

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

August 26, 2020

The Honorable Michael R. Pence
Vice President of the United States
The White House
Office of the Vice President
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Vice President Pence:

We write to reiterate our deep concern that the Trump Administration's continued failure to secure and distribute personal protective equipment (PPE) leaves nursing homes without the resources necessary to protect residents and workers from the novel coronavirus (COVID-19). Masks, gloves, gowns, and other PPE are the armor that nursing home workers wear into battle against COVID-19, and their continued scarcity in nursing homes around the country puts residents and the workers who care for them at unneeded risk.

Nursing homes and other congregate settings have been at the epicenter of the COVID-19 pandemic since the beginning. According to media reports, more than 70,000 nursing home residents and workers have lost their lives to COVID-19, and more than 420,000 have been infected.¹ Moreover, Federal data show that there are now more nursing home residents currently infected with COVID-19 than there were at the end May, making the persistent and increasing prevalence of PPE shortages in nursing homes all the more alarming.² Researchers have found that PPE shortages have resulted in health care workers unnecessarily contracting COVID-19.³ PPE shortages also contribute to reductions in available health care services, as providers strive to preserve limited PPE supplies, putting additional strain on an already overloaded system.⁴ With supply shortages worsening, nursing home residents and workers are under growing threat from COVID-19.

During recent trips to Indiana, North Carolina, and Florida, you said that PPE supplies "remain very strong,"⁵ assured local leaders that the Trump Administration is quickly responding to

¹ New York Times, *Coronavirus in the U.S.: Latest Map and Case Count*, accessed August 25, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html?>

² Press Release, *REPORT: COVID Cases in Nursing Homes Surpass Peak Level Back in May*, American Health Care Association (August 17, 2020), https://www.ahcancal.org/News/news_releases/Pages/REPORT-COVID-Cases-in-Nursing-Homes-Surpass-Peak-Level-Back-in-May.aspx.

³ William Dow, Kevin Lee, Laura Lucia, *Economic and Health Benefits of a PPE Stockpile*, University of California Labor Center (August 12, 2020), <https://laborcenter.berkeley.edu/economic-and-health-benefits-of-a-ppe-stockpile/>.

⁴ *Id.*

⁵ Press Release, *Remarks by Vice President Pence at a Roundtable on Safely Reopening Schools - Indianapolis, IN*, The White House (July 24, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-roundtable-safely-reopening-schools-indianapolis/>.

shortages,⁶ and asserted that frontline medical workers will “have all the PPE that’s needed.”⁷ Your rosy assessments fly in the face of Centers for Medicare & Medicaid Services (CMS) data collected weekly from over 15,000 nursing homes. An analysis of CMS data by the Minority staffs of the Senate Finance and Aging Committees clearly shows that PPE shortages are worsening at nursing homes across the United States. These shortages have occurred despite the Trump Administration’s announcement on April 30, 2020 that it planned to send two-week’s worth of PPE supplies to every nursing home in the United States—an initiative that ultimately sent faulty supplies and, in fact, failed to reach all nursing homes.⁸

CMS, in conjunction with the Centers for Disease Control and Prevention (CDC), collects weekly COVID-19 data from nursing homes in all 50 states, the District of Columbia, Puerto Rico, and Guam.⁹ In addition to case and death count information, nursing homes are required to report the adequacy of PPE supplies across six different supply types—N95 respirators, surgical masks, eye protection, gowns, gloves, and hand sanitizer. For each supply type, they are asked to state whether they have sufficient supply to last one week, and whether they “currently have any supply.” According to CDC guidance, when nursing homes state that they have no current supply of a given type of PPE, they are indicating that there is none available for their workers to use.¹⁰

Contrary to your assertions, all 50 states and the District of Columbia had at least one nursing home report being out of stock of one or more type of PPE as of August 9. In more than 40 states, the number of facilities that report being out of supplies has increased since the beginning of July. Over a one-month period, the number of nursing homes that reported having no current supply of one or more type of PPE nearly tripled, increasing from 486 nursing homes on July 5 to 1,335 on August 9. Of these, 842 nursing homes reported not having current supplies of two or more types of PPE. Many more facilities are operating with dangerously low inventories of PPE supplies. CMS data show that 3,216 nursing homes did not have a one-week supply of one or more type of PPE as of August 9—an increase from 2,698 homes since July 5. Of these homes, 1,979 reported having less than a one week’s supply of two or more types of PPE.

