ataACTION
Telehealth Policy to Transform Healthcare

The Honorable Mehmet Oz
Administrator Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue SW
Washington, D.C. 20201

**RE: ATA Action Comments in Response to Centers for Medicare and Medicaid Services Request for Information (RFI) Related to Comprehensive Regulations To Uncover Suspicious Healthcare (CRUSH) (CMS-6098-NC)**

On behalf of ATA Action, the advocacy-focused affiliate of the American Telemedicine Association, we commend the Centers for Medicare and Medicaid Services ("CMS" or the "Agency") for its continued commitment to Medicare program integrity. We strongly support the Agency's efforts to address fraud, waste, and abuse (FWA) in an efficient manner while modernizing the Medicare program and promoting access to care by fostering innovation. As further explained below, we suggest that the Agency tailor its approach to fraud waste and abuse so both of these goals can be accomplished.

## Technology as a Solution

We appreciate the Agency's desire to eliminate illegal schemes utilized by bad actors to fraudulently bill Medicare, for example transnational criminal organizations abroad who purchase Medicare accredited DME companies bill Medicare for millions of dollars in expensive medical equipment that was never provided to Medicare beneficiaries. Some of these illegal schemes have used telehealth as a modality, but the types of fraud perpetrated by bad actors (e.g. fraudulent DME, inappropriate prescribing, unnecessary laboratory testing) existed long before the widespread use of telehealth and continue today without telehealth providers.

Despite these facts, DME, prescribing and lab testing fraud where a telehealth modality is involved is frequently described as "telehealth fraud" even though typically the telehealth services are not at issue. Worse yet, sometimes reporters refer to telemarketing fraud or "telefraud" as telehealth fraud. This inaccurate messaging creates misconceptions about inappropriate delivery and billing of telehealth and other innovative services amongst lawmakers and regulators, and chills investment (and thus innovation).

ATA Action opposes policies that treat healthcare services delivered remotely differently than services provided in-person and recommends that the Agency utilize the tools at its disposal, including artificial intelligence and other technologies, to identify suspicious provider enrollment and claims rather than furthering the assumption that telehealth and other tech-enabled care are suspicious modalities. In short, we support policies that approach appropriate use of technology as a solution, not the problem.

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**Accurate Characterization of Fraud Schemes Is Essential**

A longstanding and harmful misconception in public discussions of health-care fraud is the belief that telehealth itself is the source of widespread criminal activity. In reality, many of the largest federal enforcement actions, including multiple Department of Justice takedowns involving transnational criminal networks[1][2], have been driven by telemarketing-based fraud, not legitimate telemedicine. For decades, overseas and domestic call centers have targeted Medicare beneficiaries, using deceptive tactics to obtain personal information and generate orders for durable medical equipment (DME), genetic tests, or other items that beneficiaries never requested and often never received. In these schemes, brief or nonexistent telehealth encounters were used merely as a veneer to legitimize orders that originated through telemarketing operations. Despite this, such cases are frequently labeled "telehealth fraud," creating a distorted narrative that mischaracterizes the problem, stigmatizes lawful telehealth services, and misleads lawmakers, regulators, and the public. We urge the Administration and the Department of Justice to take an active role in educating the public and ensuring that enforcement communications clearly distinguish telemarketing-driven fraud from appropriate telehealth services, so that program-integrity efforts target bad actors without undermining trust in technology-enabled care.

**Leveraging Technology to Strengthen Program Integrity**

As CMS advances the CRUSH initiative, we encourage the Agency to fully harness modern technology capabilities to detect, prevent, and eliminate fraud. Advanced analytics, machine learning, and real-time anomaly detection can identify suspicious billing patterns, unusual provider enrollment behavior, and high-risk ordering relationships far more effectively than broad categorical restrictions on care modalities. These tools allow CMS to pinpoint the specific actors and networks driving fraudulent activity such as telemarketing operations, DME billing mills, and shell entities, without imposing unnecessary burdens on legitimate providers or limiting beneficiary access to innovative care models. By prioritizing technology-enabled oversight rather than modality-based suspicion, CMS can strengthen program integrity while supporting the modernization of Medicare.

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[1] Office of Public Affairs | National Health Care Fraud Takedown Results in 324 Defendants Charged in Connection with Over $14.6 Billion in Alleged Fraud | United States Department of Justice

[2] Office of Public Affairs | Justice Department Charges Dozens for $1.2 Billion in Health Care Fraud | United States Department of Justice

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**Tailor Requirements to Target Bad Actors**

We urge the agency to take a more nuanced and risk-based approach to health care fraud waste and abuse to support innovation. While we understand the desire to eliminate fraud waste and abuse, broad approaches that seem warranted for traditional providers and suppliers can have a disparate impact on the providers and suppliers of innovative services and products.

For example, the CY 2026 DMEPOS final rule which contained sweeping changes for DMEPOS providers aimed at preventing fraud waste and abuse, followed by the moratorium on new DMEPOS enrollment. As further explained in our CY 2026 response to the proposed rule, DMEPOS Medicare benefits have covered items such as prosthetics, ostomy supplies, braces, wheelchairs, oxygen equipment, and glucose testing strips, but these benefits can also be applied to emerging technologies. While efforts are being made to modernize Medicare, many traditional DMEPOS suppliers are not well suited to distribute innovative products involving software and hardware components. As a result, manufacturers of these innovative products must become DMEPOS suppliers in order to ensure Medicare beneficiaries receive products and are able to use them effectively. In many cases, these manufacturers are smaller companies and start-ups, with fewer resources than the large traditional DMEPOS suppliers.

We are extremely concerned that the CY 2026 DMEPOS final rule, coupled with the DMEPOS supplier moratorium and ongoing issue of reimbursement for innovative products and services under existing Medicare benefits, will cause innovators to reconsider their reimbursement strategy ultimately leading to fewer innovative products being made available to Medicare beneficiaries and patients more broadly.

We recommend that the Agency consult with health care innovators and providers who use innovative products and services in the development of further regulatory and legislative efforts to address health care fraud and abuse for purposes of developing a risk-based approach that targets bad actors while allowing innovators to flourish.

ATA Action appreciates CMS's continued commitment to Medicare modernization, and we look forward to working together in furtherance of this goal while protecting program integrity. Please don't hesitate to reach out to us with any questions.

Kind Regards,

Alexis Apple
Deputy Executive Director
ATA Action