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ONE HUNDRED SIXTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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WASHINGTON, DC 20515-6115

Majority (202) 225-2927
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July 1, 2020

Mr. Phil Freitas
Managing Member
Genesis Reference Laboratories
7924 Forest City Rd, Suite 210
Orlando, FL 32810

Dear Mr. Freitas:

I am writing to request information about Genesis Reference Laboratories' practices and prices for diagnostic and serological tests for coronavirus disease of 2019 (COVID-19). Pursuant to Rules X and XI of the U.S. House of the Representatives, the Committee on Energy and Commerce is conducting oversight of the Families First Coronavirus Response Act (the Families First Act), and the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act). The Committee's initial examination has yielded disturbing information about the price of COVID-19 tests, and providers' compliance with both the Families First Act and the CARES Act. I am concerned that some providers, including your company, may not be in compliance with these two laws that are critical to our efforts to combat this pandemic. Additionally, I am deeply concerned about reports that some patients are receiving surprise bills for hundreds or even thousands of dollars for out-of-network laboratory charges for COVID-19 testing.[1] As a result, I am seeking further information about the price that your company is billing issuers and consumers, both uninsured and out-of-network, for COVID-19 diagnostic and serological tests and related items and services.

The Families First Act requires individual and group market health plans to provide benefits for certain items and services related to diagnostic testing for the detection of COVID-19 without imposing any cost-sharing requirements, including deductibles, copayments, and coinsurance. The Families First Act also prohibits prior authorization or other medical management requirements for COVID-19 diagnostic testing. Additionally, the Families First Act requires individual and group market health plans to provide coverage for health provider office visits, including urgent care visits and emergency room visits, that result in an order of or administration of an in vitro diagnostic test at zero cost-sharing.

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[1] *Two Friends in Texas Were Tested for Coronavirus. One Bill Was $199. The Other? $6,408*, The New York Times (June 29, 2020).

The CARES Act requires individual and group market health plans to cover a broad range of diagnostic items and services in order to detect COVID-19 without any cost-sharing, including serological tests used to detect antibodies against COVID-19. Additionally, the CARES Act requires issuers to reimburse providers of COVID-19 diagnostic testing at an amount that equals the negotiated rate in effect prior to the public health emergency or, if the issuer does not have a negotiated rate with the provider, the cash price for such service that is listed by the provider on a public website. The issuer may also negotiate a rate less than the listed cash price. The CARES Act requires providers of COVID-19 tests to list the cash price for the service on a public website. Providers who do not comply with this requirement may face a civil monetary penalty of up to $300 per day.

On April 18, 2020, the Trump Administration issued guidance implementing both the Families First Act and the CARES Act.[2] The guidance required that individual and group market health plans provide coverage for items and services related to diagnostic tests for the detection of COVID-19, and for serological tests used to detect antibodies against COVID-19 without any cost-sharing.

The Committee has been informed of troubling instances in which providers are charging up to $6,000 for one COVID-19 test. In a number of instances identified to the Committee, providers are charging prices for diagnostic tests to detect COVID-19 that range from $300 to $6,000. As of May 29, the Medicare payment rate for a COVID-19 diagnostic test is generally under $100 per test.[3] Additionally, some providers' public websites do not list the cash price for the COVID-19 test as required by the CARES Act.[4]

The Committee is also concerned by reports that consumers are receiving large balance bills for COVID-19 testing and related services. In one instance, two acquaintances went to the same emergency clinic to receive COVID-19 testing together. One paid the cash price of $199; the other, who used his insurance, was charged $6,408.[5] Unfortunately, these do not appear to be isolated incidents.[6]

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[2] Centers for Medicare and Medicaid Services, *FAQs About Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act Implementation Part 42* (Apr. 11, 2020) (www.cms.gov/files/document/FFCRA-Part-42-FAQs.pdf).

[3] Centers for Medicare and Medicaid Services, *Medicare Administrative Contractor (MAC) COVID-19 Test Pricing* (May 19, 2020) (www.cms.gov/files/document/mac-covid-19-test-pricing.pdf).

[4] Genesis Reference Labs, *COVID-19* (2020) (genesisreferencelabs.com/covid-19-testing-grl/).

[5] *Two Friends in Texas Were Tested for Coronavirus. One Bill Was $199. The Other? $6,408,* The New York Times (June 29, 2020).

[6] *Most Coronavirus Tests Cost About $100. Why Did One Cost $2315?,* The New York Times (June 16, 2020).

These examples we have received if accurate are unconscionable and clearly excessive. Meanwhile, based on the Committee's review, it appears that your company Genesis Reference Laboratories has failed to list the cash price for the COVID-19 diagnostic test on a public website, which is in violation of the CARES Act.

In light of these concerns, I request documents and responses to the following questions by July 10, 2020:

1. Please provide the Committee with all documents that describe Genesis Reference Laboratories' policies regarding billing of issuers for all items and services related to diagnostic testing for the detection of COVID-19, and for items and services related to serological testing used to detect antibodies against COVID-19.

2. Please provide the Committee with all documents that describe Genesis Reference Laboratories' policies regarding billing of individuals, including uninsured individuals and individuals receiving out-of-network care, for all items and services related to diagnostic testing for the detection of COVID-19, and for items and services related to serological testing used to detect antibodies against COVID-19.

3. Please provide all available information on how much Genesis Reference Laboratories' charges for a diagnostic test for the detection of COVID-19, and for serological testing used to detect antibodies against COVID-19.

    a. In responding to this request, please provide a list of all diagnostic tests your company performs for the detection of COVID-19 and serological tests for the detection of antibodies against COVID-19, as well as the average negotiated rate for each test. Please provide information on the amount charged and ultimately reimbursed in cases where there is no negotiated rate.

4. Please provide a link to the public website that lists the cash price for a COVID-19 diagnostic test and the date that the information became publicly available online.

5. Have you received complaints from consumers billed for diagnostic tests or serological tests for COVID-19 and related items and services? If so, please provide copies and records of all such consumer complaints, and any documentation of action you took in response.

We appreciate your prompt attention to this matter. If you have any questions, please contact Saha Khaterzai with the Committee staff at (202) 225-2927.

Sincerely,

Frank Pallone, Jr.
Chairman