The number of nursing homes reporting supply shortages increased across every type of PPE from early July to early August. Shortages of N95 respirators and eye protection appear to be the most severe and are worsening most quickly. By August 9, roughly 8 percent of nursing homes reported having no supply of N95 respirators; 17 percent reported lacking a one-week supply of

⁶ Press Release, *Remarks by Vice President Pence in a Roundtable on Safely Reopening Schools - Apex, NC*, The White House (July 29, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-roundtable-safely-reopening-schools-apex-nc/>.

⁷ Press Release, *Remarks by Vice President Pence and Governor DeSantis of Florida in a Press Briefing on COVID-19*, The White House (July 27, 2020), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-governor-desantis-florida-press-briefing-covid-19/>.

⁸ Press Release, *Casey, Peters, Wyden Release New Report Detailing Trump Administration’s Failure to Protect Nursing Home Residents and Workers From COVID-19*, United States Senate Special Committee on Aging (July 1, 2020), <https://www.aging.senate.gov/press-releases/casey-peters-wyden-release-new-report-detailing-trump-administrations-failure-to-protect-nursing-home-residents-and-workers-from-covid-19-> (hereinafter Casey-Peters-Wyden Report).

⁹ The nursing home data are published weekly on Thursdays. Each week’s data is current as of the previous Sunday. For example, on Thursday, August 20, 2020, CMS published nursing home data as of Sunday, August 9, 2020. *Centers for Medicare & Medicaid Services, COVID-19 Nursing Home Dataset*, accessed August 25, 2020, <https://data.cms.gov/Special-Programs-Initiatives-COVID-19-Nursing-Home/COVID-19-Nursing-Home-Dataset/s2uc-8wxp>.

¹⁰ Centers for Disease Control and Prevention, “COVID-19 Module Overview for Long-term Care Facilities,” posted to YouTube on May 15, 2020, 52:23-53:55, accessed August 26, 2020, <https://www.youtube.com/watch?v=bR3CvqT9cw>.

N95s. More than 10 percent of nursing homes lacked a one-week supply of disposable gowns, while another 9 percent did not have a one week supply of surgical masks or eye protection such as goggles or face shields. Nearly 5 percent had no supply of gowns or surgical masks, and 4 percent had no supply of eye protection.

Table 1 shows the number of nursing homes nationwide that reported experiencing PPE supply problems as of the July 5 and August 9 reporting periods. As noted above, some facilities reported shortages of multiple types of PPE. Additional state-level data collected and analyzed by the committees' Minority staff are attached to this letter.

Table 1: Nursing Homes PPE Shortages by Type and Shortage Severity as of July 5, 2020 and August 9, 2020

Type of PPE	No Current Supply of PPE		No One-Week Supply of PPE	
	July 5, 2020	August 9, 2020	July 5, 2020	August 9, 2020
N95 Respirators	344	1,210	1,865	2,571
Eye Protection (e.g. goggles or face shields)	126	647	873	1,387
Surgical Masks	91	736	808	1,332
Disposable Gowns	160	745	1,532	1,758
Medical Gloves	90	153	615	688
Hand Sanitizer	96	170	655	631

Source: CMS.

The shortages reflected in these data are consistent with testimony that the Senate Finance Committee received from supply chain experts across the health care sector during a hearing on July 30, 2020,¹¹ as well as recent press reports,¹² and a survey of 21,000 nurses from across the nation conducted in July. The survey found “87 percent of nurses who work in hospitals report reusing at least one piece of PPE,” including N95 respirators, single-use face shields, and single-use surgical masks.¹³ Similarly, the CEO of Premier Inc., which operates a group purchasing organization representing more than 4,100 health systems, 200,000 providers, and senior living facilities,¹⁴ said in an interview last week that 50 percent of its members “still have back orders for products, so they don't think that they're out of the woods completely.”¹⁵ And a recent *Health Affairs* article examining nursing home industry shortages soberly

¹¹ Part 2: Protecting the Reliability of the U.S. Medical Supply Chain During the COVID-19 Pandemic, Before the Senate Committee on Finance, 116th Cong. (2020), <https://www.finance.senate.gov/hearings/part-2-protecting-the-reliability-of-the-us-medical-supply-chain-during-the-covid-19-pandemic> (hereinafter, Finance Committee PPE Hearing).

