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U.S. House of Representatives

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March 3, 2020

Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Room 445-G, Hubert H. Humphrey Building
200 Independence Ave., S.W.
Washington, DC 20201

Re: CMS response to Coronavirus (COVID-19) outbreak in nursing homes

Dear Administrator Verma:

We are concerned about the respiratory virus COVID-19 and its potential spread in the United States. We expect many additional cases to be identified as tests become more available, and the true scope of the outbreak becomes clearer.¹ Health officials believe Americans will face more community spread of COVID-19, and the Centers for Disease Control and Prevention (CDC) has warned that the virus's spread is "inevitable."² As no vaccine currently exists, the breadth of COVID-19's spread and impact is difficult to predict. Though about 80 percent of patients with the virus have a mild illness, about 14 percent develop severe pneumonia and about five percent develop critical illness requiring intensive care unit stays.³

On Saturday, February 29, we learned of an outbreak at the Life Care Center of Kirkland, Washington, near Seattle, that resulted in seven deaths.⁴ More than 50 residents and staff in the nursing home have displayed possible COVID-19 symptoms.⁵

¹ <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

² <https://www.washingtonpost.com/us-policy/2020/02/25/cdc-coronavirus-inevitable/>

³ Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China. *JAMA* (2020). Available at:

https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf1&utm_term=022420

⁴ <https://www.cnn.com/2020/03/03/health/life-care-center-nursing-home-coronavirus/index.html>

⁵ <https://khn.org/news/nursing-home-outbreak-spotlights-coronavirus-risk-in-elder-care-facilities/>

The effects of the COVID-19 vary by age and underlying health status and are particularly acute for vulnerable individuals – specifically, older people with cardiovascular disease or Diabetes mellitus.⁶ In China, the case fatality rate was 2.3 percent on average but was as high as 14.8 percent in those aged 80 years and older and 10.5 percent for those with chronic diseases like cardiovascular disease.⁷ These rates are significantly worse than influenza, which has a case fatality rate between 0.5-1 percent. Such associations make it all the more crucial that nursing homes across the country exercise swift and effective responses to the spread of the virus.

The CDC has issued guidance on approaches to prevent the spread of COVID-19 in long-term care facilities.⁸ Guidance identifies strategies to prevent introduction of the virus into facilities, spread within the facility, and spread between facilities.

To that end, we request the Centers for Medicare & Medicaid Services (CMS) respond to the following questions within 72 hours:

1. What current procedures does CMS have in place to assist skilled nursing facilities (SNFs) and nursing facilities (NFs) in addressing the spread of viruses among nursing home residents and front-line workers?
 - a. How is CMS disseminating CDC's prevention guidance for long-term care facilities?⁹
 - b. What types of prevention protocol is CMS requiring nursing homes follow?
 - c. What types of testing protocol is CMS requiring nursing homes follow?
 - d. What types of isolation protocol is CMS requiring nursing homes follow when concerns of COVID-19's presence arise?
 - e. What types of other protocol is CMS requiring nursing homes follow to ensure workers are protected when residents get sick?
 - f. To what extent is CMS encouraging nursing homes to implement policies around paid sick leave to ensure workers are not pressured to work when they are sick?
 - g. Is CMS conducting additional surveys in homes that have a suspected outbreak?

2. In 2016, CMS issued a final rule, "Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities" (CMS-3260-F), that established an infection prevention and control program as a requirement for participation in Medicare and Medicaid to prevent, identify, and report the spread of infections and diseases among residents. The program was to be phased in over three years, but last fall, the agency rolled back part of the requirements for a trained or certified Infection Preventionist (IP) to run each nursing home's program. Instead, in November 2019, CMS finalized a rule, "Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities:

⁶ Characteristics of and Important Lessons From the Coronavirus Disease 2019 (COVID-19) Outbreak in China. *JAMA* (2020). Available at:

https://jamanetwork.com/journals/jama/fullarticle/2762130?guestAccessKey=bdcca6fa-a48c-4028-8406-7f3d04a3e932&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tf&utm_term=022420

⁷ *Id.*

⁸ <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/prevent-spread-in-long-term-care-facilities.html>

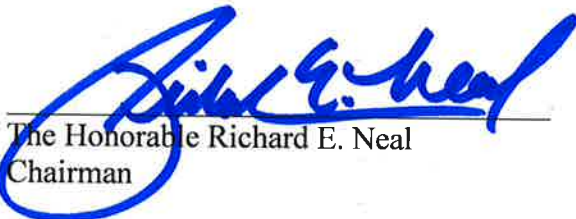
⁹ *Id.*

Regulatory Provisions To Promote Efficiency, and Transparency, “ that loosened the credentials of these individuals and removed the requirement that these positions be a “major responsibility” for the IPs.¹⁰ Given that infection prevention is vital for COVID-19 control in nursing facilities, how is the agency directing nursing homes to ensure proper personnel are available to lead prevention control efforts in these facilities?

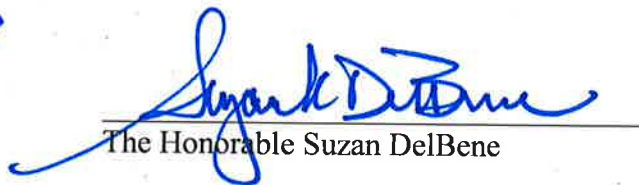
3. What additional steps has CMS taken in light of the news of COVID-19’s spread in a SNF in Washington state? Please provide the Ways and Means Committee with all relevant documentation and correspondence related to the spread of COVID-19 in the Life Care Center.
4. What is CMS doing to continuously disseminate information and monitor the spread of the COVID-19 within and across SNFs and NFs to proactively prevent its spread? Please provide the Committee with copies of the information shared with SNFs, NFs, and other Medicare providers.
5. Please provide the Committee with written information that comes out of the Administration’s COVID-19 Task Force on issues related to SNFs/NFs/other Medicare providers and the spread of COVID-19.

Thank you for your immediate attention to this matter – the health of many Americans depends on the effective response in nursing homes across the country. Please contact Rachel Dolin of the Committee on Ways and Means at (202) 225-3625 if you have any questions about this inquiry.

Sincerely,



The Honorable Richard E. Neal
Chairman



The Honorable Suzan DelBene

¹⁰ <https://www.govinfo.gov/content/pkg/FR-2016-10-04/pdf/2016-23503.pdf>