

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

October 8, 2020

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

Re: COVID-19 Vaccine Access for Vulnerable Populations

Dear Secretary Azar:

I am writing to ensure plans for COVID-19 vaccine allocation, distribution, and administration are safe, effective, efficient, and equitable. Past mistakes and glaring gaps in the Trump Administration's assurance of the availability of personal protective equipment and adequate COVID-19 testing and treatment underscore that this is a matter of life and death. As COVID-19 vaccination trials continue, with the ultimate goal of ensuring a safe and effective COVID-19 vaccination, it is vital that the Administration develop protocols for the efficient distribution to *all* Americans, including people with disabilities and individuals with limited English proficiency (LEP).

In particular, I am concerned that the Centers for Disease Control and Prevention's (CDC) recently released strategic overview, *From the Factory to the Frontlines: The Operation Warp Speed Strategy for Distributing a COVID-19 Vaccine*, offered no details about *how* vaccine allocation and distribution processes will guarantee access to the vaccine for vulnerable communities.¹ The National Academy of Science, Engineering, and Medicine's (NASEM) recently released consensus study report for equitable vaccine allocation convened from a CDC and National Institutes of Health (NIH) request offers specific guidance that I believe should be incorporated into the federal vaccination response.² Accordingly, I am seeking detailed information from the U.S. Department of Health and Human Services (HHS) regarding its efforts to ensure that a COVID-19 vaccine strategy is fully inclusive of people with disabilities, people with LEP, and other Americans who face barriers to care or are at high risk of infection or severe illness due to COVID-19.

¹ HHS, *From the Factory to the Frontlines: The Operation Warp Speed Strategy for Distributing a COVID-19 Vaccine*, (last accessed Sept. 17th), <https://www.hhs.gov/sites/default/files/strategy-for-distributing-covid-19-vaccine.pdf>

² National Academies of Sciences, Engineering, and Medicine 2020. Framework for Equitable Allocation of COVID-19 Vaccine. Washington, DC: The National Academies Press. <https://doi.org/10.17226/25917>.

There are more than 25 million individuals with LEP and 61 million adults with disabilities in the U.S.^{3 4} Individuals with LEP and people with disabilities have already experienced disproportionately poor outcomes from COVID-19 – and the risk of further exacerbation of these disparities will be even greater without a clear plan of outreach and vaccine distribution to these populations. For example, the novel influenza A (H1N1) epidemic demonstrated Spanish-speakers were at increased risk for infection, and inequities in COVID-19 outcomes reflect the same reality.^{5 6 7 8} Data from Washington state showed that despite the availability of interpreter services, LEP patients were tested less frequently for COVID-19 and had significantly higher burden of infection.⁹ Similarly, recent Pennsylvania and New York data showed that people with intellectual disability and autism who contract COVID-19 die at two to 2.5 times the rate of others infected with the virus.¹⁰ Without adequate planning, people with LEP and people with disabilities could face significant barriers to accessing vital information about the vaccine’s availability, safety, and efficacy. Vaccine administration at locations that are physically inaccessible (such as, lacking ramps), that are “drive up only,” or that have other structural or procedural barriers to access could also pose major obstacles for many people with disabilities. HHS must prioritize removing all barriers to vaccine accessibility.

In a previous letter to HHS dated May 8, 2020, I highlighted the need for accessible communications from the Administration about ways to prevent the spread of COVID-19 and expand access to testing and treatment. HHS’s August 28, 2020, response correctly identified existing regulations and guidance that outlined obligations to preserve the civil rights of people with disabilities or who have LEP. However, neither this response nor the recently released Operation Warp Speed (OWS) strategy outlined a plan to address communication barriers, issues of mistrust, geographic and physical accessibility, or safe and accessible transportation to vaccination sites, among other issues, in a way that will ensure all communities have equal access to the COVID-19 vaccine.