¹² Shira Stein, Margaret Newkirk, David R. Baker, *Nurses' Pleas Spur U.S. Pledge to Tap 44 Million-Mask Stockpile*, Bloomberg (July 31, 2020), <https://www.bloomberg.com/news/articles/2020-07-31/nurses-pleas-spur-u-s-pledge-to-tap-44-million-mask-stockpile>.

¹³ Press Release, *National nurse survey reveals devastating impact of reopening too soon*, National Nurses Union (July 28, 2020), <https://www.nationalnursesunion.org/press/national-nurse-survey-reveals-devastating-impact-reopening-too-soon>.

¹⁴ Premier Inc., *Form 10-K for the Fiscal Year Ended June 30, 2020* (August 25, 2020), at 11, <https://www.sec.gov/ix?doc=/Archives/edgar/data/1577916/000157791620000012/pinc-20200630x10k.htm>.

¹⁵ Caroline Hudson, *Premier CEO Susan DeVore gives insider's take on health-care supply chain and how to solve issues laid bare by Covid-19*, Charlotte Business Journal (August 20, 2020), <https://www.bizjournals.com/charlotte/news/2020/08/20/susan-devore-ceo-premier-talks-fighting-covid19.html>.

concluded that unless supplies and staffing shortages “are prioritized by policymakers, long-term care residents will continue to be at a great disadvantage in the pandemic.”¹⁶

The Trump Administration’s continued failure to provide nursing homes with adequate supplies of PPE is one in a long line of decisions that has put residents and workers in unnecessary danger.¹⁷ The Trump Administration has yet to even fully capture the disease’s impact on seniors, people with disabilities and nursing home workers. This failure is due to long delays standing up data collection,¹⁸ which still does not require nursing homes to report vital demographic information, or COVID-19 cases and deaths that occurred prior to May 1.¹⁹ Additionally, several hundred facilities each week are failing to either report required information at all, or are reporting incomplete data to CMS. As a result, CMS data has likely undercounted by tens of thousands the number of nursing home residents and workers who have been infected by and died from COVID-19. It also is likely undercounting PPE shortages. With CDC warning that the United States may be headed for the “worst Fall from a public health perspective, we’ve ever had,” it is far past time for the Trump Administration to robustly respond to the supply shortages facing nursing homes.

In light of the data provided to CMS by nursing homes showing that PPE supply is a persistent and growing problem, please answer the following questions no later than September 9, 2020:

1. A recent *Health Affairs* article that analyzed CMS’s PPE supply data found that “for-profit nursing homes reported substantially higher rates of PPE shortages than other facilities.”²⁰ What is CMS doing to ensure that for-profit homes are maintaining adequate PPE supplies at their facilities?
2. Given CDC’s expectation that COVID-19 transmission will worsen in the Fall, what steps does the Trump Administration plan to take to bridge supply shortages at nursing homes and in other congregate settings? Does the Trump Administration plan to distribute supplies in the coming weeks to help facilities build stockpiles? In particular, please provide information regarding how the Trump Administration determined which nursing homes will receive the announced delivery of N95 masks.²¹

¹⁶ Brian E. McGarry, David C. Grabowski, and Michael L. Barnett, *Severe Staffing And Personal Protective Equipment Shortages Faced By Nursing Homes During The COVID-19 Pandemic*, Health Affairs (August 20, 2020), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.01269> (hereinafter, “Shortages Faced By Nursing Homes”).

¹⁷ *Supra*, note 8, Casey-Peters-Wyden Report.

