

**Congress of the United States**  
**Washington, DC 20515**

June 5, 2020

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

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244

Dear Secretary Azar and Administrator Verma,

Our nation's nursing homes are at the epicenter of the 2019 novel coronavirus (COVID-19) pandemic. While the persistent shortage of testing kits and delayed reporting and disclosure of COVID-19 outbreaks in nursing homes continue to obscure the full magnitude of this crisis, recent tragedies have made it painfully clear that our nursing homes are in dire need of additional federal support and guidance. Nursing home residents are among the most vulnerable during this public health emergency, but they cannot be protected when their facilities lack testing kits, personal protective equipment (PPE), and sufficient staff. Additionally, many nursing homes do not have the resources to implement federal guidance to slow the spread of COVID-19. To avert further tragedies, we strongly urge you to address the dire needs of nursing home residents and staff as they respond to the COVID-19 pandemic.

According to the Centers for Disease Control and Prevention (CDC), more than 1.3 million Americans live in nursing homes.<sup>1</sup> Many nursing home residents are older and have pre-existing conditions, and thus may face higher risk for severe illness from COVID-19.<sup>2</sup> As of the writing of this letter, reports indicate that more than 9,800 nursing homes and other long-term care settings in the U.S. have had at least one COVID-19 case and more than 44,000 residents and workers in long-term care settings have died from COVID-19, accounting for more than 40% of all deaths nationwide.<sup>3</sup>

The Centers for Medicare and Medicaid Services (CMS) has issued some guidance for nursing homes to respond to the COVID-19 pandemic. As examples, on March 13, CMS instructed nursing homes to restrict visitors and shared recommendations for infection control.<sup>4</sup> On April 2,

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<sup>1</sup> <https://www.cdc.gov/nchs/fastats/nursing-home-care.htm>

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>

<sup>3</sup> <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>

<sup>4</sup> <https://www.cms.gov/files/document/3-13-2020-nursing-home-guidance-covid-19.pdf>

CMS issued updated guidance, recommending the screening of every individual entering a facility, and the use of PPE among staff members. The updated guidance also encouraged nursing homes to use separate staff and develop or acquire separate facilities or units for residents who have tested positive for COVID-19.<sup>5</sup> On April 19, CMS announced that nursing homes must inform residents and their families of COVID-19 cases in their facilities and must report COVID-19 cases directly to the CDC.<sup>6</sup> Nevertheless, taken together, these piecemeal policies do not amount to the coordinated, national action plan that is necessary to save lives and combat the continued spread of COVID-19 in nursing homes.

Without access to testing kits, many nursing homes will be unable to effectively implement the CMS guidance mentioned above and COVID-19 will continue to run rampant, with tragic consequences for residents, workers, and their families. It is impossible for nursing homes to separate COVID-19 positive residents and staff if they cannot confirm who has the virus. On April 24, President Trump signed into law the Paycheck Protection Program and Health Care Enhancement Act, which included \$25 billion for the development and initial implementation of a national COVID-19 testing plan. On April 27, the Administration published its initial blueprint for a national testing plan, which did not mention nursing homes.<sup>7</sup> On May 25, under Congressional deadline, the Administration issued another national report on testing, which again lacked actionable strategies on testing in nursing homes and provided minimal guidance to both states and facilities.<sup>8</sup> During the cross-agency process to further develop a comprehensive, national COVID-19 testing plan, we urge the Department of Health and Human Services (HHS) and CMS to account for the dire need for testing kits in our nation's nursing homes.

We are deeply concerned that many nursing homes do not have the resources required to follow the important CMS recommendation to use separate staff and separate facilities or units for residents with COVID-19, known as cohorting. Many of our nursing homes are already struggling with staffing shortages, as their employees have fallen ill or must care for children or sick relatives at home. We urge HHS to mobilize the U.S. Public Health Service to help address existing staffing challenges and ensure that all of our nursing homes can use separate staff for residents with COVID-19. We urge CMS to create additional guidelines and supports for nursing homes to hire supplementary staff and develop separate facilities.

Many nursing homes continue to face dire PPE shortages and are struggling to acquire these supplies in a crowded and chaotic market. The Administration recently announced that over the next two months, FEMA will ship a two-week supply of PPE to more than 15,000 nursing homes nationwide.<sup>9</sup> These supplies will be insufficient to meet the overwhelming need. It is distressing that CMS is still encouraging nursing home residents to use tissues to cover their noses and mouths when staff are in their room, when there should be sufficient non-medical facemasks available for this purpose.<sup>10</sup> This situation highlights the need for a comprehensive federal plan to ensure that all types of frontline facilities, including nursing homes, have adequate PPE.

