

United States Senate

WASHINGTON, DC 20510

April 6, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Verma:

As you know, the novel coronavirus (COVID-19) poses a significant threat to Americans who call a nursing facility home. With hundreds of COVID-19 cases now reported in the Commonwealth and thousands across the U.S., it is imperative that we take action to protect those older adults and individuals with underlying health conditions who are most at risk. Given our commitment to fostering improvement among the nation's poorest performing nursing homes, we are writing to request information about your efforts to slow the spread of COVID-19 in nursing homes affiliated with the Special Focus Facility (SFF) program, and to urge you to take appropriate measures to ensure that these facilities are meeting the needs of their residents.

The worsening circumstances at the Life Care Center of Kirkland in Washington State, the site of the first COVID-19 outbreak, make clear that it is essential to ensure nursing facilities are prepared to prevent the virus's spread and treat emerging cases.¹ We commend the dedicated leaders and workers in nursing homes across the country that have acted swiftly to mitigate the risks presented by COVID-19. The Centers for Medicare & Medicaid Services (CMS) has also responded, issuing guidance immediately suspending nearly all routine nursing home inspections and instead prioritizing surveying to target infection control as well as respond to complaints of immediate harm unrelated to COVID-19.²

¹Greene, Jay, and Maria Sacchetti. "As Coronavirus Quietly Spread, a Nondescript Nursing Home Became the Deadliest Hot Spot in the U.S." The Washington Post. WP Company, March 7, 2020.

https://www.washingtonpost.com/national/as-coronavirus-quietly-spread-a-nondescript-nursing-home-became-the-deadliest-hot-spot-in-the-us/2020/03/06/5d788a26-5f47-11ea-9055-5fa12981bbbf_story.html.

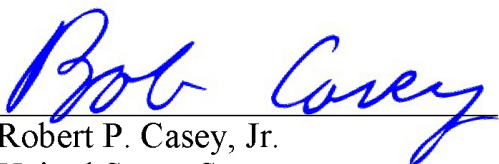
² Center for Medicare and Medicaid, *Services Suspension of Survey Activities*, David Wright. Baltimore: 2020.; "Press Release CMS Takes Action Nationwide to Aggressively Respond to Coronavirus National Emergency." CMS, March 13, 2020. <https://www.cms.gov/newsroom/press-releases/cms-takes-action-nationwide-aggressively-respond-coronavirus-national-emergency>.

In June 2019, we released a report on the SFF program, a statutorily required CMS program intended to enhance care quality among nursing facilities that persistently underperform.³ Our report called for enhanced transparency with respect to nursing homes that qualify for the SFF program but that are not selected for participation (known as candidates). We applauded subsequent action by CMS to make the names of these SFF candidate facilities available to the public on a monthly basis.

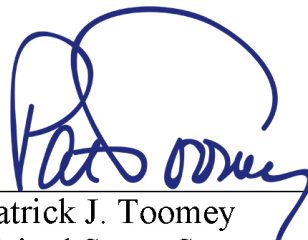
It is in that same spirit of transparency that we write to request information on how the agency's COVID-19 response affects the oversight of facilities affiliated with the SFF program, including both its more than 400 candidates and 88 participants.⁴ The SFF program targets nursing facilities that "substantially fail" to meet the care standards afforded by the Medicare and Medicaid programs, including requirements pertaining to infection control planning and personnel, influenza and pneumonia immunizations and other procedures to limit the spread of illness.⁵ Nursing homes selected for the SFF program persistently underperform in required inspections and are traditionally surveyed no less than once every six months.

We ask that CMS provide a briefing that outlines how CMS is addressing oversight in these underperforming facilities as it carries out its response to COVID-19 before May 4, 2020. Thank you for your assistance in this matter.

Sincerely,



Robert P. Casey, Jr.
United States Senator



Patrick J. Toomey
United States Senator

³"Families and Residents' Right to Know: Uncovering Poor Care in America's Nursing Home." U.S. Senate Special Committee on Aging. U.S. Senator Bob Casey and Pat Toomey, June 2019.

[https://www.aging.senate.gov/imo/media/doc/Casey Toomey SFF Report June 2019.pdf](https://www.aging.senate.gov/imo/media/doc/Casey%20Toomey%20SFF%20Report%20June%202019.pdf).

⁴"Special Focus Facility ('SFF') Program." CMS. Center for Medicare and Medicaid Services, February 26, 2020. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/downloads/sfflist.pdf>.

⁵ The Social Security Act of 1935, Pub. L. 74-271, Sec. 1819 (f)(8); The Social Security Act of 1935, Pub. L. 74-271, Sec. 1919 (f)(8); 42 C.F.R. § 483.80-85.