¹⁸ *Id.*

¹⁹ Cheryl Clark, *Nursing Homes Shocked at ‘Insanely Wrong’ CMS Data on COVID-19*, MedPage Today (June 9, 2020), <https://www.medpagetoday.com/infectiousdisease/covid19/86967>; Ricardo Alonso-Zaldivar, “COVID-19 Data on Medicare’s Nursing Home Site is Incomplete”, Associated Press (July 7, 2020), <https://apnews.com/bf60b7ab0acbb2f33cb0cfeed795da14>; Press Release, Warren, Murray, Casey, and Wyden Urge CDC and CMS to Collect All Necessary Demographic Data from Nursing Homes on COVID-19 Outbreaks, Office of U.S. Senator Elizabeth Warren (July 17, 2020), <https://www.warren.senate.gov/newsroom/press-releases/warren-murray-casey-and-wyden-urge-cdc-and-cms-to-collect-all-necessary-demographic-data-from-nursing-homes-on-covid-19-outbreaks>.

²⁰ *Supra*, note 16, Shortages Faced By Nursing Homes.

²¹ Alex Spanko, *Federal Government to Release Millions of N95 Masks to Nursing Homes — But at a Price*, Skilled Nursing News (August 19, 2020), <https://skillednursingnews.com/2020/08/federal-government-to-release-millions-of-n95-masks-to-nursing-homes-but-at-a-price/>.

3. The Finance Committee recently received testimony from Rob Wiehe, the Chief Supply Chain and Logistics Officer at UC Health in Cincinnati, who recommended that health systems and hospitals should be required to carry at least 30 days of critical PPE.²² Does the Administration plan to issue any guidance for nursing homes regarding the amount of PPE they should have on hand during the COVID-19 pandemic or other public health emergencies?
4. Since the beginning of the COVID-19 pandemic, “burn rates” of PPE, i.e., the amount a facility uses, have dramatically increased, in some cases by a factor of 10 or more.²³ As such, what once may have been an adequate one-week supply of PPE may not be enough even for one day for a facility battling the virus. CMS and CDC do not appear to have defined how much a “one-week supply” of PPE is in its nursing home data collection requirements. Will the Administration issue guidance to nursing homes to somehow quantify, or otherwise make clearer, what a “one-week supply” of PPE actually means?
5. Long-term care facilities that house Black and Latino residents are more likely to have been hit by COVID-19 than ones that house White residents.²⁴ Has the Administration used demographic data to determine if PPE shortages are disproportionately impacting nursing homes serving these or other minority communities?

Thank you for your attention to this matter. If you or your staff have questions concerning this request and analysis of CMS nursing home data, please contact Sen. Wyden’s staff at (202) 224-4515 and Sen. Casey’s staff at (202) 224-0185.

Sincerely,



Ron Wyden
Ranking Member
Committee on Finance



Robert Casey
Ranking Member
Committee on Aging

Cc: The Honorable Seema Verma, Administrator, Centers for Medicare & Medicaid Services
The Honorable Robert Redfield, Director, Centers for Disease Control and Prevention

Attachments

²² *Supra*, note 11, Finance Committee PPE Hearing (testimony of Rob Wiehe).

²³ *Id.*, (testimony of Cathy Denning).

²⁴ David R. Buys, PhD (@DrBuys) “COVID-19 racial disparities updates for August 11, 2020, based on publicly available data from @msdh with figures from @Atehortuanel and trends from @queerfemprof,” Twitter, August 11, 2020, <https://twitter.com/DrBuys/status/1293342883102314499>.