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<sup>5</sup> <https://www.cms.gov/files/document/4220-covid-19-long-term-care-facility-guidance.pdf>

<sup>6</sup> <https://www.cms.gov/files/document/qso-20-26-nh.pdf>

<sup>7</sup> <https://www.whitehouse.gov/wp-content/uploads/2020/04/Testing-Blueprint.pdf>

<sup>8</sup> <https://www.democrats.senate.gov/imo/media/doc/COVID%20National%20Diagnostics%20Strategy%2005%2024%202020%20v%20FINAL.pdf>

<sup>9</sup> <https://www.fema.gov/news-release/2020/05/02/coronavirus-pandemic-response-ppe-packages-nursing-homes>

<sup>10</sup> <https://www.cms.gov/files/document/4220-covid-19-long-term-care-facility-guidance.pdf>

We are pleased that CMS heeded calls from Congress and the public to strengthen nursing home COVID-19 reporting requirements. For months, residents and their families may have had no information regarding the presence of COVID-19 in their nursing home, and therefore could not make informed decisions as the virus spread. It concerns us that CMS and CDC are not taking steps to ensure the collection of data on COVID-19 cases and deaths prior to May 1, 2020, nor is it collecting detailed demographic information, including on race, ethnicity, age, gender, or disability status. All nursing home residents, workers, and families affected by the COVID-19 pandemic deserve to be counted. We urge CMS to ensure that understaffed nursing homes have sufficient resources to complete accurate and timely reporting and to provide information and updates to families.

To better understand how HHS and CMS are protecting nursing home residents, staff, and their families, we request answers to the following questions no later than June 26, 2020:

1. What efforts are HHS and CMS undertaking to sufficiently increase COVID-19 testing in nursing homes and to ensure states and nursing homes have adequate funding to meet the guidelines set forth by the administration?
2. How will HHS and CMS ensure that states and nursing homes have sufficient resources to outfit existing facilities or acquire new space to care for and cohort residents with and without COVID-19?
3. Will HHS engage the U.S. Public Health Service to support staffing needs in nursing homes? If so, how will HHS determine where they are sent?
4. Will HHS and CMS publicly report data on race and ethnicity, age, gender and disability status alongside any reported CDC data?
5. Do HHS and CMS plan to study the relationship between race and health outcomes in nursing homes that have COVID-19 outbreaks and publicly report the findings of such a study?
6. The Administration recently announced that nursing home facilities will receive two one-week shipments of PPE from the federal government. When will these shipments be completed? Will more PPE be sent after these initial allotments?
7. Do HHS and CMS currently have sufficient resources and Congressional authority to ensure that nursing homes have sufficient PPE, can implement testing as recommended by CMS and CDC, can safely separate staff and facilities for residents with and without COVID-19, and can meet regulatory reporting requirements?
8. On May 22, HHS announced \$4.9 billion in funding for skilled nursing facilities certified by Medicare from the \$175 billion provider relief fund created through the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act. Does HHS plan to make additional payments to nursing homes and other providers that rely heavily on Medicaid, and how will those allocations be determined?<sup>11</sup>

We remain gravely concerned about the spread of COVID-19 in our nation's nursing homes. Today no one is safe, from the residents trapped alone in their rooms to the underpaid staff

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<sup>11</sup> <https://www.cms.gov/files/document/4220-covid-19-long-term-care-facility-guidance.pdf>

members working without PPE. While many American communities are in dire need, our nation's most vulnerable individuals cannot be overlooked in our efforts to defeat COVID-19. Thank you for your prompt attention to this urgent matter.