³ Migration Policy Institute, *Language Diversity and English Proficiency in the United States*, (last accessed Sept. 30th), <https://www.migrationpolicy.org/article/language-diversity-and-english-proficiency-united-states-2015>

⁴ CDC, *Disability Impacts All of Us*, (last accessed Sept 22th), <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

⁵ Quinn SC, Kumar S, Freimuth VS, Musa D, Casteneda-Angarita N, Kidwell K. Racial disparities in exposure, susceptibility, and access to health care in the US H1N1 influenza pandemic. *Am J Public Health*. 2011;101(2):285-293. doi:10.2105/AJPH.2009.188029

⁶ Propublica, *Hospitals Have Left Many COVID-19 Patients Who Don’t Speak English Alone, Confused and Without Proper Care* (March 31, 2020), <https://www.propublica.org/article/hospitals-have-left-many-covid19-patients-who-dont-speak-english-alone-confused-and-without-proper-care>

⁷ USA News, *Language Access Issues a Barrier During COVID-19* (April 16, 2020), <https://www.usnews.com/news/healthiest-communities/articles/2020-04-16/language-access-problems-a-barrier-during-covid-19-pandemic;>

⁸ LA Times, *Coronavirus poses added challenges for hospital patients who are deaf or hard of hearing* (April 16, 2020), <https://www.latimes.com/california/story/2020-04-16/coronavirus-deaf-hearing-hospitals-interpreters;>

⁹ Kim HN, Lan KF, Nkyekyer E, et al. Assessment of Disparities in COVID-19 Testing and Infection Across Language Groups in Seattle, Washington. *JAMA Netw Open*. 2020;3(9):e2021213. doi:10.1001/jamanetworkopen.2020.21213

¹⁰ NPR, *COVID-19 Infections And Deaths Are Higher Among Those With Intellectual Disabilities*, (June 9, 2020), <https://www.npr.org/2020/06/09/872401607/covid-19-infections-and-deaths-are-higher-among-those-with-intellectual-disabilities>

The NASEM consensus study report highlights use of ethical principles like mitigation of health inequities and procedural principles, such as fairness and transparency, as central to the vaccine allocation process. By comparison, the OWS strategy stated: “Final decisions about prioritization will not be made until closer to implementation.” To avoid leaving historically marginalized populations behind, the Administration must tailor vaccine distribution interventions to higher risk populations and then communicate specific information about this strategy *early* so patients, communities, manufacturers, and distribution partners can prepare for rapid vaccine deployment.

As the alarming COVID-19 infection and death rates in the U.S. and concerns around public trust for a future vaccine have demonstrated, the federal government must exercise a central role in ensuring equitable responses across states. Local and state entities are already overwhelmed with managing the demands of COVID-19. Approximately six in 10 adults are worried the Food and Drug Administration (FDA) will rush to approve a vaccine due to political pressure and almost half say they definitely or probably would not get the vaccine if available today; that number is even higher for people living with disabilities and communities of color.¹¹ ¹² Without strong federal leadership and transparency, the impacts of inaction will be disproportionately felt by the most vulnerable members of our communities – who instead should have the full support of federal, state, and local governments in this time of crisis.

HHS’s recent announcement of \$200 million in funding from the CDC to jurisdictions for COVID-19 preparedness is a start but is woefully inadequate.¹³ Without a federal plan for equitable vaccine access, ensuring public trust, and mobilizing federal resources for individuals who are in high-risk groups, we could further overwhelm local and state jurisdictions and leave marginalized communities behind. As such, I request HHS address the following issues through a staff briefing no later than October 23, 2020:

1. Please provide the specific timeline for announcement of decisions about vaccine distribution prioritization, including specific health equity-oriented scientific evidence and criteria being used to guide such prioritization.
 - a. To what extent will there be opportunities for public engagement on these decisions considering the very short public comment period for the NASEM consensus study? How will public input be integrated into iterative versions of the prioritization plan?
 - b. How will HHS ensure that vaccine distribution prioritization does not discriminate and complies with Title VI of the Civil Rights Act, the Americans

¹¹ Kaiser Family Foundation, KFF Health Tracking Poll – September 2020, (September 10), <https://www.kff.org/coronavirus-covid-19/report/kff-health-tracking-poll-september-2020/?source=email>

¹² Pew Research, U.S. Public now divided over whether to get COVID-19 vaccine, (September 17, 2020), <https://www.pewresearch.org/science/2020/09/17/u-s-public-now-divided-over-whether-to-get-covid-19-vaccine/>

¹³ HHS, Administration announces 200 million from CDC to jurisdictions for COVID-19 vaccine preparedness, (September 23, 2020), <https://www.hhs.gov/about/news/2020/09/23/administration-announces-200-million-from-cdc-jurisdictions-covid-19-vaccine-preparedness.html>

with Disabilities Act, Section 504 of the Rehabilitation Act, Section 1557 of the Patient Protection and Affordable Care Act, and the Age Discrimination Act?