Table 2: Nursing Homes Reporting No Current Supply or No One-Week Supply of One or More PPE Type as of July 5, 2020 and August 9, 2020

State	Number of Nursing Homes Reporting to CMS	Number of Nursing Homes Reporting No Current Supplies of PPE		Percent of State's Nursing Homes Reporting No Current Supplies of PPE		Number of Nursing Homes Reporting No One-Week Supply of PPE		Percent of State's Nursing Homes Reporting No One-Week Supply of PPE	
		July 5, 2020	August 9, 2020	July 5, 2020	August 9, 2020	July 5, 2020	August 9, 2020	July 5, 2020	August 9, 2020
Alabama*	228	5	21	2%	9%	68	65	30%	29%
Alaska	20	2	2	10%	10%	2	2	10%	10%
Arizona*	145	2	9	1%	6%	26	28	18%	19%
Arkansas*	224	13	9	6%	4%	34	22	15%	10%
California*	1190	6	7	1%	1%	194	144	16%	12%
Colorado	225	7	21	3%	9%	44	59	20%	26%
Connecticut	212	3	21	1%	10%	41	43	19%	20%
Delaware	47	0	10	0%	21%	7	14	15%	30%
District of Columbia	19	1	3	5%	16%	4	3	21%	16%
Florida*	701	9	34	1%	5%	104	124	15%	18%
Georgia*	358	5	14	1%	4%	50	57	14%	16%
Guam	1	0	0	0%	0%	0	0	0%	0%
Hawaii	43	0	7	0%	16%	7	8	16%	19%
Idaho*	82	3	7	4%	9%	20	19	24%	23%
Illinois	714	18	38	3%	5%	87	117	12%	16%
Indiana	534	8	17	1%	3%	67	76	13%	14%
Iowa	433	50	32	12%	7%	142	124	33%	29%
Kansas	329	14	27	4%	8%	75	95	23%	29%
Kentucky	284	8	30	3%	11%	42	48	15%	17%
Louisiana*	277	6	26	2%	9%	26	49	9%	18%
Maine	93	4	20	4%	22%	48	53	52%	57%

