



March 7, 2022

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: CY23 Policy and Technical Changes to the Medicare Advantage Program (CMS-4192-P)

Submitted electronically on regulations.gov

Dear Administrator Brooks LaSure:

Thank you for the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) proposed updates to the Medicare Advantage (MA) program for calendar year 2023. As the American Telemedicine Association's affiliated trade association focused on advocacy, ATA Action 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 greatly appreciate CMS' efforts to ensure that our nation's seniors enrolled in both Medicare fee-for-service and Medicare Advantage plans have access to the option of receiving health care services virtually. Recognizing this critical need, Congress passed a provision in the Bipartisan Budget Act of 2018 to allow MA plans to offer "additional telehealth benefits" as a part of the MA benefit regardless of the arbitrary restrictions for those services that exist in Medicare fee-for-service. CMS has implemented this provision starting in plan year 2020. We appreciate CMS' continued attention to outlining the details around when and how telehealth and virtual health care services can be offered, and how telehealth services play into other aspects of the MA program such as network adequacy requirements and the risk adjustment program. Starting plan year 2021, CMS updated network adequacy requirements to allow plans to receive a 10% credit towards the percentage of beneficiaries that must reside within required time and distance standards when plans contract with telehealth providers in certain specialties.

In this proposed rule, CMS specifically recognizes challenges related to the behavioral health care workforce and contemplates ways in which telehealth can be used to help meet this need.

CMS has encouraged plans to “provide more choices for enrollees access to care using telehealth for certain specialties, including psychiatry [...] while maintaining enrollees’ right to access in person care for these specialty types”. ATA Action applauds CMS’ leadership to increase access to virtual care as an option, and to recognize that it can be used to expand access to care, particularly to address our nation’s growing mental health crisis.

Telehealth has become an ever more critical component of the health care system during the COVID-19 pandemic. The Assistant Secretary for Planning and Evaluation (ASPE) reviewed Medicare beneficiaries’ use of telehealth and found that **over one third of Part B visits with a behavioral health specialists in 2020 were via telehealth**.¹ Telehealth increased for all types of care in 2019 and 2020, but this number is fairly staggering, especially given some return to in person care after the initial wave of the pandemic. It is clear that both patients and providers value the option of health care services delivered virtually, especially when it comes to behavioral health care. The Substance Abuse and Mental Health Services Administration (SAMHSA) found similar results in a report reviewing the use of telehealth for the treatment of serious mental illness and substance use disorders published in June 2021.² The report found telehealth could improve provider experience, client experience, and population health, all while decreasing costs.

Thus, ATA Action urges CMS to continue to review ways that plans can be encouraged, through network adequacy requirements and otherwise, to incorporate telehealth services. The Health Resources and Services Administration (HRSA) analyzed the behavioral health workforce in 2017 and projected that – even before the pandemic exacerbated mental health crises and provider shortages – that by 2030, psychiatrists and addiction counselors would experience shortages.³ As specifically contemplated in this proposed rule, telehealth is a readily available tool that can help address this crisis.

This is true for virtual care services delivered both by providers with existing in-person relationships with patients and those building new patient-provider relationships without an in-person component. Licensed health care providers that deliver services solely virtually use their clinical judgment, sometimes augmented with technology tools, to determine when a patient should not appropriately be seen virtually and should be referred to in person care. Many Americans have experienced a new clinician relationship, particularly in behavioral health, during the pandemic that has been virtual only with that provider. This is expanding access to care for those who may never have sought or received it before. We cannot go backward and remove that option, nor can we expect brick-and-mortar practices alone to absorb all of the need in the community.

¹ <https://aspe.hhs.gov/sites/default/files/documents/a1d5d810fe3433e18b192be42dbf2351/medicare-telehealth-report.pdf>

² https://store.samhsa.gov/sites/default/files/SAMHSA_Digital_Download/PEP21-06-02-001.pdf

³ <https://bhwh.hrsa.gov/sites/default/files/bureau-health-workforce/data-research/bh-workforce-projections-fact-sheet.pdf>



We look forward to continuing to work with CMS on these important issues. If you have any questions or would like to further discuss the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Sincerely,

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

Kyle Zebley
Executive Director
ATA Action