



January 27, 2022

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9911-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

**RE: Comments on the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2023 Proposed Rule (CMS-9911-P)**

*Submitted electronically on regulations.gov*

Dear Administrator Brooks-LaSure:

As the Biden Administration continues its work to improve our health care system, we ask that you please consider and accept our written comments in response to the proposed rule “Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2023.” ATA Action, the American Telemedicine Association’s affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish. We are committed to helping to ensure that telehealth policy reflects our shared priority of increasing access to care. We look forward to continuing to work with you to ensure that our nation’s telehealth policies are safe, equitable, and adequate to meet the growing needs of health care in the 21st century.

As you know, before the COVID-19 pandemic, telehealth was a key tool in overcoming access challenges and extending access to care. During the pandemic, HHS’ flexibility and innovation proved critical to ensuring that providers were able to still deliver high-quality care to patients under unprecedented circumstances. Now, health plans are leading the way to permanently integrate telehealth into benefit design. To facilitate this integration and enhance provider networks, we ask that HHS consider and enact policies that encourage the use of telehealth providers to create better access to high-quality care.

Specifically, we appreciate HHS’ solicitation of comments on the idea of aligning the Federally Facilitated Exchange (FFE) network adequacy standards with Medicare Advantage’s (MA) approach to including telehealth in network adequacy requirements. While we support the spirit of the MA network adequacy requirements, which are intended to expand access to care and to improve MA plan availability, details still need to be worked out to ensure that the requirements are successful in achieving those goals.

**ATA ACTION**

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For example, the existing MA requirements focus on benefit design — whether or not a plan contracts with a telehealth provider. Network adequacy could be taken a step further to ensure that providers are available to patients via telehealth in specialties such as internal medicine, dermatology, and behavioral health through nationwide networks. The ATA recommends that HHS incentivize Qualified Health Plans (QHPs) to guarantee access to providers that offer their services via telehealth.

In drafting and implementing future network adequacy requirements, HHS should find ways to increase the availability of telehealth-enabled providers, without placing undue burden on QHP issues. That is why we encourage the use of incentives or rewards for demonstrating the value created by offering telehealth providers and services, as opposed to onerous reporting requirements. One way to do this would be to award greater credit to QHP issuers that enhance access to virtual specialists through simple tweaks to benefit design and that rely on the availability of local providers to offer telehealth services. Requirements and rule structures should enhance the availability of telehealth-enabled providers, not disincentivize them through onerous reporting requirements. We need to make telehealth more valuable and attractive, not more burdensome and challenging to implement and maintain.

We at the ATA stand ready to work with you on the details of these comments to the proposed rule and to have any follow-up conversations to discuss further. We look forward to working with you to continue to ensure that our nation's telehealth policy remains valuable, available, and secure for all. If you would like to discuss these issues further, please don't hesitate to reach out to me at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", is written over a light gray circular watermark.

Kyle Zebley  
Executive Director  
ATA Action