

September X, 2023

The Honorable Chiquita Brooks-LaSure Administrator  
Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

RE: Medicare Program; CY 2024 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies

Dear Administrator Brooks-LaSure:

On behalf of the undersigned organizations, we thank you for the opportunity to comment on the proposed rule updating the annual Medicare Physician Fee Schedule (PFS) for calendar year 2024. As allied organizations with a shared interest in the balanced use of telehealth services for optimal patient treatment, we urge CMS to continue to provide and expand on clear telehealth coverage policies through the CY2024 PFS.

We appreciate the leadership role CMS took during the COVID-19 pandemic to prioritize the needs of patients by expanding policies that improved access to safe and timely health care. However, with the expiration of the Public Health Emergency (PHE) for COVID-19 earlier this year, many temporary policies implemented during the pandemic will be phased out, including many Medicare telehealth policies. As CMS weighs the criteria, inclusion, and reimbursement for telehealth services for 2024, we urge CMS to continue supporting a balanced approach that ensures clinicians have the tools necessary to continue providing in-person and telehealth care to Medicare patients.

#### About Patient & Provider Advocates for Telehealth

Patient & Provider Advocates for Telehealth (PPATH) is a stakeholder coalition dedicated to advancing policies allowing accessible telehealth services for patients and health care providers. PPATH prioritizes the voices of patients and clinicians by advocating at the federal, state, and health plan levels for policies that increase access to and coverage for telehealth.

#### Continuing Telehealth Services Will Benefit Patients

Patients and clinicians have become increasingly comfortable with telehealth services throughout the past three years and have begun to rely on telehealth for their health care needs. In a December 2021 study from the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, HHS reported a 63-fold increase in Medicare fee-for-service (FFS) telehealth visits in 2020. Before the pandemic, less than 1% of Medicare FFS beneficiaries could access telehealth services due to policies restricting patients and clinicians from fully utilizing telehealth.<sup>1</sup> CMS's quick

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<sup>1</sup> Samson, L., Tarazi, W., Turrini, G., Sheingold, S., Medicare Beneficiaries' Use of Telehealth Services in 2020 – Trends by Beneficiary Characteristics and Location (Issue Brief No. HP-2021-27). Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. December, 2021.

action during the pandemic to expand Medicare coverage of telehealth utilization undoubtedly saved lives. Today, because of greater flexibilities offered during the PHE, Medicare beneficiaries continue to utilize telehealth as a routine part of their health care needs.

Many Americans have come to rely on the ease of access that telehealth provisions provided during the PHE. Audiovisual telehealth has allowed for a broader range of access to care for individuals in rural areas, for those requiring specialists who may live far away from their clinician's office, and those with mobility issues. Additionally, audio-only services have allowed for a broader range of patient access for patients in areas with limited broadband access or patients who cannot use online video platforms for visits.

#### A Balanced Approach to Diagnosing and Treating Disease

Now that the PHE has concluded, patients must continue to have access to the most personalized and comprehensive health care. This often includes an appropriate combination of telehealth and in-person clinical visits.

While telehealth has its proven benefits, CMS has correctly recognized that to ensure appropriate quality of care, some patients require in-person visits to detect physical and mental health symptoms that otherwise are not visible or detectable on telehealth visits. Many conditions may also require routine blood work, scans, and a more hands-on clinical visit, making it imperative that clinicians hold in-person visits with patients as they deem clinically necessary.

PPATH urges CMS to consider adopting longer-term policies that encourage an appropriate balance to ensure patients can access traditional in-person care and telehealth services. We further urge CMS to reinforce Medicare payment policy that supports a patient-centered approach to treatment by ensuring clinicians can provide personalized treatment to each patient in the site of care setting they deem appropriate. These decisions should be based on the clinician's knowledge of their patient's needs, not cost-saving tactics that may interfere with patient care.

#### Reimbursement Rates for Telemental Health and Non-Telemental Health

PPATH acknowledges that CMS has had to make tremendous changes over the past three years to keep up with the evolving needs of physician and patient access to care. While we believe a balanced approach to in-person and telehealth care is essential, we thank CMS for ensuring telemental health services may remain accessible by proposing to reimburse these services at parity.

PPATH applauds CMS's proposal to increase Relative Value Units (RVUs) for certain timed psychotherapy codes used for mental health services via the New, Revised, and Potentially Misvalued Codes process. As noted in the proposed rule, there is a shortage of mental health providers at a time when there is a more significant number of beneficiaries in need of mental health services. Increasing payment rates for certain timed psychotherapy codes would significantly improve beneficiary access to in-person and telehealth behavioral health services.

Further, we urge CMS to consider whether lower reimbursement of non-mental health services will limit patient access to telehealth in other areas.

### Medicare Telehealth Services List Process

PPATH appreciates the steps CMS took during the COVID-19 PHE in introducing a Category 3 to the Medicare Telehealth Service List to account for the flexibility necessary to respond appropriately to ensure patients have access to timely care. Further, we commend CMS for refining the process for adding services to the Medicare Telehealth Services List by proposing an annual process for stakeholders to submit requests to add to the “permanent” or “provisional” service list.

We understand that this process must be streamlined, and sufficient clinical evidence must be submitted to support the requests. Allowing stakeholders the opportunity to present clinical evidence to CMS for consideration of additional services covered as part of the Medicare Telehealth Service List is critical to continued transparency and patient access.

### Expanding Telehealth Reach to Additional Qualified Practitioners and Facilities

PPATH appreciates CMS’s inclusion of information and guidance on the Consolidated Appropriations Act, 2023 (CAA, 2023) expansion of the telehealth practitioners list to include qualified occupational therapists, physical therapists, speech-language pathologists, and audiologists through December 31, 2024. This inclusion will continue the trend of providing timely access to care for patients who otherwise wouldn’t have access to services.

Additionally, PPATH is pleased to see the extension of payment for telehealth services provided in Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs), which will help ensure patients can adequately access telehealth services.

We understand that many of these expansions, as laid out in the CAA, 2023, are only extended through the end of CY 2024, and we urge CMS to consider future opportunities to expand telehealth reach.

### Conclusion

As CMS considers coverage policies for the CY 2024 Physician Fee Schedule, PPATH urges CMS to take a balanced approach to telehealth coverage that makes clear that health care decisions should remain between clinicians and their patients. Policies supporting a balanced approach to diagnosing and treating disease are critical to a post-pandemic health care system.

Thank you for the opportunity to comment on the proposed CY 2024 Physician Fee Schedule. We appreciate the consideration of the above-stated principles and welcome the opportunity to answer any questions.

Sincerely,

Patient and Provider Advocates for Telehealth