



MEMORANDUM

To: Subcommittee on Health Members and Staff
From: Committee on Energy and Commerce Majority Staff
Re: Health Subcommittee Hearing on April 10, 2024

The Subcommittee on Health will hold a hearing on Wednesday, April 10, 2024, at 10:00 a.m. (ET) in 2123 Rayburn House Office Building. The hearing is entitled “Legislative Proposals to Support Patient Access to Telehealth Services.”

I. Witnesses

- **Ms. Jeanette Ashlock** [*ash-lock*], Patient Advocate, National Multiple Sclerosis Society
- **Mr. Fred Riccardi** [*rick-CARD-e*], President, Medicare Rights Center
- **Dr. Lee Schwamm** [*sch-wAHm*], MD, Associate Dean for Digital Strategy and Transformation, Yale School of Medicine; Senior Vice President and Chief Digital Health Officer, Yale New Haven Health System
- **Dr. Eve Cunningham** [*cun-ning-ham*], MD, MBA, Group Vice President and Chief of Virtual Care and Digital Health, Providence
- **Dr. Ateev Mehrotra** [*mEH-row-trUH*], MD, MPH, Professor of Health Care Policy and Medicine, Harvard Medical School; Hospitalist, Beth Israel Deaconess Medical Center

II. Background

In response to significant disruptions caused by the COVID-19 pandemic, telehealth services were rapidly integrated into the American health care system. One study found that less than 1 percent of medical services and treatments were provided through telemedicine in January 2020.¹ During the initial peak of the COVID-19 pandemic (March to April 2020), telehealth was used for 80 percent of all health visits.² Since this pandemic fueled peak, telehealth utilization has settled with an average of 15.5 percent of Medicare Part B beneficiaries using telehealth from the 3rd quarter of 2021 through the 2nd quarter of 2023.³ This hearing will examine legislative proposals that create a framework that maintains access to vital telehealth services in Medicare, while ensuring appropriate guardrails are in place to protect against fraud and abuse.

¹ U.S. Assistant Secretary for Planning and Evaluation, “National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services”, 2022. <https://www.aspe.hhs.gov/reports/hps-analysis-telehealth-use-2021>

² *Id.*

³ U.S. Centers for Medicare & Medicaid Services, “Medicare Telehealth Trends Report”, 2023. [Medicare Telehealth Trends Report \(cms.gov\)](https://www.cms.gov/medicare-telehealth-trends-report)

Telehealth Expansion

On March 13, 2020, President Trump declared a national state of emergency for COVID-19, initiating the expansion of Medicare’s telehealth benefits under the section 1135 waiver authority and the Coronavirus Preparedness and Response Supplemental Appropriations Act.⁴ The Centers for Medicare & Medicaid Services (CMS) worked with Congress to waive Medicare’s restrictions on telehealth utilization, such as geographic restrictions and provider reimbursement.⁵ Prior to the public health emergency (PHE), an average of 13,000 fee-for-service (FFS) Medicare beneficiaries received telehealth services per week.⁶ At the end of April 2020, the number of FFS beneficiaries receiving telehealth services per week reached 1.7 million.⁷

Removing geographic restrictions and originating site limitations helps patients overcome transportation barriers. Residents of rural communities are often required to travel 20 to 40 miles to access health care services.⁸ Studies over the past decade have shown that 2 million Medicare beneficiaries are completely homebound, and another 5.5 million Medicare beneficiaries need assistance to leave their homes.⁹ During the first year of the PHE, 92 percent of Medicare FFS beneficiaries received telehealth visits from their homes, which was not permitted before the pandemic.¹⁰

Telehealth services have been particularly beneficial for behavioral health care delivery. Under Medicare, approximately 60 percent of psychiatric services are furnished through telehealth.¹¹ Virtual appointments for behavioral health increased substantially, partially due to the mental health impacts of the pandemic.¹² In 2021, 39 percent of telehealth outpatient visits

