

March 8, 2022

The Honorable Charles Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Speaker  
House of Representatives  
Washington, DC 20515

The Honorable Kevin McCarthy  
Minority Leader  
House of Representatives  
Washington, DC 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, Minority Leader McCarthy:

On behalf of the undersigned organizations, who represent hundreds of thousands of physicians and medical students across the country, we are writing to share our recommendations for legislation expanding telehealth flexibilities beyond the declared public health emergency (PHE) for the COVID-19 pandemic. We are grateful that the Centers for Medicare and Medicaid Services (CMS) and Congress have enacted reforms to expand the use of telehealth during the public health emergency, but we remain concerned that many of these flexibilities are set to expire at the expiration of the PHE, or soon thereafter. We urge you to extend these flexibilities, some on a permanent basis, and pass reforms, as outlined below, to ensure that our physicians have the tools and resources they need to continue providing increased access to care for their patients through telehealth.

Our organizations support the expanded role of telehealth as a method of health care delivery that may enhance the patient–physician relationship, improve health outcomes, increase access to care from physicians and members of a patient's health care team, and reduce medical costs when used as a component of a patient's longitudinal care. Telehealth can be most efficient and beneficial when appropriately utilized in the context of an existing and ongoing patient-physician relationship and can serve as a reasonable alternative for patients who lack in-person access due to circumstantial factors such as transportation limitations or lack of relevant medical expertise in their geographic area.

Studies have shown the benefits of the use of telehealth, which has risen sharply since the start of the pandemic. According to the Department of Health and Human Services' (HHS) December 2021 [report](#) on telehealth use, the number of Medicare fee-for-service beneficiary telehealth visits increased 63-fold in 2020, from approximately 840,000 in 2019 to nearly 52.7 million in 2020. A recent [study](#) by the Centers for Disease Control and Prevention (CDC) concerning the

use of telehealth in health centers suggested that “telehealth can facilitate access to care, reduce risk for transmission of SARS-CoV-2, conserve scarce medical supplies, and reduce strain on health care capacity and facilities while supporting continuity of care.” An article published by the [Commonwealth Fund](#), notes that “tele- mental health has a robust evidence base and numerous studies have demonstrated its effectiveness across a range of modalities (e.g. telephone, videoconference) and mental health concerns (depression, substance use disorders).”

### **Extend the Expansion of Telehealth Services Under the 1135 Waiver Authority**

Our organizations are concerned that some of the telehealth services expanded by CMS under the 1135 waiver authority are set to expire at the end of the PHE. These telehealth services, which are discussed later in this letter, allowed Medicare to pay for office, hospital, and other visits furnished via telehealth at a patient’s homes and have expanded access to health care for beneficiaries across the country. They are used by our members to provide evaluation and management (E/M) services to treat chronic conditions and have been a valuable resource to expand access and coordinate patient care. For these reasons, **we believe telehealth services should remain in place for at least two years after the end of the PHE to ensure that our physicians are able to continue to use this modality to enhance patient care.**

We are pleased that Senators Cortez Masto and Young have introduced bipartisan legislation, **S. 3593, the Telehealth Extension and Evaluation Act**, that would extend the telehealth expansions under the 1135 waiver for an additional two years after the end of the PHE. We also appreciate that Representatives Doggett and Nunes have introduced **H.R. 6202, the Telehealth Extension Act of 2021**, that includes a provision to expand 1135 waivers for telehealth services, including Medicare coverage of audio-only telehealth services between physicians and patients, for an additional two years after the PHE declaration expires.

### **Expansion of Telehealth Services Under the Medicare Physician Fee Schedule**

Our organizations are also pleased that the 2022 Medicare Physician Fee Schedule Final Rule provided coverage through the end of 2023 for all services on the temporary Category 3 list of Medicare-covered services.

While our organizations support these extensions, we strongly recommend that Congress enact legislation to ensure the Category 3 list itself is made permanent to provide for a more consistent and efficient on-ramp for new telehealth services to be added. Our organizations strongly encourage CMS to add coverage for audio-only E/M telehealth services to the Category 3 list and retain these services until at least the end of CY23.

## **Comparable Pay for Audio-Only Telehealth Services**

During the PHE, Medicare has covered some audio-only services for tele-mental health as well as E/M services and will reimburse for both types of telehealth services, including when the services are delivered via audio-only technology, as if they were provided in-person. Primary care services delivered via telephone have become essential to a sizable portion of Medicare beneficiaries who lack access to the technology necessary to conduct video visits. These services are instrumental to patients who do not have the requisite broadband and cellular phone networks, or do not feel comfortable using video visit technology. In addition, these changes have greatly aided physicians who have had to make up for lost revenue while still providing appropriate care to patients.

