

March 25, 2020

The Honorable Alex Azar II
Secretary
U.S. Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
US Department of Health & Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Re: Telehealth

Dear Secretary Azar and Administrator Verma:

The undersigned organizations write to request the Department of Health & Human Services (HHS) adjust certain telehealth policies to provide additional flexibility during the COVID-19 pandemic. We appreciate the current flexibilities as well as the additional waiver guidance and toolkits. This has enabled our providers to move to virtual platforms, continuing care for vulnerable populations while protecting them from unwarranted exposure. As our members have shifted to telehealth, they have identified additional barriers to providing telehealth. We appreciate your consideration of the changes below that we believe will better enable telehealth services during this public health emergency.

Allow for audio only communication. Under Section 1833(m) of the Social Security Act, CMS has the authority to pay for telehealth services furnished through a telecommunication system. However, Medicare regulation (42 CFR § 410.78(a)(3)) currently defines telecommunication system as audio and video equipment that allows for two-way, real-time interactive communication between the patient and provider. **We recommend that CMS modify this regulation to allow for audio-only communication during the public health emergency.** Many Medicare beneficiaries may lack access to smart phones or reliable Internet to allow for video capability. Additionally, many areas have also experienced slower Internet speeds due to increased home Internet use.

To ensure providers are able to maximize the use of new telehealth flexibilities and provide care to seniors in the safety of their own homes, CMS should allow for use of audio-only communication as part of the telehealth benefit. At a minimum, CMS should practice enforcement discretion and not audit whether audio and visual technology was used for claims submitted during this public health emergency. CMS is currently applying a similar approach to the existing relationship policy required under the Coronavirus Preparedness and Response Supplemental Appropriations Act.

Adjust payments for telehealth services. In announcing the new telehealth waiver, CMS has indicated that telehealth services are paid at the same amount as in-person services under the Physician Fee Schedule. However, many physicians who typically perform these services in office may see lower payments since the facility rate (which is used pay for telehealth services) is typically lower than the non-facility rate. **We recommend that CMS modify the payment for telehealth services during the**

emergency to match the in-office rate. Community physicians are shifting in-office services to telehealth to help protect their patients and stop the spread of COVID-19 and, in doing so, will experience a negative financial impact. CMS should alter the place of service code for telehealth from a facility-designated to a non-facility designated place of service.

Allow additional clinicians to bill for telehealth. As clinicians rapidly respond to the novel coronavirus threat, clinicians will be required to work beyond their typical scope of practice. Many states are exploring how to relax scope of practice requirements. Accordingly, we ask that you expand the ability to bill for telehealth to additional non-physician clinicians, registered nurses and respiratory therapists. We believe this will be critical as physician, nurse practitioner and physician assistants will be devoted to addressing beneficiaries with highest risk, necessitating a need for other non-physicians to have an expanded scope of practice.

If you have any questions, please contact Valinda Rutledge, Senior Vice President of Federal Affairs at APG at vrutledge@apg.org or Aisha Pittman, MPH, Vice President of Policy at Premier Inc. at Aisha_Pittman@PremierInc.com.

Sincerely,

America's Physician Groups
Premier Inc.