Sincerely,

*/s/ Robert Menendez*  
Robert Menendez  
United States Senator

*/s/ Robert P. Casey, Jr.*  
Robert P. Casey, Jr.  
United States Senator

*/s/ Bill Pascrell, Jr.*  
Bill Pascrell, Jr.  
Member of Congress

*/s/ Jimmy Panetta*  
Jimmy Panetta  
Member of Congress

*/s/ Charles E. Schumer*  
Charles E. Schumer  
United States Senator

*/s/ Linda T. Sánchez*  
Linda T. Sánchez  
Member of Congress

*/s/ Thomas R. Carper*  
Thomas R. Carper  
United States Senator

*/s/ Katie Porter*  
Katie Porter  
Member of Congress

*/s/ Elizabeth Warren*  
Elizabeth Warren  
United States Senator

*/s/ Sean Casten*  
Sean Casten  
Member of Congress

*/s/ Kirsten Gillibrand*  
Kirsten Gillibrand  
United States Senator

*/s/ Nanette Diaz Barragán*  
Nanette Diaz Barragán  
Member of Congress

*/s/ Benjamin L. Cardin*  
Benjamin L. Cardin  
United States Senator

*/s/ John B. Larson*  
John B. Larson  
Member of Congress

*/s/ Jeanne Shaheen*  
Jeanne Shaheen  
United States Senator

*/s/ Sanford D. Bishop, Jr.*  
Sanford D. Bishop, Jr.  
Member of Congress

*/s/ Edward J. Markey*  
Edward J. Markey  
United States Senator

*/s/ Jahana Hayes*  
Jahana Hayes  
Member of Congress

*/s/ Gary C. Peters*  
Gary C. Peters  
United States Senator

*/s/ Betty McCollum*  
Betty McCollum  
Member of Congress

*/s/ Chris Van Hollen*  
Chris Van Hollen  
United States Senator

*/s/ Cindy Axne*  
Cindy Axne  
Member of Congress

*/s/ Tammy Duckworth*  
Tammy Duckworth  
United States Senator

*/s/ André Carson*  
André Carson  
Member of Congress

*/s/ Mazie K. Hirono*  
Mazie K. Hirono  
United States Senator

*/s/ Max Rose*  
Max Rose  
Member of Congress

*/s/ Sherrod Brown*  
Sherrod Brown  
United States Senator

*/s/ Thomas R. Suozzi*  
Thomas R. Suozzi  
Member of Congress

*/s/ Richard Blumenthal*  
Richard Blumenthal  
United States Senator

*/s/ Juan Vargas*  
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*/s/ Tammy Baldwin*  
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United States Senator

*/s/ Al Lawson*  
Al Lawson  
Member of Congress

*/s/ Cory A. Booker*  
Cory A. Booker  
United States Senator

*/s/ Susan A. Davis*  
Susan A. Davis  
Member of Congress

*/s/ Debbie Stabenow*  
Debbie Stabenow  
United States Senator

*/s/ Lois Frankel*  
Lois Frankel  
Member of Congress

*/s/ Amy Klobuchar*  
Amy Klobuchar  
United States Senator

*/s/ Donna E. Shalala*  
Donna E. Shalala  
Member of Congress

*/s/ Martin Heinrich*  
Martin Heinrich  
United States Senator

*/s/ Daniel T. Kildee*  
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*/s/ Tom Udall*  
Tom Udall  
United States Senator

*/s/ Jimmy Gomez*  
Jimmy Gomez  
Member of Congress

*/s/ Tina Smith*  
Tina Smith  
United States Senator

*/s/ Marcia L. Fudge*  
Marcia L. Fudge  
Member of Congress

*/s/ Michael F. Bennet*  
Michael F. Bennet  
United States Senator

*/s/ Jackie Speier*  
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*/s/ Debbie Dingell*  
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*/s/ Ted Deutch*  
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*/s/ Bennie G. Thomspon*  
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Member of Congress

*/s/ Tim Ryan*  
Tim Ryan  
Member of Congress

*/s/ Lucy McBath*  
Lucy McBath  
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*/s/ Peter A. DeFazio*  
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*/s/ Debbie Wasserman Schultz*  
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Member of Congress

*/s/ Joseph D. Morelle*  
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*/s/ Nydia M. Velázquez*  
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Member of Congress

*/s/ Marcy Kaptur*  
Marcy Kaptur  
Member of Congress

*/s/ Antonio Delgado*  
Antonio Delgado  
Member of Congress

*/s/ Tulsi Gabbard*  
Tulsi Gabbard  
Member of Congress

*/s/ Emanuel Cleaver, II*  
Emanuel Cleaver, II  
Member of Congress

*/s/ Val B. Demings*  
Val B. Demings  
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*/s/ James R. Langevin*  
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*/s/ Bill Foster*  
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Member of Congress

*/s/ Jason Crow*  
Jason Crow  
Member of Congress

*/s/ Bonnie Watson Coleman*  
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*/s/ Albio Sires*  
Albio Sires  
Member of Congress

