

June XX, 2020

The Hon. Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Hon. Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, DC 20515

The Hon. Charles Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

The Hon. Kevin McCarthy  
Minority Leader  
United States House of Representatives  
Washington, DC 20515

Dear Congressional Leaders,

Thank you for acting to expand access to telehealth services during the COVID-19 public health emergency (PHE) by providing the Department of Health and Human Services (HHS) and the Centers for Medicare & Medicaid Services (CMS) the authority to waive longstanding restrictions on Medicare telehealth services and ensuring that additional types of health care providers can furnish telehealth services during the pandemic.

Providers across the country have utilized these flexibilities to scale delivery and provide older Americans, many for the first time, access to high quality virtual care, resulting in 11.3 million beneficiaries accessing telehealth services in mid-April alone.<sup>1</sup> Medicare Advantage plans have driven a similar expansion with 91 percent of seniors reporting a favorable telehealth experience and 78 percent likely to use telehealth again in the future, figures that closely track with similar patient satisfaction data from health systems nationwide.<sup>2</sup> Additional flexibility has also allowed Federally Qualified Health Centers (FQHC) to deliver safe and effective care to underserved patient populations that have rated the service they received highly.<sup>3</sup>

Private health plans have also followed suit, and in response, telehealth adoption has soared – resulting in a 4,300 percent year-over-year increase in claims for March 2020.<sup>4</sup> Taken as a whole, these temporary policy changes have allowed 46 percent of Americans to replace a cancelled healthcare visit with a telehealth service during the pandemic. With so many patients accessing care virtually, expectations for the future of our healthcare system have shifted significantly and 76 percent of Americans now report having a strong interest in using telehealth moving forward.<sup>5</sup>

Driven by swift action from Congress and new patient demand, healthcare organizations are dramatically transforming and investing in new technologies to meet the needs of many Americans. Unfortunately, much of this transformation is dependent on temporary flexibilities extended to health systems and providers that are limited to the duration of the COVID-19 public health emergency declaration. Absent additional action from Congress, Medicare beneficiaries will abruptly lose access to nearly all recently expanded coverage of telehealth services when the emergency declaration ends. Virtual care has provided unprecedented access for patients, but it has become clear that uncertainty as to the future of telehealth under Medicare will halt or reverse further adoption and utilization – to the detriment of both patients and providers.

Given the statutory restrictions in Section 1834(m) of the Social Security Act and that the authorities granted to HHS and CMS through recent coronavirus legislation are limited to the COVID-19 public health emergency period, Congress must act to ensure that the Secretary has the appropriate flexibility to assess, transition, and codify any of the recent COVID-19-related telehealth flexibilities and ensure telehealth is regulated the same as in-person services. Congress not only has the opportunity to finally bring the US healthcare system into the

<sup>1</sup> <https://www.healthcarediver.com/news/medicare-seniors-telehealth-covid-coronavirus-cms-trump/578685/>

<sup>2</sup> <https://www.bettermedicarealliance.org/sites/default/files/BMA%20Memo%20CT%20D2%5B3%5D.pdf>

<sup>3</sup> <https://www.himss.org/resources/providing-telehealth-visits-underserved-communities-case-study>

<sup>4</sup> <https://www.fairhealth.org/states-by-the-numbers/telehealth>

<sup>5</sup> <https://www.mckinsey.com/industries/healthcare-systems-and-services/our-insights/telehealth-a-quarter-trillion-dollar-post-covid-19-reality>

21<sup>st</sup> century, but the responsibility to ensure that billions of dollars in COVID-focused investments made during the pandemic are not wasted and instead used to support the transformation of care delivery and ultimately, expand access to high quality virtual care to all Americans.

With these critical issues in mind, we ask that Congress advance permanent telehealth reform focused on the following priorities:

- 1. Remove Obsolete Restrictions on the Location of the Patient:** Congress should permanently remove the current section 1834(m) geographic and originating site restrictions to ensure that all patients can access care at home, and other appropriate locations. The response to COVID-19 has shown the importance of making telehealth services available in rural and urban areas alike. In order to bring clarity and provide certainty to patients and providers, we strongly urge Congress to address these restrictions in statute by striking the section 1834(m) geographic limitation on originating sites and allow beneficiaries across the country to receive virtual care in their homes, or location of their choosing, where clinically appropriate and with beneficiary protections and guardrails in place.
- 2. Maintain and Enhance HHS Authority to Determine Appropriate Providers and Services for Telehealth:** Congress should provide the Secretary with the flexibility to expand the list of eligible practitioners who may furnish clinically appropriate telehealth services. Similarly, HHS and CMS should maintain the authority to add or remove eligible telehealth services – as supported by data and demonstrated to be safe, effective, and clinically appropriate – through a predictable regulatory process that gives patients and providers transparency and clarity.
- 3. Ensure Federally Qualified Health Centers and Rural Health Clinics Can Furnish Telehealth Services after the PHE:** FQHCs and RHCs provide critical services to underserved communities and have expanded telehealth services after restrictions were lifted under the CARES Act. Congress should ensure that FQHCs and RHCs can offer virtual services post-COVID and work with stakeholders to support fair and appropriate reimbursement for these key safety net providers.
- 4. Make Permanent HHS Temporary Waiver Authority During Emergencies:** Congress has given HHS authority under Section 1135 of the Social Security Act to waive restrictions during the COVID-19 pandemic. However, the waiver authority is specific to this particular PHE. Congress should ensure HHS and CMS can act quickly during future pandemics and natural disasters.

We encourage you and your colleagues to consider legislation centered on these priorities before the public health emergency expires, which would end beneficiaries' access to virtual care. These priorities ensure HHS and CMS have the necessary authority to maintain oversight of telehealth services, guaranteeing access to safe, effective, and appropriate care while targeting clearly outdated statutory restrictions that discriminate based on geography and patient location. Swift congressional action will provide a clear signal to patients, who are concerned about the future of their telehealth benefits, as well as providers and health systems, which are hesitant to make investments in critical healthcare infrastructure without certainty from policymakers.

We need your support in ensuring that seniors and providers do not go over the telehealth “cliff” – losing access to these critical services when they are still needed by so many. We look forward to working with you to build on the temporary reforms included in the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 and the Coronavirus Aid, Relief, and Economic Security (CARES) Act to ensure Medicare beneficiaries can continue to access care when and where they need it.

Sincerely,