

February 12, 2021

The Honorable Charles Schumer  
Senate Majority Leader  
322 Hart Senate Office Building  
Washington, D.C., 20510

The Honorable Nancy Pelosi  
Speaker of the House  
1236 Longworth House Office Building  
Washington, D.C., 20515

The Honorable Mitch McConnell  
Senate Minority Leader  
317 Russell Senate Office Building  
Washington, D.C., 20510

The Honorable Kevin McCarthy  
House Minority Leader  
2468 Rayburn House Office Building  
Washington, D.C., 20515

Dear Senate Majority Leader Schumer, Speaker Pelosi and Minority Leaders McConnell and McCarthy:

Vizient and our member hospitals appreciate the support that Congress has provided thus far for hospitals during the COVID-19 pandemic. However, as the COVID-19 pandemic persists and vaccine distribution and administration efforts are underway, we believe it is imperative that Congress pass additional legislative relief to support these critical response efforts. Relief measures will help provide a degree of stability to an already strained health care system and allow for continued access to health care services, during and after the pandemic.

### **Background**

Vizient is the nation's largest health care performance improvement company. Vizient provides solutions and services that improve the delivery of high-value care by aligning cost, quality and market performance for more than 50% of the nation's acute care providers, which includes 95% of the nation's academic medical centers, and more than 20% of ambulatory providers. Vizient provides expertise, analytics, and advisory services, as well as a contract portfolio that represents more than \$100 billion in annual purchasing volume, to improve patient outcomes and lower costs. Headquartered in Irving, Texas, Vizient has offices throughout the United States.

### **Recommendations**

Vizient applauds the efforts by Congress and President Biden to develop a bipartisan agreement on another COVID-19 relief package. In addition, we certainly recognize the urgency in acting quickly, and taking bold steps to provide economic support and recovery for the American people. Without a doubt, acting expeditiously is vital, but we have concerns that moving legislation through the reconciliation process, confined by the strict limitations of the Byrd Rule, may not allow for the needed comprehensive relief to support hospitals and health care providers. As such, we urge you to continue negotiations on a bipartisan relief package that may include elements of policy that do not fit neatly as part of the reconciliation package – either in place of, or as a complement to, the current effort.

Vizient strongly supports many of the elements of the reconciliation package under development that would expand coverage options for Americans and enhance efforts related to vaccine

distribution and administration, and believes these are important steps to take in response to the pandemic. However, many important elements remain that still need to be urgently addressed and we encourage Congress to act on these items soon. With that in mind, Vizient is pleased to offer a range of policy recommendations that we believe should be included in a relief package – either under the proposal currently advancing under reconciliation, or as part of future relief efforts to support Americans across the country.

### **Provider Relief Fund Enhancements**

The Provider Relief Fund (PRF) has been vitally important for hospitals across the country. Vizient applauds Congress for providing multiple tranches of funding for the PRF since it was initially established early in the pandemic. The extended duration of the Public Health Emergency (PHE) and variable provider expenses, including revenue reductions and shifts in care, support the need for additional assistance. While the American Rescue Plan does not include additional funding for the PRF, on February 4, the Senate overwhelmingly passed a budget amendment intended to modify the \$1.9 trillion package to strengthen the PRF, with 20 percent being set aside for rural health providers. Vizient believes it is imperative that HHS be able to provide financial relief to hospitals and health care providers, which have been uniquely impacted by the pandemic. **To meet this goal, Vizient recommends Congress provide at least an additional \$35 billion to the PRF to help ensure that providers, including those serving rural health communities, receive needed support.**

In addition, Vizient recognizes that providers will soon be satisfying the Department of Health and Human Services (HHS) reporting requirements related to the PRF.<sup>1</sup> Vizient appreciates Congress's decision to clarify aspects of the PRF, like "lost revenue" in *The Consolidated Appropriations Act, 2021* (P.L. 116-260). As Congress is aware, providers have been closely following guidance and information from HHS regarding the PRF and have already devoted substantial time to adhere to these requirements. Because new issues may emerge as providers attempt to meet these reporting requirements, Vizient encourages Congress to continue to be responsive to providers' needs for clarity and flexibility as related to the PRF.