⁴ U.S. Centers for Medicare & Medicaid Services, “President Trump Expands Telehealth Benefits for Medicare Beneficiaries During COVID-19 Outbreak”, 2020. <https://www.cms.gov/newsroom/press-releases/president-trump-expands-telehealth-benefits-medicare-beneficiaries-during-covid-19-outbreak>

⁵ Brooks, Elizabeth, et al., “Provider Barriers to Telemental Health: Obstacles Overcome, Obstacles Remaining”, *Telemedicine and e-Health*, 2013.

https://www.researchgate.net/publication/236204735_Provider_Barriers_to_Telemental_Health_Obstacles_Overcome_Obstacles_Remaining

⁶ Verma, Seema, “Early Impact Of CMS Expansion Of Medicare Telehealth During COVID-19”, *Health Affairs*, 2020. <https://www.healthaffairs.org/content/forefront/early-impact-cms-expansion-medicare-telehealth-during-covid-19>

⁷ *Id.*

⁸ U.S. Government Accountability Office, “Rural Hospital Closures: Affected Residents Had Reduced Access to Health Care Services”, 2021. <https://www.gao.gov/products/gao-21-93>

⁹ Ritchie C., Leff B., “Home-Based Care Reimagined: A Full-Fledged Health Care Delivery Ecosystem Without Walls”, *Health Affairs*, 2022. <https://www.healthaffairs.org/doi/10.1377/hlthaff.2021.01011>

¹⁰ U.S. Assistant Secretary for Planning and Evaluation, “Medicare Beneficiaries’ Use of Telehealth in 2020: Trends by Beneficiary Characteristics and Location”, 2021. <https://aspe.hhs.gov/reports/medicare-beneficiaries-use-telehealth-2020>

¹¹ Verma, (n. 6)

¹² National Committee for Quality Assurance, “Taskforce on Telehealth Policy (TTP) Findings and Recommendations”, 2020. https://www.ncqa.org/wp-content/uploads/2020/09/20200914_Taskforce_on_Telehealth_Policy_Final_Report.pdf

were primarily for a mental health or substance use diagnosis.¹³ In rural areas, 55 percent of patients relied on telehealth to receive outpatient mental health and substance use services, compared with 35 percent of patients in urban areas.¹⁴ In February 2023, 30 percent of adults in the United States reported symptoms consistent with depression or anxiety.¹⁵ As of 2022, over 20 percent of adults with anxiety or depressive disorder symptoms reported needing, but not receiving, mental health services.¹⁶

Telehealth offers promising support to providers struggling to keep pace with current workforce shortages. The Health Resources and Services Administration (HRSA) projects a shortage of 139,940 physicians by 2036.¹⁷ Currently, there are 39.8 primary care physicians per 100,000 people in rural areas, compared to 53.3 primary care physicians per 100,000 people in urban areas.¹⁸ Telehealth and remote patient monitoring can help alleviate some of these workforce challenges. According to a 2022 survey, 8 in 10 practitioners reported that retaining telehealth for health care practitioners would make them more likely to continue working in a role that maintains flexibility.¹⁹

The flexibilities that Congress expanded in order to increase patient access to telehealth services during the COVID-19 Public Health Emergency were extended through the end of 2024 in the Consolidated Appropriations Act of 2023. Additionally, CMS has also continued certain telehealth regulatory flexibilities to align with the statutory extensions. Notable flexibilities that are set to expire at the end of 2024 include:

- The ability for Medicare patients to receive telehealth services in their home;
- Removal of geographic restrictions for originating site for non-behavioral/mental telehealth services;
- Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are permitted to serve as a distant site provider for non-behavioral/mental telehealth services;
- The ability to deliver certain non-behavioral/mental telehealth services using audio-only communication platforms;
- Removing the requirement for an in-person visit within six months of an initial behavioral/mental telehealth service, and annually thereafter; and
- Allowing telehealth services to be provided by all eligible Medicare providers.

