AMERICAN SENIORS HOUSING ASSOCIATION
Living Longer Better

November 2, 2020

The Honorable Alex M. Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

I am writing on behalf of the American Seniors Housing Association (ASHA) and its constituent owners and operators of senior living/assisted living communities. We are greatly appreciative that you have recognized the important role senior living has played in our country's response to the COVID-19 virus. This recognition has allowed our industry to access funding from the CARES Act Provider Relief Fund (PRF) which has enabled us to continue to battle the impact of the virus on our most vulnerable older adult population. Many senior living operators and owners (providers) have applied for funding under the Phase 2 General Distribution and are also preparing to apply for additional funding in the latest Phase 3 distribution.

We believe the updated guidance provided in the "Post-Payment Notice of Reporting Requirements" dated October 22, 2020, and FAQs dated October 28, 2020, presents a far more difficult analysis of COVID-19 healthcare related expenses and lost revenues than necessary and will likely lead to a substantial amount of confusion and reporting difficulties on the part of our constituent member organizations. As we continue to assess the potential issues associated with the reporting requirements, we will bring these issues to your attention and seek further clarification.

Notwithstanding these concerns, we are writing today regarding a very specific issue that should be addressed as senior living/assisted living providers work to meet the November 6, 2020 deadline to apply for Phase 3 Provider Relief Fund funding.

Reporting Actual Lost Revenues and Expenses in 2019 is Problematic for Newer Communities

The FAQs updated on October 28, 2020, includes some conflicting information regarding the ability to use budgeted revenues as a basis for reporting lost revenues. As presented on page 19, HHS states, *"When reporting use of Provider Relief Fund Money toward lost revenues attributable to coronavirus, Reporting Entities must report actual patient care revenues and expenses for 2019 and 2020, to allow for a year-over-year calculation of change in revenue."*

This is a change from earlier guidance, which continues to be included in the October 28, 2020 update, page 9 which states: *"CARES Act Provider Relief Fund Frequently Asked Questions" endorses "any reasonable method of estimating the revenue...had COVID-19 not appeared." The response goes on to* *specifically reference the "difference between your budgeted and actual revenue" as a possible way to estimate lost revenue."*

These two responses are obviously inconsistent, and we strongly encourage HHS to permit budgeted or other reasonable approaches to estimate lost revenue. Absent a clarification, this is extremely problematic for certain communities that opened for occupancy in mid or late 2019. This methodology works for fully stabilized operating assisted living communities, but it does not capture the actual lost revenue experienced by communities that were in lease-up during 2019. These communities would have experienced far lower occupancies and revenue throughout 2019 than were expected in 2020.

To determine the negative impact of the coronavirus on the revenue generation at these lease-up communities, it is far more accurate to look at budgeted 2020 occupancy and revenue or to the actual occupancy and revenue generated in the months leading up to the pandemic with a reasonable allowance for continued lease-up in the case of communities that had not yet achieved stabilized occupancy during the pre-pandemic months.

Thank you for your consideration and we look forward to working through these issues with you. Please reach out to me at dschless@seniorshousing.org or call at 202-885-5560.

Sincerely,

David Schless
President
American Seniors Housing Association