



November 14, 2023

The Honorable Benjamin Cardin
Chair
Senate Finance Subcommittee on Health
219 Dirksen Senate Office Building
Washington, DC 20510-6200

The Honorable Steven Daines
Ranking Member
Senate Finance Subcommittee on Health
219 Dirksen Senate Office Building
Washington, DC 20510-6200

**Re: ATA Action Statement for the Record for Senate Finance Subcommittee Committee Hearing
“Ensuring Medicare Beneficiary Access: A Path to Telehealth Permanency”**

On behalf of ATA Action, the American Telemedicine Associations affiliated trade association focused on advocacy, thank you for your continued support of telehealth and holding this critical hearing to examine a permanent pathway forward for the Medicare telehealth flexibilities to ensure patients continue to receive care where and when they need it beyond CY2024.

Telehealth plays an essential role in our evolving healthcare system that has proven to expand access to care, reduce costs, assist with provider shortages, and overall help the health care system become more efficient and effective.¹ We appreciate that Congress understands the value of telehealth and is working in a bipartisan and bicameral way to ensure that telehealth services are allowed in the Medicare program after 2024.

Specifically, we urge Congress to make permanent the Medicare telehealth flexibilities implemented during the PHE, including:

- **Removal of Antiquated Geographic and Originating-Site Restrictions**
Prior to the pandemic, a patient had to be in a designated rural area and in a healthcare clinic in order to have been able to receive reimbursable telehealth services under the Medicare program. During the PHE, the United States Department of Health and Human Services (HHS) waived these restrictions, thus allowing patients in any geographic area (not just rural) to receive telehealth services in any location, including in their homes. We urge Congress to permanently remove the Section 1834(m) geographic and originating-site restrictions to ensure that all patients can access care where and when they need it.
- **Ensure that Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) Continue to Furnish Telehealth Services**
FQHCs and RHCs provide critical health care services for underserved communities and populations across the United States. During the pandemic, FQHCs and RHCs serve as distant sites and can be reimbursed for telehealth services. ATA Action urges Congress to ensure that the roughly 1,400 FQHCs and 4,300 RHCs can continue offering telehealth services permanently while receiving fair reimbursement.

¹ [PRINT_ATA-TAW-Hill-Day-handout_9.11.23.pdf \(americantelemed.org\)](#)

- **Permanently Expand the List of Eligible Medicare Providers**
During the pandemic, physician therapists, speech-language therapists, and occupational therapists were able to provide telehealth services and be reimbursed by Medicare. ATA Action is supportive of this flexibility and believes all practitioners should have the option to utilize virtual care when clinically appropriate and be reimbursed for the services rendered.
- **Maintain Audio-only Coverage**
Congress and the Centers for Medicare and Medicaid Services (CMS) have expanded access to care since the pandemic, specifically for those lacking broadband or elderly individuals, by temporarily covering for audio-only services. 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.
- **Repeal the Telemental Health In-person Requirement**
ATA Action applauds Congress for expanding access and allowing telemental health services to be a permanent part of the Medicare program through its passage of the Consolidated Appropriations Act, 2021, Pub.L. 116–260. However, also included was an unnecessary and unexpected guardrail, an in-person requirement. This provision, which would go into effect after 2024, requires providers to see their patients in person no more than six months prior to conducting a telemental health visit. ATA Action strongly opposes statutory in-person requirements, as they create arbitrary and clinically unsupported barriers to accessing affordable, quality health care. Requirements such as these could negatively impact those in underserved communities and populations who may not be able to have an in person exam due to provider shortages, work, lack of childcare, and/or dearth of other resources.

Over 160 million people in the US live in designated mental health professional shortage areas.² Many counties have no mental health professionals at all. We cannot ignore the importance of providing all Americans, regardless of whether they have seen a provider in person, with the opportunity to access life-saving health care. We strongly urge Congress to enact the Telemental Health Care Access Act ([H.R. 3432](#)), which would remove the statutory telemental health in-person requirement, allowing patients to receive care where and when they need it, especially when they are most vulnerable. We thank Senators Cardin and Thune for their leadership on this legislation.

Fortunately, Congress agrees with the principles (above) in a bipartisan, bicameral fashion and have introduced numerous important pieces of legislation to make various flexibilities permanent. Our top priorities due to their comprehensive native and widespread support are the **CONNECT for Health Act** ([H.R. 4189](#), [S. 2016](#)) and the **Telehealth Modernization Act** (re-introduction pending). We urge Congress to come together to pass permanency legislation well before the end of 2024.

² [Shortage Areas \(hrsa.gov\)](https://www.hrsa.gov/shortage-areas)

While we recognize that this hearing is focused on Medicare flexibilities, we would also like to raise to policy flexibilities facing patients in commercial insurance plans which expire on or before the end of 2024.

- **Flexibility to offer telehealth pre-deductible in high deductible health plans (HDHPs):** In 2020, Congress enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) which included a provision that temporarily allowed employers to offer employees with high-deductible health plans (HDHPs) coupled with a health savings accounts (HSAs) to receive telehealth coverage without meeting their deductible while maintaining their eligibility for HSAs. Congress extended this provision in the omnibus at the end of 2022 extending it alongside the other Medicare flexibilities through CY2024. We urge Congress to pass the Telehealth Expansion Act ([S.1001](#), [HR 1843](#)), which would permanently extend the exemption for telehealth services from certain high-deductible health plan rules. It is imperative that the 32 million Americans with HDHP-HSAs have the ability to continue using these lifesaving services. We thank Senators Daines and Cortez Masto for their leadership on this legislation.
- **Flexibility to offer telehealth benefits to workers that don't otherwise qualify for health care coverage:** In 2020, the United States Department of Health for Human Services (HHS), the Department of Labor and the Treasury Department jointly issued an FAQ in response to the COVID-19 pandemic. The FAQ specifically stated that the agencies would take a non-enforcement position for employers wishing to provide telehealth or other remote care services to employees ineligible for any other employer-sponsored group health plan for the duration of the PHE. This flexibility expired on May 11, 2023 along with the public health emergency (PHE). Therefore, we urge Congress to action swiftly to either extend this flexibility for three years or pass the Telehealth Benefit Expansion for Workers Act of 2023 ([H.R. 824](#)) which would amend the Public Health Service Act, the Employee Retirement Income and Security Act of 1974, and the Internal Revenue Code of 1986 to treat telehealth services as excepted benefits. Until Congress acts, millions of workers will lose access to critical health care services at the end of this plan year, if they haven't already. ([See here for a stakeholder letter](#) signed by over 30 organization in support of this legislation).

Again, thank you for hosting this hearing to discuss telehealth permanency and preparing so far in advance of the CY2024 expiration date. We look forward to working with the Senate Finance Committee members and Congress to ensure the appropriate telehealth policies are enacted that will provide certainty to beneficiaries and our nation's health care providers. If you have any questions, please reach out to Kyle Zebley (kzebley@ataaction.org).

Kind Regards,

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

Kyle Zebley
Executive Director
ATA Action