key to continue to achieve increases in scale.

2. Funding Requests
    a. Allow OneCare Vermont to keep funds due to CMS for the 2019 All-Inclusive Population-Based Payment reconciliation to the Fee-For-Service equivalent. This would allow OneCare Vermont to deploy these funds to Vermont's hospital system immediately.
    b. Forgive repayment by Vermont hospitals of any unearned advanced shared savings for 2019, should Vermont's earned shared savings in the Vermont Medicare ACO Initiative in 2019 be insufficient to cover the advanced shared savings that supports the continuation of Blueprint, Support and Services at Home (SASH), and Community Health Teams (CHT), programs which curb health care cost growth and improve quality of care for Vermonters. Any further outflow of funds at this time could seriously inhibit Vermont hospitals' abilities to respond to the extant health care crisis.
    c. Although 2019 quality results, and thus the financial ramifications, are not yet known, make 2019 a "reporting only" year for purposes of benchmark adjustments tied to quality reporting. As with the above items, any further cash outflows will only inhibit Vermont hospitals' abilities to respond to the COVID-19 pandemic.

3. Open additional funding opportunities for participating providers.

Evaluation of the APM

In addition to Vermont's resource needs in responding to COVID-19, we are concerned about the effects of COVID-19 on Vermont's APM financial and quality performance targets. The circumstances of this pandemic are far outside the factors contemplated during this model's design. We ask CMMI to acknowledge the change in circumstances and to engage with Vermont in ongoing adjustments to ensure that the Model and the State's performance under the Model are fairly evaluated.

There is a strong possibility that Vermont will invoke the "exogenous factors" clause, which states: *"The GMCB, in consultation with AHS where appropriate, may submit, in writing to CMS, a request that exogenous factor(s) (e.g., changes in Medicare law and regulation or Vermont-localized health or economic shocks) be taken into consideration when assessing performance on the All-payer or Medicare Total Cost of Care per Beneficiary Growth Targets. Vermont shall explain the impact of such factors on the Model, including any recommendations as to how CMS should adjust the Model to reflect these exogenous factors. Any such adjustment will be at the sole discretion of CMS."*

The specific impacts of COVID-19, and its aftermath, on Vermont's performance with respect to the financial targets in the agreement are still unknown. However, we expect the effects will be significant and extend beyond the current year. As the nature and extent of these effects become apparent, we will provide specific analyses and a potential proposal for adjusting the agreement.

In addition to the impacts that COVID-19 could have on our performance on the agreement's financial targets, we expect that the disease, and the bold actions we have taken to limit the spread of the disease, will impact our performance on the agreement's Statewide Health Outcomes and Quality of Care Targets and ACO Scale Targets. For example, increased social isolation and the loss of employment that many Vermonters are currently experiencing, paired with staffing shortages caused by state-mandated school and day care closings, and the spread of the disease, will likely impact the outcomes of chronic conditions, preventative health, and the provision of timely care for some types of services. Although providers are beginning to expand telehealth options, many residents are likely to delay preventive care and receipt of recommended screenings.

Precedents set in 82 FR 60912 regarding "extreme and uncontrollable circumstances" should not apply to this pandemic. Quality performance solutions considered in 82 FR 60912 focus on circumstances impacting a particular region and not the nation as a whole. Given unique challenges caused by the pandemic, we are requesting that:

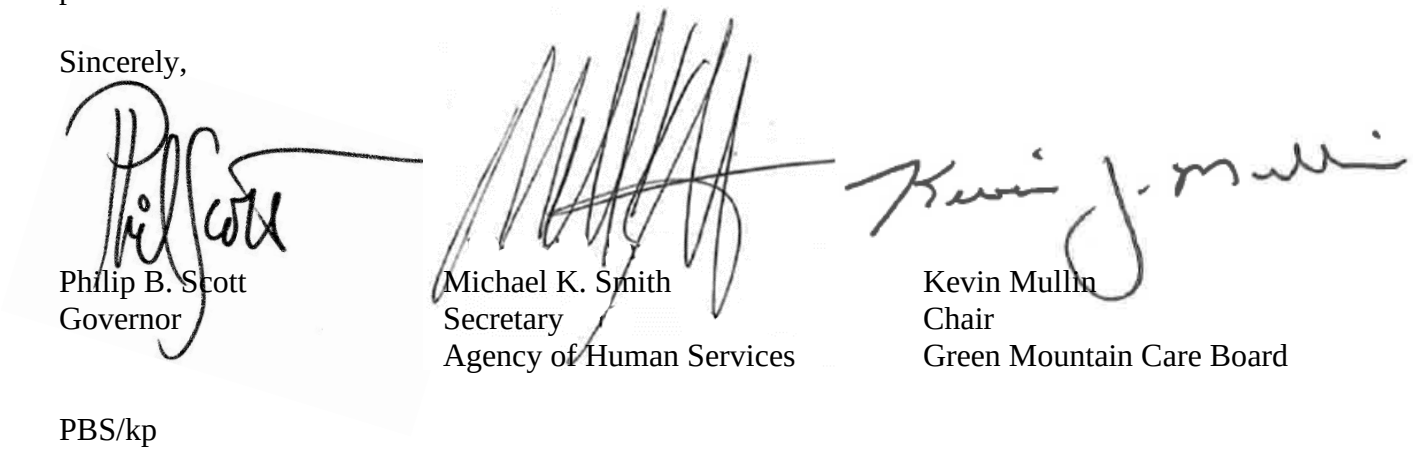
- Quality performance for 2020 be considered "reporting only."

Our concerns are not about being able to tangibly produce quality reporting but about the exogenous pressure inhibiting the ability of providers to both respond to COVID-19 and simultaneously meet population health goals set forth in the agreement. Providers and facilities are intensely focused on delivering essential life-saving emergency and urgent services to Vermonters and have no choice but to defer many of the preventive and comparatively less urgent follow-up services that are intended to achieve the quality and population health targets outlined in Vermont's agreement.

While we are not yet able to detail all specific recommendations for how exogenous factors connected to COVID-19 should be reflected in the evaluation of the model, we expect that appropriate consideration will be given to the unanticipated consequences of this public health crisis.

We look forward to your continued support for our state model and for your assistance in keeping our hospitals open and maintaining Vermonters' access to critical services during this pandemic.

Sincerely,



Philip B. Scott	Michael K. Smith	Kevin Mullin
Governor	Secretary	Chair
	Agency of Human Services	Green Mountain Care Board

PBS/kp
c: Pierre Young, Acting Division Director
Fatema Salam, Vermont All-Payer ACO Model Lead