We are discouraged to learn that CMS will not continue coverage of audio-only telehealth E/M services beyond the PHE, despite [mounting evidence](#) about the effectiveness of expanding coverage for these services. The abrupt ending of coverage could potentially have negative consequences to access and equitable care, which would particularly impact beneficiaries living in rural areas in addition to those who have transportation and technology limitations.

**We urge Congress to enact legislation to ensure that payment for audio-only telehealth evaluation and management services will continue for two years after the end of the PHE, along with an option for CMS or Congress to extend it even further, or consider making it permanent, based on the experience and learnings of patients and physicians who utilize these visits.**

## **Geographic Site Restriction Waivers**

Our organizations are strongly supportive of CMS' decision to lift geographic site restrictions to allow for reimbursement of telehealth services to those that originate outside of metropolitan statistical areas or for patients who live in or receive service in health professional shortage areas. While limited access to care is prevalent in rural communities, it is not an issue specific to rural communities alone. Underserved patients in urban areas have the same risks as rural patients if they lack access to in-person primary or specialty care due to various social drivers of health such as lack of transportation or paid sick leave and insufficient work schedule flexibility to seek in-person care during the day, among many others.

We are pleased that in the 2022 Medicare Physician Fee Schedule Final Rule CMS broadened the scope of services for which the geographic restrictions do not apply and for which the patient's home is a permissible geographic originating site to include telehealth services furnished for the purpose of diagnosis, evaluation, or treatment of a mental health disorder, effective for services furnished on or after the end of the PHE. **We support any efforts to expand access to mental and behavioral health services, including allowing beneficiaries to access services from home, or if the technology is not available at home, from a rural health clinic or hospital.**

We appreciate that the Telehealth Extension Act, H.R. 6202, would **permanently lift geographic and site-based restrictions** for additional telehealth services covered under Medicare regardless of a beneficiary's zip code. Due to these flexibilities, beneficiaries would continue to have access to these services in the comfort and convenience of their own home or at designated health facilities offering telehealth. **We urge adoption of this provision that will increase access to telehealth services beyond mental and behavioral health services in any legislation that Congress chooses to advance on telehealth.**

### **Telehealth Cost-Sharing Waivers**

**At the conclusion of the COVID-19 PHE, we recommend that Congress urge, or if necessary, require, CMS to continue to provide flexibility in the Medicare and Medicaid programs for physician practices to reduce or waive cost-sharing requirements for telehealth services, while also making up the difference between these waived copays and the Medicare allowed amount of the service.** This action in concert with others has the potential to be transformative for practices while allowing them to innovate and continue to meet the needs of patients where they reside.

### **Improve Health Equity in Telehealth**

We remain concerned about the increasing inequities associated with telehealth, as there are disparities in access to this technology. A February 2022 HHS publication reported that telehealth utilization during the period of April to October 2021 varied by race, region, education, income, and insurance. For those in rural and underserved communities, the nearest clinic may be hours away. Unfortunately, rural communities also suffer from more limited access to broadband internet, which restricted the ability of many in rural communities to access telemedicine pre-pandemic. Additionally, [research](#) shows that Black and Hispanic Americans own laptops at lower rates than white Americans, further dividing pre-pandemic access to telemedicine. Equitable access to broadband internet is critical to the promotion of health equity and quality of care outcomes through telehealth. We are pleased with the

additional 65 million in broadband funding that was established through H.R. 3684, The Infrastructure Investment and Jobs Act. **We encourage Congress to continue to expand support for further broadband deployment to reduce geographic and sociodemographic disparities and access to care.**

## **Conclusion**

We urge Congress to act on these bipartisan recommendations to advance access to telehealth and reduce inequities in its adoption. We look forward to working with you to advance these objectives as Congress considers legislation to improve the use of telehealth in the weeks and months ahead. Should you have any questions regarding this letter, please do not hesitate to contact Brian Buckley, Senior Associate for Legislative Affairs at [bbuckley@acponline.org](mailto:bbuckley@acponline.org).

Sincerely,

American Academy of Allergy, Asthma & Immunology

American Academy of Neurology

American Association of Clinical Endocrinology

American College of Allergy, Asthma, and Immunology

American College of Cardiology

American College of Chest Physicians

American College of Gastroenterology

American College of Physicians

American College of Rheumatology

American Gastroenterological Association

American Geriatrics Society

American Medical Society for Sports Medicine

American Society for Gastrointestinal Endoscopy

American Society for Transplantation and Cellular Therapy

American Society of Hematology

American Society of Nephrology

American Thoracic Society

Association for Clinical Oncology

Infectious Diseases Society of America

Renal Physicians Association

Society for Post-Acute and Long-Term Care Medicine

Society of Critical Care Medicine

Society of General Internal Medicine

Society of Hospital Medicine

The Endocrine Society

The Gerontological Society of America