



June 11, 2021

Massachusetts Congressional Delegation

On behalf of 45 Massachusetts healthcare providers, human service providers, patient advocacy organizations, telehealth technology companies, and telecommunications representatives, the tMED Coalition would like to take this opportunity to express our gratitude for the telehealth flexibilities and enhancements that have been granted during the COVID-19 public health emergency (PHE). As you know, the statutory and regulatory policies addressing telehealth have been part of an evolving process since the onset of the pandemic, and we seek your support to address our concerns about elements of the December Consolidated Appropriations Act.

It is worth emphasizing that these telehealth flexibilities have significantly accelerated the utilization of this modality across the United States. These policy changes ensure that Massachusetts residents have access to critical healthcare services while both limiting their exposure to COVID-19, as well as preserving personal protective equipment for the healthcare workforce. Importantly, telehealth has been a powerful tool in increasing equitable access to care for all patients in the commonwealth. By virtue of the nature of the telehealth modality, patients can avoid the stress, burden, and cost of travelling to appointments—a cost that includes having access to transportation and the flexibility of taking time off work. We appreciate your work in helping to make these flexibilities possible.

As such, we would like to take this opportunity to express our significant concerns with certain provisions that were included in Section 123 of Division CC of the Consolidated Appropriations Act of 2021. Section 123 changes the Medicare telehealth coverage statute and would take effect after the PHE ends. Specifically, the provision expands Medicare coverage and reimbursement for telehealth services for mental health disorders by removing the current geographic and originating site restrictions, which our Coalition supports.

However, under this new law, Medicare will provide coverage and reimbursement for telehealth mental health services *only if* the clinician has conducted an in-person consult with the patient in the prior six months and continues to conduct in-person exams (at a frequency to be determined by U.S. Health and Human Services). These requirements for in-person examinations will not apply to patients who are accessing these services in designated rural areas. Since rural area designations do not exist in Massachusetts, the federal law would create unnecessary complications for access to behavioral health services for Medicare beneficiaries across the commonwealth. Fifty percent of telehealth services in Massachusetts during the pandemic are being used to treat mental health and substance use

disorders—a rate far greater than in other specialties and which do not require in-person visits¹. And, according to an article in *CareJourney* citing CMS data, 45% of eligible Medicare beneficiaries had at least one telehealth visit in 2020.² Therefore, in 2020 alone, an estimated 290,000 patients used telehealth behavioral health services in the Medicare program in Massachusetts.

The tMED Coalition does not believe that the restrictions contained within the Consolidated Appropriations Act are medically necessary or serve the public good. We are concerned that such requirements at the federal level would preclude the advances in health equity that telehealth offers. Mandating in-person visits for continued telehealth services could cause patients to forgo behavioral health services altogether, which would lead to worse overall health outcomes. Services delivered solely by telehealth have also been shown to increase compliance rates among patients. The American Psychological Association quotes David Mohr, PhD, director of the Center for Behavioral Intervention Technologies at Northwestern University's Feinberg School of Medicine, as saying, "What we've seen is that telehealth is essentially just as effective as face-to-face psychotherapy—and retention rates are higher." Requiring a patient to be seen in-person, even if it's not for every visit, could result in a no-show and discontinuance of medically necessary therapy.

In addition, the tMED Coalition does not understand the logic behind requiring an in-person exam for telebehavioral health visits, but not for other forms of telehealth visits. The Coalition is concerned that in-person visits solely for telebehavioral health services could perpetuate stigma surrounding the care and treatment of behavioral health conditions. The tMED Coalition is unaware of any studies or clinical standards which indicate that behavioral health patients have better clinical outcomes solely because they are assessed by a clinician every six months in-person. Instead, this in-person requirement could frame behavioral health disorders, care, and treatment as being different than the care and treatment for other medical disorders.

The tMED Coalition has acted as part of a larger network of stakeholders that successfully advocated for access to telebehavioral health services without distant and originating site requirements, without requisite in-person visits, and to be reimbursed on par with in-person visits. This policy was included in Massachusetts' telehealth law, Chapter 260 of the Acts of 2020, which was taken effect in January 2021. The Coalition is advocating that this legislative intent be included in forthcoming regulations that the state's Division of Insurance will promulgate. The federal government's adoption of an inconsistent standard will only serve to make access to behavioral health more challenging for Medicare beneficiaries.

We are hopeful that as vaccination rates increase, the COVID-19 pandemic will come to an end. However, the pandemic already has demonstrated its harmful effect on the incidence and severity of

¹ Ateev Mehrotra et al., The Impact of the COVID-19 Pandemic on Outpatient Care: Visits Return to Prepandemic Levels, but Not for All Providers and Patients (Commonwealth Fund, Oct. 2020). <https://doi.org/10.26099/41xy-9m57>

² Grace, Sarah "Telehealth Expansion in Medicare: Policy Changes, Recent Trends in Adoption, and Future Impact", *CareJourney*, October 21, 2020: <https://carejourney.com/telehealth-expansion-in-medicare-policy-changes-recent-trends-in-adoption-and-future-impact/>

behavioral health conditions, which are widely believed will endure for many years to come. Telebehavioral health offers a flexible modality of care that has been readily adopted by behavioral health providers and patients. Requiring in-person visits before and during treatment for telebehavioral health reduces access to care at a time when low-barrier telehealth services are and will continue to be most critical.

We appreciate Congress' hard work and thoughtfulness in crafting provisions that have allowed patients expanded access to telehealth during the PHE. The tMED Coalition looks forward to working in partnership as you develop a framework for coverage and reimbursement of telehealth in the Medicare program after the PHE ends. Telehealth has proven to be an excellent tool for providers and patients, allowing convenient and affordable access to care. We ask for your help to ensure that Section 123 of the Consolidated Appropriations Act does not inadvertently create barriers to equitable access to telebehavioral health and further perpetuate stigma surrounding behavioral health treatment.

Sincerely,

Massachusetts Health & Hospital Association
Massachusetts Medical Society
Massachusetts League of Community Health Centers
Conference of Boston Teaching Hospitals
Massachusetts Council of Community Hospitals
Hospice & Palliative Care Federation of Massachusetts
American College of Physicians – Massachusetts Chapter
Highland Healthcare Associates IPA
Health Care For All
Organization of Nurse Leaders
HealthPoint Plus Foundation
Massachusetts Association of Behavioral Health Systems
Massachusetts Academy of Family Physicians
Seven Hills Foundation & Affiliates
Case Management Society of New England
Massachusetts Association for Occupational Therapy
Atrius Health
New England Cable & Telecommunications Association
Association for Behavioral Healthcare
National Association of Social Workers – Massachusetts Chapter
Massachusetts Psychiatric Society
Massachusetts Early Intervention Consortium
Digital Diagnostics
Zipnosis
Perspectives Health Services
Bayada Pediatrics
American Heart Association / American Stroke Association
Planned Parenthood Advocacy Fund of Massachusetts
Mass. Family Planning Association
BL Healthcare
Phillips

Maven Project
Upstream USA
Cambridge Health Alliance
Heywood Healthcare
Franciscan Children's Hospital
American Physical Therapy Association – Massachusetts
Community Care Cooperative
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