October 3, 2023

The Honorable Jason Smith
Chairman of the Committee on Ways and Means
1139 Longworth House Office Building
Washington, DC 20515

Re: ATA Action Comments on the Committee on Ways and Means Request for Information

On behalf of ATA Action, the American Telemedicine Association's trade organization focused on advocacy, thanks you for the opportunity to comment on the Committee's request for information to improve access to care in rural and underserved communities and how innovation can assist with addressing these challenges. We appreciate your commitment to addressing the barriers that patients face to receiving health care services.

Telehealth is an effective tool for improving access to care, with an emphasis on specialty services, for those in rural and underserved communities. It also can help combat workforce shortages and if reimbursement is fair, can play a role in reducing hospital closures and workforce recruitment and retention. ATA Action recommends policymakers consider policies that can streamline and expand the use of telehealth. Telehealth has not only enabled cost savings for the system and patients, but it has improved access to care and health outcomes.

Underserved rural and urban communities, tribal nations, and the uninsured must equally benefit from telehealth and digital health services. Health disparities should be addressed and reflected in state and federal health programs and policy makers must support robust investment in telehealth infrastructure, including broadband, to ensure universal access for the benefit of all communities.

What follows is legislation that would improve access to care for rural and underserved communities.

CONNECT for Health Act & Telehealth Modernization (H.R. 4189, S. 2016)

Congress allowed HHS to waive telehealth restrictions related to geographic and originating sites, expanded eligible practitioners who are able to provide telehealth services, and enabled Federally Qualified Health Centers and Rural Health Centers to act as distant sites. We encourage Congress to make the flexibilities permanent as it would improve access to care and reduce system and patient expenditures.

Telemental Health Care Access Act (H.R. 3432)

Congress added a required in-person patient visit for Medicare telemental health. This requirement is an unnecessary barrier to care and can be a prohibitive factor for those seeking mental health services. Without care, mental health problems can become exacerbated and lead to staggering costs such as expensive treatment needs in the future and increased societal costs (e.g., incarceration, homelessness, unemployment).

Telehealth Benefit Expansion for Workers Act of 2023 (H.R. 824)

The Department of Labor, Health and Human Services (HHS) and Treasury issued an enforcement discretion policy allowing self-funded employers to offer basic virtual care services to part-time, seasonal, and contract workers who were not eligible for comprehensive health insurance. Congress should allow telehealth as an excepted benefit, which would allow employers to offer it as an additional benefit to their employees without it being classified as full health insurance. This access via telehealth enables employees to receive care via telehealth, which can prevent expensive visits to the ED or long-term chronic care expenditures.

TREATS Act (HR 5163)

The Drug Enforcement Administration waived the prior in-person requirement for the prescription of controlled substances via telehealth. The ATA encourages Congress to work with the DEA to ensure that people do not lose access to critical medications via telehealth. Without treatment, health problems such as opioid addition and untreated attention-deficit/hyperactivity disorder can become more severe and costly and interfere with educational achievement.

Telehealth Expansion Act (S. 1001, H.R. 1843)

Congress allowed employees with high-deductible health plans with health savings accounts to obtain telehealth services pre-deductible. Congress should permanently allow telehealth services high-deductible health plans to be offered pre-deductible. Telehealth is health care and reducing access can increase costs.

96-Hour Rule Medicare-certified CAH Conditions of Participation (CoPs) at 42 CFR §485.620(b).

The Centers for Medicare & Medicaid Services waived the 96-hour rule for Medicare-certified critical access hospitals (CAHs). This waiver was in effect from March 1, 2020, through the end of the PHE on May 11, 2023.[i] Medicare-certified CAHs are required to meet the annual 96-hour average patient length of stay standard for acute inpatient care under the CAH Conditions of Participation (CoPs) at 42 CFR §485.620(b). During the COVID-19 Public Health Emergency (PHE), CMS waived the requirement that CAHs limit the annual average patient length of stay to 96 hours[ii]. ATA Action recommends that the waiver be permanent for CAHs that utilize Tele-ICUs.

