



November 9, 2022

The Honorable Nellie Pou
Chair, Senate Commerce Committee
New Jersey State Senate
First Floor, State House Annex,
Trenton, NJ 08625

RE: ATA ACTION COMMENTS AND SUGGESTED AMENDMENTS TO S3216

Dear Chair Pou and the New Jersey Senate Commerce Committee,

On behalf of ATA Action, I am writing you to express opposition to S3216 wherein the proposed legislation excludes telehealth services from network adequacy requirements.

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 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.

Telehealth has proven to be a safe and effective tool to deliver care and allows patients to access care when they need it, regardless of their location. Telehealth care can be effectively utilized to meet the standard of care for a wide variety of patient needs, specialist treatment, mental healthcare, and primary care visits. The use of telehealth has grown tremendously in recent years with patients being overwhelmingly happy with their telehealth treatment.¹ States should continue to take actions that promote patient choice and flexibility in their healthcare decisions, including making healthcare as accessible as possible through policies that support telehealth and telemedicine.

ATA Action appreciates the Senate's efforts to ensure that all New Jersey patients have access to an adequate network of healthcare providers. In order to provide the optimum level of flexibility for patients, insurers, and providers, the Senate should avoid adopting statutory language that excludes critical telehealth and telemedicine services from meeting network adequacy requirements.

¹ Telehealth Emerges as Preferred Channel for Routine Care While Increasing Access to Mental Health Treatment, J.D. Power Finds, September 29, 2022, <https://www.jdpower.com/business/press-releases/2022-us-telehealth-satisfaction-study>.



Excluding telehealth from network adequacy requirements contradicts both federal regulations and New Jersey state agency recommendations that have strongly supported the development of telehealth services. At the federal level, the Centers for Medicare and Medicaid Services have taken steps to proactively include telehealth providers in the network adequacy requirements for the Medicare Advantage Program with great success.² CMS provides a ten-percentage point credit toward the number of beneficiaries that must reside within required time and distance standards when organizations provide telehealth services, benefiting both Medicare Advantage providers and beneficiaries.

Additionally, Department of Banking and Insurance Commissioner Marlene Caride strongly encouraged the growth of telehealth services to meet the needs of New Jersey residents at the beginning of the COVID-19 pandemic. As the Commissioner stated in a Department bulletin on March 10, 2020, “the Department is requiring carriers to develop robust telehealth programs with their participating providers where appropriate, particularly for individuals who may have difficulty making an office visit and where a phone call with a medical professional can alleviate the need for a hospital visit.”³ Care providers in New Jersey enthusiastically responded by increasing telehealth services in the state. Department of Health Commissioner Judith Persichilli noted the important growth of these services, “Throughout this pandemic, telemedicine has been a lifeline to vital health care services for many—especially those in underserved communities.”⁴ Governor Murphy agreed, “New Jerseyans have greater access to the health care they need with the proliferation and expansion of these services.”⁵

Telehealth services have become a vital component of meeting the health care needs of New Jerseyans across the state. It would be a mistake for New Jersey to reverse course and discourage the gains made in telehealth services by specifically excluding these services from network adequacy requirements.

As the Committee discusses and considers S3216 we encourage you to strike the language below located on page 3 of the introduced text, lines 35-40:

~~—c. Nothing in P.L. —, c. (C. —) (pending before the Legislature as this bill) shall preclude a health benefits plan from offering services via telehealth or telemedicine, but services offered via telehealth or telemedicine shall not be counted toward compliance with network adequacy requirements of P.L. —, c. (C. —) (pending before the Legislature as this bill).~~

Thank you for your support for telehealth. We encourage you to consider changes to this legislation to address the concerns we raised above. Please let us know if there is anything that

² Centers for Medicare & Medicaid Services, Medicare Advantage and Section 1876 Cost Plan Network Adequacy Guidance, pages 11-12, June 13, 2022, <https://www.cms.gov/files/document/medicare-advantage-and-section-1876-cost-plan-network-adequacy-guidance06132022.pdf>.

³ Dep’t of Banking and Insurance, Bulletin No. 20-03, March 10, 2020.

⁴ Press release, “Governor Murphy Signs Important Telehealth Legislation”, Governor Phil Murphy, December 22, 2021, <https://www.nj.gov/governor/news/news/562021/20211222c.shtml>.

⁵ Id.



we can do to assist you in your efforts to adopt practical telehealth policy in New Jersey. If you have any questions or would like to engage in additional discussion regarding the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Sincerely,

Kind regards,

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

Kyle Zebley
Executive Director
ATA Action