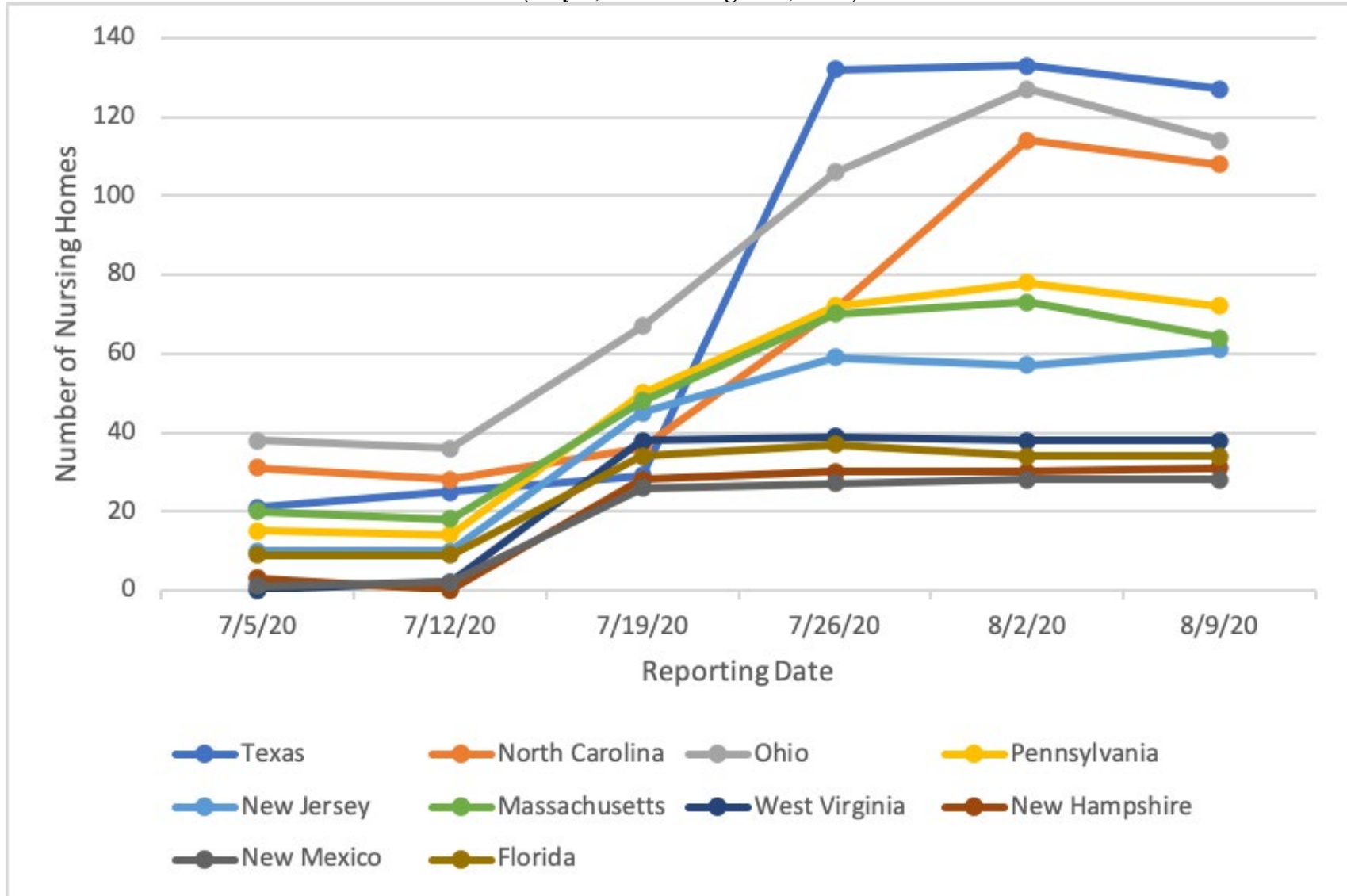
Maryland	226	15	30	7%	13%	56	68	25%	30%
Massachusetts	375	20	64	5%	17%	66	76	18%	20%
Michigan	439	23	46	5%	10%	97	111	22%	25%
Minnesota	367	19	32	5%	9%	76	87	21%	24%
Mississippi*	204	4	7	2%	3%	32	46	16%	23%
Missouri	521	13	16	2%	3%	78	71	15%	14%
Montana	70	4	2	6%	3%	19	15	27%	21%
Nebraska	196	3	11	2%	6%	43	49	22%	25%
Nevada*	66	1	1	2%	2%	7	11	11%	17%
New Hampshire	74	3	31	4%	42%	33	37	45%	50%
New Jersey	363	10	61	3%	17%	56	83	15%	23%
New Mexico	70	1	28	1%	40%	27	33	39%	47%
New York	617	27	30	4%	5%	81	67	13%	11%
North Carolina*	427	31	108	7%	25%	107	156	25%	37%
North Dakota	80	2	10	3%	13%	9	17	11%	21%
Ohio	956	38	114	4%	12%	186	250	19%	26%
Oklahoma	298	19	19	6%	6%	50	62	17%	21%
Oregon	129	3	3	2%	2%	16	20	12%	16%
Pennsylvania	689	15	72	2%	10%	98	151	14%	22%
Puerto Rico	6	0	0	0%	0%	2	2	33%	33%
Rhode Island	80	0	11	0%	14%	10	16	13%	20%
South Carolina*	189	13	16	7%	8%	38	41	20%	22%
South Dakota	104	5	7	5%	7%	18	19	17%	18%
Tennessee*	316	11	21	3%	7%	72	89	23%	28%
Texas*	1217	21	127	2%	10%	93	211	8%	17%
Utah*	97	1	2	1%	2%	9	6	9%	6%
Vermont	35	0	9	0%	26%	7	10	20%	29%

Virginia	286	6	21	2%	7%	42	57	15%	20%
Washington	203	0	10	0%	5%	47	57	23%	28%
West Virginia	122	0	38	0%	31%	44	47	36%	39%
Wisconsin	353	13	31	4%	9%	85	94	24%	27%
Wyoming	36	1	2	3%	6%	6	7	17%	19%
Total, U.S.	15,370	486	1,335	3%	9%	2,698	3,216	18%	21%