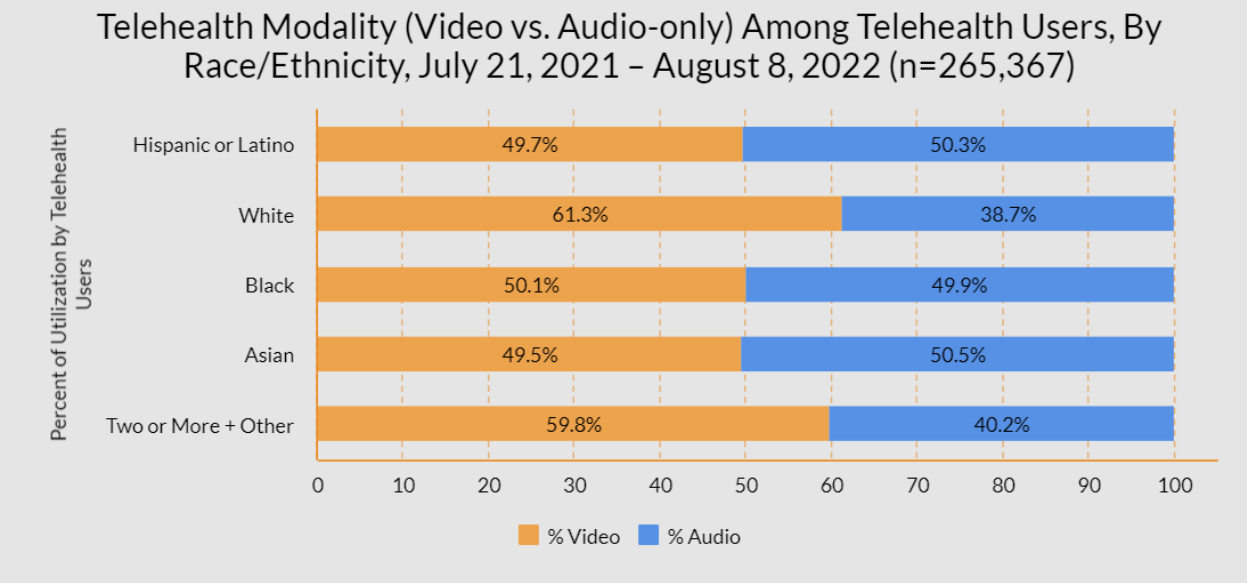
A tele-ICU enables off-site clinicians to interact with bedside staff to consult on patient care. One centralized care team can manage a large number of geographically dispersed ICU locations to exchange health information electronically, in real time. Due to Tele-ICU CAHs have access to critical care staff and hence they can care for patients with more acute needs thereby averting a transfer, costs, family disruptions and costs, and other factors created by moving a patient from a rural facility to a farther away tertiary care facility. It also allows them to provide palliative care allowing the patient to pass in their community with their family, pastor, and other comforts. This also assists CAHs financially as lab tests and other diagnostics are done in house or locally.

Protecting Rural Telehealth Access Act (S.1636, H.R. 3440)

During the COVID-19 public health emergency and to this day, some patients lack access to care due to inadequate broadband to support audio-visual communication. Therefore, it is imperative that there are other modalities, such as audio only services, made available for rural and underserved populations. ATA Action is modality, service, and provider neutral meaning we believe any licensed provider should have the option to utilize different technologies to deliver care services so long as it meets the standard of care and is clinically appropriate. For this reason, we encourage Congress to ensure audio-only coverage is maintained permanently.

One of the benefits of audio only is to provide services while reducing the digital divide and health disparities (Figure 1). A study that included 30 Federally Qualified Health Centers in California that serve 1.3 million patients, found that in August 2022, 1 in 5 primary care visits and 2 in 5 behavioral health visits were audio only.[iii] "FQHCs continued to deliver audio-only visits in high volume, likely because of their role in improving access."[iv]

Figure 1.



Source: Lee, E.C., Grigorescu, V., Enogieru, I., Smith, S.R., Samson, L.W., Conmy, A., De Lew, N. (2023, April). Updated National Survey Trends in Telehealth Utilization and Modality: 2021- 2022 (Issue Brief No. HP-2023-09). Office of the Assistant Secretary for Planning and Evaluation, U. S. Department of Health and Human Services.

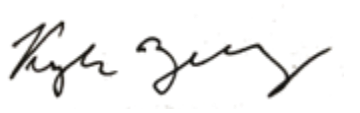
In previous comments from ATA Action, we have consistently emphasized the importance of fair payment for telehealth services. The duration a clinician spends with a patient for a particular service does not vary whether provided in person or virtually. However, other time and costs can vary significantly, particularly infrastructure costs (whether brick and mortar or technological) and administrative time. Using virtual options can save administrative costs and time. Additionally, reductions in payment rates could disincentivize the adoption of telehealth or the

ability of providers to adequately invest in technological infrastructure or incorporate it into their workflow. As Congress evaluates federal policies impacting telehealth coverage, it's imperative that fair payment structures duly account for these considerations."

Again, we applaud the Committee on Ways and Means for soliciting feedback from stakeholders on this matter and appreciate its work to ensure access to health care in rural and underserved communities.

Thank you for your consideration of this information.

Kind regards,



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ATA Action

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[i] https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/policy-and-memos-states/3888948/one-time-change-critical-access-hospital-cah-annual-average-96-hour-patient-length-stay-calculations
[ii] ibid.
[iii] Uscher-Pines L, McCullough CM, Sousa JL, Lee SD, Ober AJ, Camacho D, Kapinos KA. Changes in In-Person, Audio-Only, and Video Visits in California's Federally Qualified Health Centers, 2019-2022. (2023, April 11). JAMA;329(14):1219-1221.
[iv] ibid