

September 4, 2020

Seema Verma, Administrator
Dr. Lee Fleisher, Chief Medical Officer
Centers for Medicare and Medicaid Services

Dear Administrator Verma and Dr. Fleisher:

We each are members of the Coronavirus Commission on Safety and Quality in Nursing Homes. We write to address an important issue -- facility accountability -- that unfortunately receives next to no attention in the Commission's Final Report.

The Commission's Final Report implicitly presumes that the toll of COVID-19 has been primarily, if not solely, due to factors outside the control of facility owners and operators. Due to this presumption, the Final Report fails to address CMS's responsibility to ensure facility accountability, including the enforcement of quality-of-care regulations, and financial accountability for billions of dollars distributed to facilities through COVID-19-specific legislation.

Indeed, the COVID-19 pandemic has shone a spotlight on long-standing problems in the long-term care industry. Well-documented problems include short staffing, inadequate staff training, lack of preparedness for emergencies, deficient quality care (including poor infection prevention and control), and a dreary quality of life. These lingering problems were the impetus for the 2016 revision of the federal quality of care regulations, and the recently promulgated emergency preparedness regulation, which includes a requirement that emergency plans address the possibility of pandemics.

We recognize the value of many of the Final Report's recommendations. Resources are needed for access to necessary PPE and testing, hazard pay and other supports for staff, as well as for additional clinical and medical supports to provide the necessary care to residents. Any necessary resources should not be provided without accountability, however; nor is it acceptable to overlook the problems residents regularly face – inadequate staff, lack of quality care, violations of rights – which have been exacerbated by the pandemic.

As you review the Commission's recommendations and make decisions about your next steps, we strongly urge you to also emphasize accountability. Long-term care facility owners and operators must show that they have used the billions of federal relief dollars to improve quality of care, and that they are adhering to the standards they voluntarily agreed to meet when they accepted certification for Medicare and/or Medicaid.

Signed:

Eric Carlson, Justice in Aging
Beverly Laubert, Ohio State Long-Term Care Ombudsman Program
Lori Porter, National Association of Health Care Assistants
Penny Shaw, Nursing Home Resident and Advocate
Lori Smetanka, National Consumer Voice for Quality Long-Term Care