*/s/ Donald M. Payne, Jr.*  
Donald M. Payne, Jr.  
Member of Congress

*/s/ Grace Meng*  
Grace Meng  
Member of Congress

*/s/ Judy Chu*  
Judy Chu  
Member of Congress

*/s/ Mikie Sherrill*  
Mikie Sherrill  
Member of Congress

*/s/ Josh Gottheimer*  
Josh Gottheimer  
Member of Congress

*/s/ Eliot L. Engel*  
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*/s/ Mark DeSaulnier*  
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Member of Congress

*/s/ Chrissy Houlahan*  
Chrissy Houlahan  
Member of Congress

*/s/ Charlie Crist*  
Charlie Crist  
Member of Congress

*/s/ Brenda L. Lawrence*  
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Member of Congress

*/s/ Adriano Espaillat*  
Adriano Espaillat  
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*/s/ Steve Cohen*  
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*/s/ Colin Z. Allred*  
Colin Z. Allred  
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*/s/ Gilbert R. Cisneros, Jr.*  
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*/s/ Angie Craig*  
Angie Craig  
Member of Congress

*/s/ Vicente Gonzalez*  
Vicente Gonzalez  
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*/s/ Ed Perlmutter*  
Ed Perlmutter  
Member of Congress

*/s/ Mary Gay Scanlon*  
Mary Gay Scanlon  
Member of Congress

*/s/ Dwight Evans*  
Dwight Evans  
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*/s/ Wm. Lacy Clay*  
Wm. Lacy Clay  
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*/s/ Dina Titus*  
Dina Titus  
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*/s/ Seth Moulton*  
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*/s/ Julia Brownley*  
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Member of Congress

*/s/ Susan Wild*  
Susan Wild  
Member of Congress

*/s/ Rashida Tlaib*  
Rashida Tlaib  
Member of Congress



*/s/ Eleanor Holmes Norton*  
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*/s/ Eddie Bernice Johnson*  
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*/s/ Ann Kirkpatrick*  
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*/s/ Elaine G. Luria*  
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*/s/ John P. Sarbanes*  
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*/s/ Bradley S. Schneider*  
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*/s/ Gregory W. Meeks*  
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*/s/ Conor Lamb*  
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*/s/ Chellie Pingree*  
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*/s/ TJ Cox*  
TJ Cox  
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*/s/ Alexandria Ocasio-Cortez*  
Alexandria Ocasio-Cortez  
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*/s/ Rosa L. DeLauro*  
Rosa L. DeLauro  
Member of Congress

*/s/ Stephen F. Lynch*  
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Member of Congress

*/s/ Tom Malinowski*  
Tom Malinowski  
Member of Congress

*/s/ Ben McAdams*  
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Member of Congress

*/s/ Henry C. "Hank" Johnson, Jr.*  
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*/s/ Scott Peters*  
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*/s/ Sharice L. Davids*  
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*/s/ Terri A. Sewell*  
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*/s/ Lori Trahan*  
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*/s/ Brian Higgins*  
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*/s/ Kathleen M. Rice*  
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*/s/ Joe Neguse*  
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*/s/ Eric Swalwell*  
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*/s/ Jerry McNerney*  
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*/s/ Grace F. Napolitano*  
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*/s/ Alan Lowenthal*  
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*/s/ John Yarmuth*  
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*/s/ Jim Cooper*  
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*/s/ Jamie Raskin*  
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*/s/ Paul D. Tonko*  
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*/s/ Donald S. Beyer Jr.*  
Donald S. Beyer Jr.  
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*/s/ Jesús G. "Chuy" García*  
Jesús G. "Chuy" García  
Member of Congress

*/s/ Adam B. Schiff*  
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Member of Congress

*/s/ Ted W. Lieu*  
Ted W. Lieu  
Member of Congress

*/s/ Bobby L. Rush*  
Bobby L. Rush  
Member of Congress

*/s/ David E. Price*  
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*/s/ Elissa Slotkin*  
Elissa Slotkin  
Member of Congress

*/s/ Lizzie Fletcher*  
Lizzie Fletcher  
Member of Congress

*/s/ Raúl M. Grijalva*  
Raúl M. Grijalva  
Member of Congress

*/s/ Joseph P. Kennedy, III*  
Joseph P. Kennedy, III  
Member of Congress

*/s/ Rick Larsen*  
Rick Larsen  
Member of Congress

*/s/ Suzan DelBene*  
Suzan DelBene  
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*/s/ Henry Cuellar*  
Henry Cuellar  
Member of Congress