Source: CMS

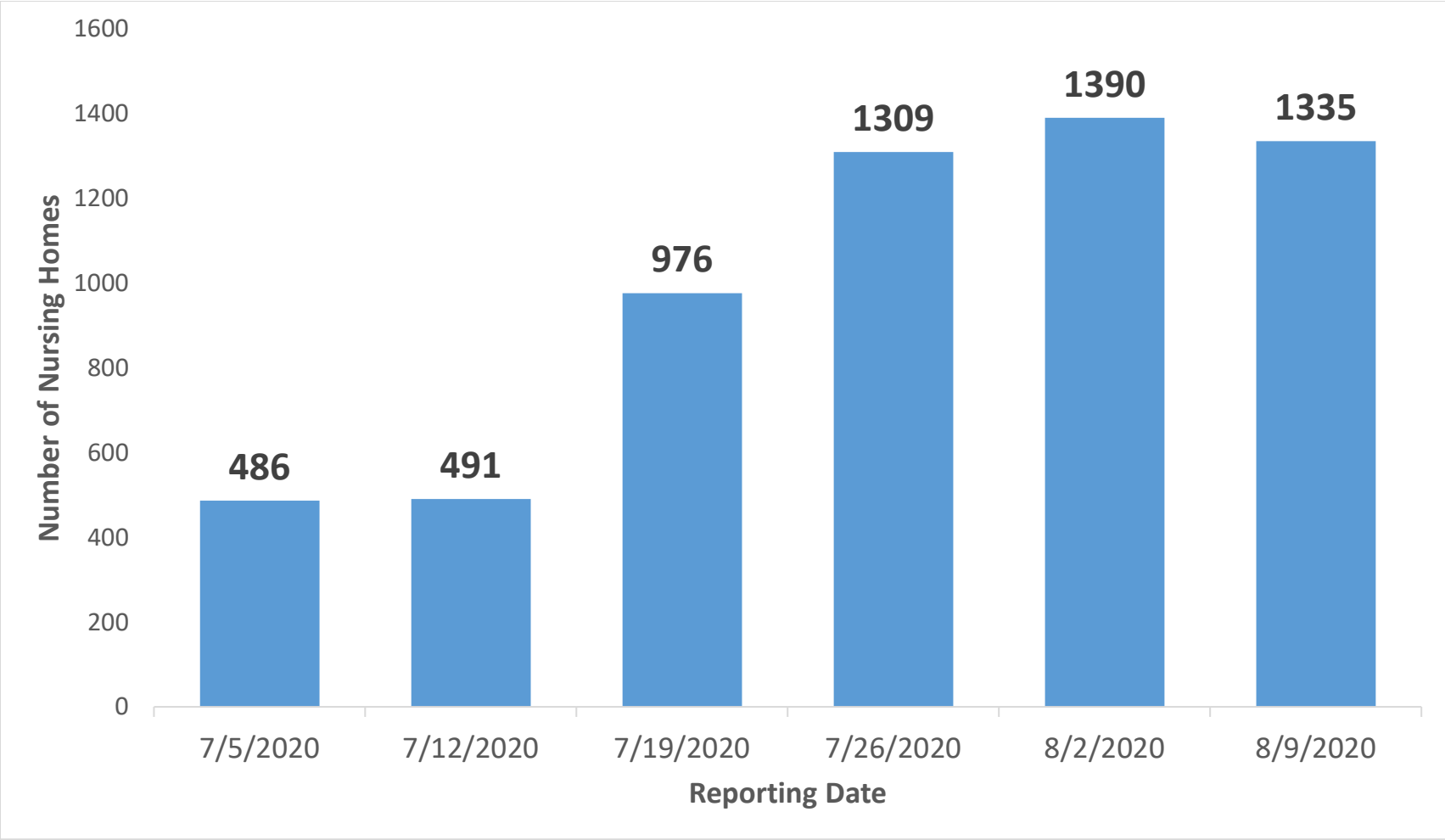
* -- States identified as COVID-19 hotspots by CDC epidemiological data as of July 5, 2020 (<https://www.cms.gov/files/document/covid-faqs-snf-testing.pdf>).

Figure A-1: States with the Largest Increase of Nursing Homes Reporting No Current Supply of One or More Types of PPE (July 5, 2020 to August 9, 2020)



Source: CMS

**Figure A-2. National Count of Nursing Homes Reporting No Current Supply of One or More Types of PPE
(July 5, 2020 to August 9, 2020)**



Source: CMS