### **Medicare Accelerated and Advanced Payment Program Loan Flexibility**

Another tool that has provided vital financial support to hospitals and other health care providers was the expansion of Medicare's Accelerated and Advanced Payment Programs (AAPPs). Under the AAPPs, hospitals were able to access much-needed advanced Medicare payments that can be repaid without interest for a limited period of time. In the *Continuing Appropriations Act, 2021, and other Extensions Act* (P.L. 116-159), Congress offered vital support and significantly improved the timelines and repayment terms for the for the AAPPs. While those improvements were helpful, there is still a great deal of uncertainty regarding duration of the PHE, and ongoing financial challenges from the pandemic. As such, we encourage Congress to consider further delays to the start of the recoupment period and again consider reducing the interest rate or providing full loan forgiveness.

### **Sequestration**

While Vizient appreciates that *The Consolidated Appropriations Act, 2021* provided a three-month extension (until March 31<sup>st</sup>), of the moratorium on the Medicare sequestration cuts, we believe more certainty is necessary for hospitals and other providers and more relief is needed.

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<sup>1</sup> <https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/reporting-auditing/index.html>

As March 31<sup>st</sup> approaches and concern over new variants grows, it is critical that hospitals remain prepared to care for patients with COVID-19 and that financial relief is considered in conjunction with these efforts. Therefore, consistent with our previous request<sup>2</sup>, Vizient asks Congress to extend the current moratorium on the Medicare sequestration cuts until the end of the PHE. **To achieve this goal, we urge the inclusion of the bipartisan bill, H.R. 315, Medicare Sequester COVID Moratorium Act, in a future relief package.**

### **Medicaid Protections**

State Medicaid programs have played vitally important roles in supporting the ongoing public health and medical response to the coronavirus pandemic. Vizient applauds Congress for its earlier action in the *Families First Coronavirus Response Act* (P.L. 166-127) of bolstering the Federal Medical Assistance Percentage (FMAP) matching rate by 6.2 percent through the last day of the calendar quarter in which the PHE ends. While this increase is beneficial, Medicaid programs will need additional financial support to successfully respond to the pandemic and residual public health impacts of the crisis. Therefore, consistent with our previous requests, **Vizient urges Congress to increase the FMAP by an additional 5.8 percentage points to at least a 12 percent enhancement.**

In addition, the pandemic has caused a significant increase in unemployment rates, which tends to result in greater reliance on Medicaid. As such, we believe it is imperative that the full scope of the financial recovery, including unemployment rates, be considered in determining the appropriate time to return to prior FMAP policies, especially since unemployment rates may not sufficiently recover until well after the expiration of the PHE. **Therefore, Vizient recommends Congress to extend the enhanced FMAP until, at minimum, unemployment rates have returned to pre-COVID-19 rates.**

Also related to Medicaid, Vizient notes that Congress has an opportunity to further support hospitals through meaningful changes to the Medicaid Disproportionate Share Hospital (DSH) program. In December, Congress provided a three-year DSH payment reduction delay through fiscal year 2023 and extended the DSH reductions for two additional years given the delay. While this delay is deeply appreciated, it also means that DSH reductions are anticipated to be \$8 billion per year from FY 2024-2027. Once in effect, these drastic cuts will have far-reaching consequences for Medicaid beneficiaries and the providers who serve them. **Because of that, Vizient recommends Congress consider reducing or eliminating these scheduled future reductions.**

### **Hospital and Health Care Worker Liability Protections**

Hospitals and frontline health care workers are rapidly responding to the explosive spread of COVID-19, often prioritizing patient safety even more than their own. This crisis has been continually evolving, with protocols for exposure, treatments and safe discharge from the hospital being developed and modified rapidly. Hospitals and health care practitioners have responded and continue to provide essential care for patients throughout this crisis. As such, given the evolving nature of the crisis and health care practices associated with COVID-19, **Vizient believes that it is vital for Congress to act to shield hospitals and health care workers from unwarranted legal liability in the aftermath of the pandemic.** Practitioners have been responding in good faith throughout this pandemic and should not be subject to legal

