



December 22, 2020

Secretary Alex Azar  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

RE: TELHEALTH INDUSTRY RECOMMENDATIONS FOR HHS RFI - REGULATORY RELIEF TO SUPPORT ECONOMIC RECOVERY

Secretary Azar,

The American Telemedicine Association (ATA) applauds the United States Department of Health and Human Services (HHS) for taking significant action over the past few months to expand access to telehealth for Medicare beneficiaries and provide additional regulatory flexibility to address barriers that would have prevented health care providers from rapidly scaling to deliver care remotely to patients in need during these unprecedented times. On behalf of the American Telemedicine Association, and the over 400 organizations we represent, I am writing to share with you the ATA's core policy principles and to offer our organization as a resource as you begin to consider permanent telehealth regulatory changes. The ATA, the only organization exclusively committed to the advancement of telehealth, is excited to work with you to ensure the American people have access to quality care when and where they need it.

As you begin to prioritize telehealth actions that are within your current authority, we urge you to consider the [ATA's Permanent Policy Recommendations](#) to inform your regulatory decisions. This resource offers a detailed overview of flexibilities granted during the COVID-19 PHE, how the changes can be made permanent, and the ATA's recommendations on what should be prioritized to ensure telehealth access post-pandemic.

The ATA commends CMS's creation of Category 3 through the CY2021 Physician Fee Schedule and the ATA supports the inclusion of domiciliary, rest home, or custodial care services for established patients (99336, 99337), home visits for established patients (99349, 99350), emergency department visits (99281-99283), nursing facilities discharge day management (99315, 99316), and psychological and neuropsychological testing (96130-96133) on that list.

The ATA recommends that HHS use current regulatory authority to ensure Category 3 codes remain in place until the end of the calendar year following the year in which the PHE ends. Further, the ATA recommends adding the following codes to the list to give added certainty to patients and providers:



- Higher level emergency department visits (99284-99285)
- Hospital, Intensive Care Unit, Emergency care, Observation stays (99217, 99224-99226, 99484-99485, 99468-99472, 99475-99476, and 99477- 99480)
- Radiation treatment management services (77427)
- End-stage renal disease (ESRD) services (99052-99053, 90959, 90962)
- Psychological and Neuropsychological Testing (96136-96139)
- Physical and occupational therapy services (92521-92524, 97161-97168, 97110, 97112, 97116, 97535, 97750, 97755, 97760, 97761)
- Initial and final observation and discharge day management visits (99234-99236, 99238, 99239)
- Inpatient neonatal and pediatric critical care (99468, 99469, 99471-99473, 99475)
- Initial and continuing intensive care services (99477-99480)
- Critical care services (99291, 99292)
- Therapeutic activities to improve functional performance (97530)
- Orthotic and Prosthetic Management (97763)

Additionally, through current authority HHS and CMS should:

- Ensure telehealth services are reimbursed fairly;
- Reimburse for audio-only services when clinically appropriate;
- Ensure that the provider enrollment process is not overly burdensome and that practitioners do not have to enroll their home address as their practice location;
- Allow teaching physician supervision remotely when clinically appropriate;
- Review supervision requirements and only maintain those that are clinically appropriate and remove unnecessary supervision requirements in order to fully utilize care teams;
- Allow asynchronous care for new patients;
- Enable providers to bill RPM codes if clinical protocols dictate the need for multiple devices to manage their conditions from home;



- Allow RPM services to be delivered to patients with an established relationship, whether established in-person or virtually;
- Consider clinical scenarios for RPM services for which fewer than 16 days of data is appropriate;
- For RPM services, make permanent the beneficiary consent for auxiliary staff flexibility permanent.

Many of the major policies that will enable access to telehealth following the PHE will require specific actions by Congress. For this reason, we strongly encourage you to work with Congress to enact permanent reforms and/or extend the PHE flexibilities until the end of 2021 or for an additional year after the PHE. Once the COVID-19 PHE ultimately ends, millions of Americans will lose access to telehealth unless Congress and HHS take specific actions. To ensure patients do not lose their ability to choose the modality of care that works best for them, the ATA supports congressional actions that would expand the use of telehealth in Medicare beyond the current national crisis by:

- Permanently removing geographic restrictions;
- Allowing the location of the patient, including the patient's home, to be an originating site;
- Enhancing HHS's authority to determine appropriate telehealth services and providers;
- Ensuring Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) can furnish telehealth and be fairly reimbursed;
- Making permanent HHS's temporary waiver authority for future emergencies.

As you engage Congress, we also refer you to ATA's [Federal Telehealth Legislative Tracker](#), which outlines the specific bills the ATA supports to achieve the goals of increased access.

As you look to support more long-term telehealth regulations and policies in the months and years to come, I ask that you consider the ATA as a trusted resource and you allow your policy process to be informed by the following commonsense policy principles:

1. Ensure Patient Choice, Access, and Satisfaction
2. Enhance Provider Autonomy
3. Expand Reimbursement to Incentivize 21st Century Virtual Care
4. Enable Healthcare Delivery Across State Lines
5. Ensure Access to Non-Physician Providers



6. Expand Access for Underserved and At-risk Populations
7. Support Seniors and Expand "Aging in Place"
8. Protect Patient Privacy and Mitigate Cybersecurity Risks
9. Ensure Program Integrity

Again, we urge HHS to make the telehealth regulatory flexibilities during the PHE permanent and work with Congress to advance legislation that expands access to telehealth. Thank you for giving the telehealth community the opportunity to provide recommendations and comments to this request for information. The ATA stands ready to work with you and your team to advance telehealth access in the days to come. If you have any questions or would like to further discuss our recommendations, please contact the ATA Director of Public Policy Kyle Zebley at [kzebley@americantelemed.org](mailto:kzebley@americantelemed.org). We look forward to working closely with you and your team.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley".

Kyle Zebley  
Public Policy Director  
American Telemedicine Association

