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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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July 28, 2020

Mr. Barry Port
Chief Executive Officer
Ensign Group
29222 Rancho Viejo Road, Suite 127
San Juan Capistrano, CA 92675

Dear Mr. Port:

I am writing to follow up on the Select Subcommittee's June 16, 2020, letter to your company and to seek further information on the more than \$100 million in federal funds that Ensign Group has received from the Provider Relief Fund under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Patient Protection Program and Health Care Enhancement Act. Apparently, these taxpayer funds currently sit unused in Ensign's bank account. In light of your company's public statements that "the company's portfolio is not being overwhelmed by COVID-19" and the company achieved "record-breaking" first quarter results that "still substantially exceeded our own expectations for the quarter" despite "the shutdown of normal patient traffic" due to the coronavirus pandemic,¹ I call on you to allocate these taxpayer funds for their lawful purposes or return them immediately.

Congress appropriated funding to the Provider Relief Fund to support healthcare providers on the front lines of the coronavirus response, including nursing homes. Funding received from the Provider Relief Fund may "only be used to prevent, prepare for, and respond to coronavirus" and "for health care related expenses or lost revenues that are attributable to coronavirus." Although certain distributions from the Provider Relief Fund were made by the Department of Health and Human Services (HHS) to healthcare providers without notice or request, recipients must agree to certain terms and conditions—including proper use of the funds and reporting to HHS—if they intend to keep the money.²

¹ Ensign Group, *Press Release: "The Ensign Group Reports First Quarter Results"* (May 11, 2020) (online at investor.ensigngroup.net/news-releases/news-release-details/ensign-group-reports-first-quarter-results-1).

² Department of Health and Human Services, *Acceptance of Terms and Conditions – Relief Fund Payment from Initial \$30 Billion General Distribution* (last visited July 24, 2020) (online at www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-30-b.pdf); *Acceptance of Terms and Conditions – Relief Fund Payment from \$20 Billion General Distribution* (last visited July 24, 2020) (online at www.hhs.gov/sites/default/files/terms-and-conditions-provider-relief-20-b.pdf); *Acceptance of Terms and Conditions – Skilled Nursing Facility Relief Fund Payment* (last visited July 24, 2020) (online at www.hhs.gov/sites/default/files/terms-and-conditions-skilled-nursing-facility-relief-fund.pdf).

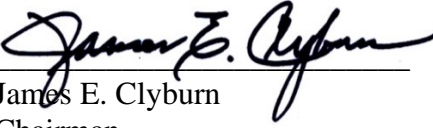
As set forth in Ensign's June 30, 2020, letter to the Select Subcommittee:

Ensign received approximately \$109 million of funding pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Ensign received such funds because the Department of Health and Human Services released CARES Act funds to Medicare providers and skilled nursing facilities without notice or request. As of the date of this response, **Ensign has not applied any of the relief money received via the CARES Act to expenditures that would otherwise qualify for the use of those funds.**³

It is the mission of the Select Subcommittee to ensure that coronavirus relief funds appropriated by Congress are distributed effectively, efficiently, and equitably. I urge you to allocate these funds toward their lawful purposes, such as caring for patients with the coronavirus, or return the funds immediately. Other well-capitalized healthcare providers, such as Kaiser Permanente and Encompass Health, have already returned unneeded provider grant funds to the Treasury—enabling HHS to redistribute the money to other providers that desperately need the funds.⁴

Please confirm in writing whether Ensign plans to use these funds or return them to HHS by August 3, 2020. If your company plans to keep the funds, please provide a detailed explanation of how you plan to use them consistent with the law.

Sincerely,


James E. Clyburn
Chairman

cc: The Honorable Steve Scalise, Ranking Member

³ Letter from Susan M. Davies, P.C., to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (June 30, 2020) (emphasis added).

⁴ *Kaiser Returns \$500M in CARES Act Payments*, Becker's Hospital Review (June 8, 2020) (online at www.beckershospitalreview.com/finance/kaiser-returns-500m-in-cares-act-payments.html); *'Public Shaming,' Audit Concerns Prompt Encompass Health to Return \$237M in CARES Act Funding*, Home Health Care News (May 19, 2020) (online at homehealthcarenews.com/2020/05/public-shaming-audit-concerns-prompt-encompass-health-to-return-237m-in-cares-act-funding/).