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<sup>2</sup> [https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20210202\\_medicaresequester\\_moratorium\\_coalition\\_letter.pdf](https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20210202_medicaresequester_moratorium_coalition_letter.pdf)

exposure that results from their response to the COVID-19 public health emergency. This protection, of course, would not, and should not, apply to situations where there is gross negligence or misconduct.

### **Hazard Pay and Additional Support for Front-line Health Care Workers**

America's physicians, advanced practice clinicians, nurses and other essential health care workers have been on the front lines of this crisis for approximately one year. Their dedicated work has come with significant risk, personal hardships and unimaginable clinical challenges. Their bravery and the sacrifices they continue to make should be acknowledged and rewarded. **Vizient calls on Congress to support these essential front-line health care workers with dedicated hazard pay and additional support that they may need due to the vital services they have been providing during the PHE.**

### **Support Access to Telehealth**

In 2020, Vizient shared with HHS our recommendations regarding telehealth regulatory flexibilities that should be permanently adopted based on learnings from the rapid deployment of telehealth services during the PHE.<sup>3,4</sup> As Congress considers next steps to respond to the pandemic, we recognize that some specific, technical proposals may be more appropriate for regulatory action. At the same time, there is significant bipartisan support for adopting several changes – including relaxing pre-PHE distant site and geographic requirements and expanding the types of services and the variety of practitioners that may provide telehealth. In addition, Vizient's members have reiterated the need for an audio-only telehealth option to be permitted. **Vizient believes Congressional action is needed to provide long-term certainty for hospitals and patients that have come to appreciate and rely upon the benefits of telehealth.** If this legislative vehicle is not the proper venue for certain technical changes related to telehealth, Vizient encourages Congress to continue working towards a legislative solution to permanently expand access to telehealth services.

### **Health Care Workforce**

Vizient members include nearly 95 percent of the nation's academic medical centers. Those organizations are not only on the frontlines of providing cutting edge care and responding to the COVID-19 pandemic, but they also conduct vital research and train the next generation of physicians. The pandemic has made clear that it is critical our nation has a robust and highly skilled physician workforce. Vizient appreciates Congress's work to support Medicare Graduate Medical Education (GME) in the *Continuing Appropriations Act, 2021, and other Extensions Act*, which expanded the number of Medicare-supported GME resident slots. While this was a vital effort to address looming physician shortages and support the next generation of trained medical professionals, more needs to be done. **Vizient encourages Congress to continue to support the health care workforce by further increasing the number of available Medicare supported GME slots.**

The pandemic has exposed not only the shortage of physicians and other health care providers, but the inability for these providers to respond to urgent needs and practice more easily across state lines. Although states have taken important steps to offer expanded licensing and reciprocity, these actions have been inconsistent and continue to limit health care professionals'

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<sup>3</sup> [https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20201228\\_hhs\\_rfi\\_covid.pdf](https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20201228_hhs_rfi_covid.pdf)

<sup>4</sup> [https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20200706\\_vizient\\_telehealth\\_flexibilities\\_letter\\_to\\_congress.pdf](https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20200706_vizient_telehealth_flexibilities_letter_to_congress.pdf)

ability to provide care across state lines. **Therefore, Vizient reiterates our support for the Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act.**<sup>5</sup> This bipartisan, bicameral legislation will help to alleviate significant barriers to care by creating a temporary nationwide licensing reciprocity for health care professionals during the COVID-19 PHE, plus a 180-day normalization period. We urge Congress to take the TREAT Act one step further, by permitting this flexibility during any PHE, not just the current one. This will allow individuals and states to deploy and utilize resources more rapidly during future crises.

