



Health. Virtually. Everywhere.

October 18, 2021

Secretary Xavier Becerra
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C., 20201

RE: Urging the Administration to Provide Certainty for Telehealth Access

Dear Secretary Becerra,

On behalf of the American Telemedicine Association (ATA), the only national organization completely focused on advancing telehealth, thank you for your leadership in ensuring access to telehealth during the COVID-19 public health emergency (PHE). The flexibilities implemented by the Department of Health and Human Services (HHS) have allowed clinicians across the country to scale delivery and provide all Americans—many for the first time—access to high-quality virtual care. In response, health care organizations have dramatically transformed and made significant investments in new technologies and care delivery models, not only to meet COVID-driven patient demand, but also to prepare for America’s future health care needs. The sustained flexibilities under your leadership have helped usher a true health system transformation, expanding access to millions of Americans during a time of great need.

Unfortunately, this progress is in jeopardy. While Congress acted quickly in 2020 to give HHS the necessary statutory flexibilities to expand access to telehealth, many of these flexibilities are limited to the duration of the COVID-19 PHE. Without action from Congress, Medicare beneficiaries will abruptly lose access to nearly all recently expanded coverage of telehealth when the COVID-19 PHE ends. This would have a devastating effect on access to care across the entire U.S. health care system. As such, the ATA is working diligently with Congress to guarantee you and your team have the appropriate and necessary authorities to ensure patient care is not disrupted when the PHE ends.

The ATA is committed to ensuring patients have the choice to supplement their care with quality telehealth services. We recognize Congress has not acted to date and extending the PHE, while appropriate, would have the added benefit of allowing Congress ample time to enact permanent, well-structure telehealth policy without creating a temporary and frustrating gap in access for Medicare beneficiaries. As such, access to care will continue to depend entirely on the existence of the HHS-declared PHE. In January 2021, under President Biden’s leadership, Acting Secretary Norris Cochran wrote to governors across the nation promising predictability and stability, indicating the PHE declaration would likely remain in effect through the duration of 2021. While this was a simple action, it proved to be hugely beneficial to state and local leaders, federal policymakers, providers, and patients who all relied on a sense of certainty that flexibilities—including those for telehealth—would not be taken away without warning.



Health. Virtually. Everywhere.

A lot has changed since January 2021. The emergence of Delta and other variants of concern have exacerbated the effects of the pandemic, further outlining the need for continued federal response and care flexibilities. Patients and providers alike know the “telehealth cliff” is coming with the end of the PHE should Congress fail to act in time. However, a significant amount of uncertainty surrounds the question of when the PHE will actually expire. We recognize there remain many unknowns related to the trajectory of the COVID-19 pandemic over the next 12 to 24 months. However, we implore you to provide as much predictability and certainty as you can to ensure adequate warning before patients are pushed over this looming cliff.

Specifically, the ATA supports any effort by the Department to indicate the expected duration of the COVID-19 PHE. Further, we support your signifying that the duration would be at least through the end of calendar year 2022, similar to how Acting Secretary Cochran offered assurances for 2021. This type of certainty takes into account the many federal flexibilities and resources that are tied to the PHE declaration while also recognizing the current state of the pandemic and the urgent need to continue to respond to COVID-19.

The ATA recently applauded the Centers for Medicare and Medicaid Services (CMS) for their recent proposal in the annual Physician Fee Schedule to ensure Category 3 telehealth services—those services added temporarily during the duration of the PHE—will continue to be eligible for coverage and reimbursement through the end of 2023, regardless of the PHE declaration. This sensible action will help ensure patients have a glidepath to post-pandemic care and helps address the looming telehealth cliff. By giving providers and patients the certainty that these services will remain available through 2023, CMS is using sound judgement to offer predictability to millions of Americans who are concerned about care options. While this action is an important step in the right direction, the availability of Category 3 services will not benefit as many patients as it could if the PHE declaration ends prematurely. We believe this CMS action sets an HHS precedent for recognizing the need for temporary flexibilities to remain through 2023 and that you should apply the same logic to the PHE by offering assurances that the declaration will likely continue through at least 2022.

Thank you for your continued leadership at HHS during these unprecedented times and for your dedication to supporting telehealth services through public payers like Medicare. As the nation grapples with the uncertainty of the continued COVID-19 crisis, we request that you offer some sense of predictability so that patients can be assured their access to lifesaving, quality health care services will not go away in the imminent future. If you have any questions, please contact Kyle Zebley, Vice President, Public Policy at kzebley@americantelemed.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Ann Mond Johnson", with a long, sweeping horizontal stroke extending to the right.

Ann Mond Johnson
Chief Executive Officer
American Telemedicine Association