¹³ Kaiser Family Foundation, “Telehealth Has Played an Outsized Role Meeting Mental Health Needs During the COVID-19 Pandemic”, 2022. <https://www.kff.org/coronavirus-covid-19/issue-brief/telehealth-has-played-an-outsized-role-meeting-mental-health-needs-during-the-covid-19-pandemic/>

¹⁴ *Id.*

¹⁵ Kaiser Family Foundation, “Mental Health and Substance Use State Fact Sheets”, 2023. <https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/>

¹⁶ *Id.*

¹⁷ U.S. Health Resources and Services Administration, “Physician Workforce: Projections, 2021-2036”, 2023. <https://bhw.hrsa.gov/sites/default/files/bureau-health-workforce/physicians-projections-factsheet-10-23.pdf>

¹⁸ National Rural Health Association, “About Rural Health Care”, 2024. <https://www.ruralhealth.us/about-nrha/about-rural-health-care>

¹⁹ Alliance for Connected Care, “Patients and Practitioners Agree – Telehealth Is Important for Patient Access, Health Care Workforce”, 2022. <https://connectwithcare.org/alliance-news/patients-and-practitioners-agree-telehealth-is-important-for-patient-access-health-care-workforce/>

III. Legislation

H.R. 134, To amend title XVIII of the Social Security Act to remove geographic requirements and expand originating sites for telehealth services (Reps. Vern Buchanan and Michelle Steel)

This legislation would allow any location in the United States, including the home of a beneficiary, to be considered an originating site for the purpose of furnishing telehealth services under Medicare.

H.R. 1110, KEEP Telehealth Options Act of 2023 (Reps. Troy Balderson, Susie Lee, Ashley Hinson, and Joe Neguse)

This legislation would require the Secretary of the Department of Health and Human Services (HHS) to publish a comprehensive report on the provision of telehealth services under Medicare, Medicaid, and the Children's Health Insurance Program (CHIP) during the COVID-19 emergency. In addition, the Medicare Payment Advisory Commission (MedPAC) and the Medicaid and CHIP Payment and Access Commission (MACPAC) shall study the increased risk of fraudulent activities related to expansion of telehealth, as well as potential improvements to telehealth services.

H.R. 3432, Telemental Health Care Access Act (Rep. Doris Matsui)

This legislation would promote access to mental and behavioral telehealth services by eliminating certain geographic restrictions and in-person Medicare coverage requirements.

H.R. 3875, Expanded Telehealth Access Act (Reps. Mikie Sherrill, Diana Harshbarger, Lisa Blunt Rochester, Andre Carson, David Valadao, Jennifer Kiggans, Mark Pocan, Glenn Thompson, Tracey Mann, Chellie Pingree, Salud Carbajal, Marc Veasey, Marie Gluesenkamp Perez, Susan Wild, Greg Stanton, Don Bacon, Colin Allred, and Josh Gottheimer)

This legislation would permanently expand practitioner eligibility for payment for telehealth services under Medicare to include physical therapists, speech-language pathologists, audiologists, occupational therapists, and occupational therapy assistants.

H.R. 4189, CONNECT for Health Act of 2023 (Reps. Mike Thompson, David Schweikert, and Doris Matsui)

This legislation would make permanent a number of regulatory flexibilities used during the COVID-19 pandemic to allow Medicare to reimburse for more pervasive delivery of health care through telehealth. This includes removing the geographic requirements for telehealth originating sites and expanding the scope of originating sites; allowing more practitioners to furnish telehealth services; and removing geographic restrictions on telehealth services furnished by Federally Qualified Health Centers (FQHCs) or Rural Health Clinics (RHCs). Additionally,

this legislation includes program integrity guardrails, such as clarifying fraud and abuse laws and addressing outlier telehealth billing.

H.R. 5541, Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act (Reps. Robert Latta and Debbie Dingell)

This legislation would temporarily allow authorized health care professionals to provide mental health telehealth services across state lines during a declared national emergency.²⁰

H.R. 5611, Helping Ensure Access to Local TeleHealth (HEALTH) Act of 2023 (Reps. Glenn Thompson and Ann Kuster)

This legislation would allow Medicare coverage of telehealth services to include audio-only communications. This legislation would also implement a permanent payment system for telehealth services furnished by Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs), in addition to eliminating originating site requirements for telehealth services furnished by RHCs and FQHCs.