2. HHS announced it intends to distribute vaccines immediately upon the issuance of an Emergency Use Authorization, using a transparently developed, phased allocation methodology.
 - a. How will HHS ensure fair and equitable allocation of the vaccine to people with disabilities, people with LEP, and other vulnerable populations, such as health workers, communities of color, rural residents, and essential workers?
 - b. How are the needs of people with LEP, people with disabilities, and other vulnerable populations, such as health workers, communities of color, rural residents, and essential workers, included and considered in the phased allocation methodology?
 - c. How does HHS intend to support overwhelmed local jurisdictions in ensuring inclusion of people with LEP, people with disabilities, and other vulnerable populations, such as health workers, communities of color, rural residents, and essential workers in their vaccine distribution efforts?
 - d. How does HHS intend to overcome mistrust of vaccines, evidenced by several national surveys, by some of these vulnerable communities?
 - e. Will HHS accept the first recommendation of the NASEM consensus study report – to adopt the NASEM framework for the equitable allocation of the vaccine – and, if so, on what timeline will this decision be made and announced? If the recommendation will not be adopted, why not?

3. Please share your timeline and plan to develop and implement communications that are fully accessible to LEP communities and people with disabilities. Specifically:
 - a. Is there a communications plan to ensure access for people with disabilities and LEP? If yes, which organizations and experts contributed to the development of this communications plan? If this has not been developed, when will it be developed?
 - b. How have organizations that represent people with LEP and people with disabilities been included in the process? If none have been included, why not?
 - c. Is there a dedicated budget for ensuring that communications are fully accessible to people with LEP and people with disabilities?
 - d. What non-English languages will communications be available in and how will HHS ensure that non-English language materials are available at the same time that materials are available in English?
 - e. How will HHS ensure that printed and electronic materials, videos, websites, social media posts, and other communications maximize accessibility for people with disabilities (e.g., materials in large print, Braille, plain language and graphic formats, and screen-reader accessible formats; video and social media posts with

captioning, American Sign Language (ASL) interpretation, audio descriptions, and other accessibility features)?

4. The OWS strategy overview notes five pilot jurisdictions for multi-agency federal planning – California, Florida, Minnesota, North Dakota, and Philadelphia.
 - a. How will preliminary knowledge from these pilots be communicated transparently to the public and local and state jurisdictions who are developing implementation plans?
 - b. How were people with LEP and disabilities and other vulnerable populations, such as health workers, communities of color, rural residents, and essential workers, integrated into the design of the pilots?
 - c. Will the pilots require data collection on key demographics and the interactions between demographics, including LEP status, disability status, race, age, gender, and type of residence (e.g., home, nursing home, and other settings)?
 - d. How does HHS plan to ensure that the pilots do not discriminate and comply with Title VI of the Civil Rights Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Section 1557 of the Patient Protection and Affordable Care Act, and the Age Discrimination Act?
 - e. How will HHS ensure that the pilots' educational materials and other communications are available in non-English languages and in formats that are fully accessible for people with disabilities?
 - f. How will HHS ensure that the pilots' vaccination sites provide foreign language interpreting as well as sign language interpreting and other communication tools, supports, and accommodations for people with disabilities?
 - g. How will HHS ensure that the pilots' vaccination sites are fully accessible for people with disabilities?

Thank you for your attention to this critical matter. If you have any questions about this request, please contact Orriel Richardson at Orriel.Richardson@mail.house.gov of the Committee on Ways and Means Democratic Staff.

Sincerely,



Richard E. Neal
Chairman