Finally, as it pertains to the critical components of the vaccine rollout – more needs to be done to support the workforce administering vaccines. Vizient is aware of unique workforce needs related to mass vaccinations, including the need to recruit, train and provide overtime payments to health care providers. **Vizient urges Congress to ensure sufficient funding is provided to meet the increased workforce demands associated with rapid vaccine administration.**

### **Vaccines**

Like much of the nation, Vizient and our members are closely tracking vaccine candidates, distribution plans and post-market information. We appreciate communications from the Centers for Disease Control and Prevention and other federal authorities which shed light on these topics and help inform stakeholders' preparations.

However, based on our communications with our hospital members, we understand that more transparency and communication would help in the supply chain and vaccine administration planning efforts. As such, **Vizient encourages Congress to support agencies, such as HHS and FEMA, in their efforts to better communicate to stakeholders, including hospitals, on information related to vaccine allocations and distribution.** For example, through weekly calls facilitated by the HHS Office of the Assistant Secretary for Preparedness and Response (ASPR), critical information about COVID-19 therapeutics distribution is shared with provider organizations, among other stakeholders. Vizient believes that similar communications can occur regarding vaccine distribution, as such information would help support provider awareness and preparations to administer vaccines. Therefore, in a manner that provides HHS with adequate flexibility, we encourage Congress to provide funding to support similar recurring communications.

In addition, considering allocations, Vizient understands providers and others lack information regarding how allocation decisions are being made. While key government entities, like HHS, collect vast amounts of information from hospitals<sup>6</sup> and other stakeholders, it is unclear how allocation decisions are being made, which can impact a hospital's preparation plans, among other issues related to vaccine distribution and administration efforts. Vizient encourages Congress to support the use of advanced analytics when making allocation decisions and to provide greater transparency regarding such decisions. Vizient believes additional transparency and information will be critical in supporting health equity, among other benefits, as vaccines continue to roll out.

Vizient expresses our appreciation for Congress's work to ensure a COVID-19 vaccine will be covered without cost-sharing. Recent rulemaking has provided additional detail regarding how, from a regulatory perspective, the vaccine will be covered. While there is some consistency

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<sup>5</sup> [https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20210202\\_treat\\_act\\_endorsement.pdf](https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20210202_treat_act_endorsement.pdf)

<sup>6</sup> <https://www.hhs.gov/sites/default/files/covid-19-faqs-hospitals-hospital-laboratory-acute-care-facility-data-reporting.pdf>

between the provision and administration of the COVID-19 vaccine with other vaccines like the flu vaccine, there are also several differences. Vizient believes it will be important for providers, patients and payers to have a clear and consistent understanding of COVID-19 vaccine coding and billing. Vizient recommends Congress provide support to Centers for Disease Control and Prevention (CDC), Centers for Medicare and Medicaid Services (CMS), states and other Departments to help educate the public and providers about these various coverage options and billing procedures.

Lastly, **Vizient urges Congress to ensure that adequate funding is made available to providers to cover overhead costs associated with vaccines.** For example, personnel costs related to inventory management, obtaining certain freezers and personal protective equipment are generally not covered in administration fee codes. As such, Vizient recommends Congress provide funding to support providers and ensure these financial barriers do not prevent or limit patient access to a COVID-19 vaccine.

### **State and Local Funding**

As Congress is aware, state and local efforts to respond to the pandemic, including overhead costs associated with vaccine administration, information technology infrastructure and testing, have been critical to the nation's overall success in addressing the PHE. Vizient appreciates that additional state and local funding is being considered by Congress in the upcoming relief package. **We recommend Congress provide states with financial support needed to continue and enhance their response efforts.**