H.R. 6033, Supporting Patient Education And Knowledge (SPEAK) Act of 2023 (Reps. Michelle Steel, Jimmy Gomez, Juan Ciscomani, Adriano Espaillat, Tony Cardenas, Monica De La Cruz, Young Kim, Henry Cuellar, Judy Chu, Jimmy Panetta, David Valadao, Juan Vargas, Salud Carbajal, Susie Lee, and Terri Sewell)

This legislation would direct the Secretary of HHS to convene a task force to assess barriers and develop recommendations to improve access to health information systems for non-English speakers.

H.R. 7149, Equal Access to Specialty Care Everywhere (EASE) Act of 2024 (Reps. Michelle Steel, Susie Lee, Mike Kelly, Darrin LaHood, Donald Davis, Yadira Caraveo, Lori Chavez-DeRemer, Don Bacon, Monica De La Cruz, Andrea Salinas, and David Valadao)

This legislation would require the Center for Medicare and Medicaid Innovation (CMMI) to conduct a pilot program that would assess the impact of furnishing certain specialty health care services through telehealth and other remote technologies.

H.R. 7623, The Telehealth Modernization Act of 2024 (Reps. Earl “Buddy” Carter, Lisa Blunt Rochester, Gregory Steube, Terri Sewell, Miller-Meeks, Debbie Dingell, Jefferson Van Drew, and Joseph Morelle)

This legislation would make certain telehealth flexibilities permanent under Medicare. The telehealth flexibilities that are extended by this legislation include, removing geographic restrictions, expanding eligibility for practitioners to furnish telehealth services, retaining the waiver process for modifying telehealth services covered under Medicare, implementing a permanent payment system for telehealth services furnished by RHCs and FQHCs, allowing

²⁰ A “declared national emergency” is subject to “emergency area” and “emergency period” definitions in section 1135(g) of the Social Security Act ([42 U.S.C. 1320b-5\(g\)](#)).

clinically appropriate use of telehealth for hospice care and home dialysis, and allowing the use of audio-only telecommunications technology.

H.R. 7711, Advancing Access to Telehealth Act (Reps. Debbie Dingell, and Jack Bergman)

This legislation would make certain telehealth flexibilities permanent under Medicare. The flexibilities cited in this legislation include, removing geographic restrictions, allowing for the use of audio-only telecommunications technology, and eliminating in-person requirements for certain services furnished through telehealth.

H.R. 7858, Telehealth Enhancement for Mental Health Act of 2024 (Reps. John James, Donald Davis, and David Schweikert)

This legislation would direct the Secretary of HHS to implement a coding modifier to identify telehealth claims for services that are key components of the care process and are furnished by non-physician clinicians or support staff.

H.R. 7856, The PREVENT DIABETES Act (Reps. Diana DeGette, Gus Bilirakis, and Jason Crow)

This legislation would establish a diabetes prevention program under Medicare that furnishes structured behavioral health change services, for the purpose of preventing or delaying the onset of type II diabetes. In addition, this legislation would sunset the Medicare Diabetes Prevention Program Expanded Model.

H.R. 7863, To require the Secretary of Health and Human Services to issue guidance on furnishing behavioral health services via telehealth to individuals with limited English proficiency under Medicare program (Reps. Michelle Steel, Gus Bilirakis, and Susie Lee)

This legislation would require the Secretary of HHS to issue guidance for providers on best practices for furnishing behavioral health services via telehealth to Medicare beneficiaries with limited English proficiency.

H.R. ____, Hospital Inpatient Services Modernization Act (Reps. Brad Wenstrup and Earl Blumenauer)

This legislation would extend regulatory flexibilities associated with the Hospital at Home programs, which allow acute hospitals to provide certain inpatient services outside of the hospital setting.

IV. Staff Contacts

If you have questions regarding this hearing, please contact Emma Schultheis of the Committee staff at 202-225-3641.