### **Additional Supply Chain Transparency**

As an organization that plays an integral role in the health care supply chain, Vizient brings a unique understanding of hospitals' and other health care providers' supply chain needs. In addition, Vizient is acutely aware of the challenges that the U.S.'s health care system has faced due to the pandemic and other public health emergencies. From the initial supply and workforce interruptions that slowed manufacturing, to demand influxes that quickly overwhelmed the existing supply reserves, the importance of a resilient and redundant medical supply chain has become overwhelmingly clear. To support such a supply chain, Vizient encourages Congress to provide the Food and Drug Administration (FDA) with the needed authority and resources to obtain more information regarding the source and location of raw materials, including active pharmaceutical ingredients (API) and finished goods (e.g., drugs and devices). **Greater upstream clarity in manufacturing essential medical products and pharmaceuticals would help stakeholders identify both vulnerabilities in the supply chain and opportunities to mitigate those risks.**

In addition, Vizient recognizes the critical steps Congress and FDA have already taken to strengthen the supply chain during the PHE, including the development of a device shortage list and device discontinuation list. Vizient also appreciates the authority Congress provided to FDA in the CARES Act to expand the requirement for manufacturers of certain drugs to provide information to the FDA on permanent discontinuances and interruptions in manufacturing that may lead to a meaningful disruption in supply and for manufacturers to create risk management plans. As FDA continues to make strides in utilizing such authority<sup>7</sup> and consistent with the goal of increased transparency, Vizient encourages Congress to encourage FDA to work with

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<sup>7</sup> <https://www.fda.gov/drugs/drug-shortages/cders-coronavirus-aid-relief-and-economic-security-act-cares-act-drug-shortage-mitigation-efforts#Notifying%20FDA%20of%20Manufacturing%20Discontinuances%20and%20Interruptions>

stakeholders to identify how to most effectively share this information. Vizient also notes that more detailed, timely communications regarding supply chain interruptions (e.g., container delays, recalls), quality, and when and where different stages of manufacturing occur would strengthen the supply chain and increase efficiency.

Lastly, Vizient appreciates the coordination efforts between key government entities like the CDC, HHS and FEMA, particularly given work related to the Strategic National Stockpile (SNS). For example, HHS receives key information from hospitals regarding their on-hand supplies while requests are also being made to receive supplies from the SNS and, as we understand, reported information is considered in determining whether to fulfill those requests. Yet, the private sector is not able to access the same data as federal agencies, creating a gap in communication and limiting opportunities to more effectively coordinate efforts. Therefore, in future legislation, **Vizient encourages Congress to direct Federal agencies to work with the private sector to identify information that could be shared to support supply chain related communication and coordination efforts.**

### **Regulatory Authority**

Vizient appreciates the efforts of different regulatory bodies and Congress to minimize burdens on providers to better enable them to focus on patients during this trying time. While work is already underway to identify which COVID-19 flexibilities should remain after the PHE, Vizient is aware that different regulatory bodies, such as HHS, may be limited in their ability to extend certain flexibilities without Congressional action. Vizient has responded to HHS's request for information on this topic<sup>8</sup> and recommends Congress provide regulators with authority to extend certain flexibilities, including those to expand access to care and reduce provider burdens, beyond the PHE either on a permanent or temporary basis (e.g., up to one year after the PHE ends).

The unprecedented impact of the crisis will resonate for years. Congress and the administration have taken bold steps to utilize the budget reconciliation process to support the advancement of additional relief legislation. Vizient is aware of the need for additional relief and is supportive of legislation that provides such relief without undue delay. However, we also see the significant importance of identifying a bipartisan relief approach, which, among other benefits, would allow for more robust policy responses. We thank you for your continued leadership, and now urge you to continue to support America's hospitals and health care systems during and after this crisis.

Please do not hesitate to contact me at [shoshana.krilow@vizientinc.com](mailto:shoshana.krilow@vizientinc.com) or 202-354-2607 if you have any questions about Vizient or if there is any way we can be of assistance as you develop additional legislative solutions to address this crisis.

Sincerely,



Shoshana Krilow  
Senior Vice President, Public Policy & Government Relations

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<sup>8</sup> [https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20201228\\_hhs\\_rfi\\_covid.pdf](https://www.vizientinc.com/-/media/documents/sitecorepublishingdocuments/public/aboutus/20201228_hhs_rfi_covid.pdf)