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AMERICAN ACADEMY of ACTUARIES

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September 13, 2021

Centers for Medicare & Medicaid Services (CMS)  
Department of Health and Human Services (HHS)  
Attention: CMS-1751-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

*Re: Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-Payment Medical Review Requirements Proposed Rule*

To Whom It May Concern:

On behalf of the Health Care Delivery Committee and Telehealth Work Group of the Health Practice Council of the American Academy of Actuaries,<sup>1</sup> we would like to provide the following comments on the [proposed rule](#), *Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-Payment Medical Review Requirements*. In particular, we offer comments on Section II.D., “Telehealth and Other Services Involving Communications Technology.”

Telehealth delivered services have the potential to meaningfully improve the American health care system by improving access and increasing efficiency while maintaining quality. The specifics of how to add telehealth most appropriately to the delivery system remains unclear and much study is needed. Temporarily extending the flexibilities that were granted during the current public health emergency (PHE) allows time to gather and analyze data. The results of that research can drive future coverage decisions.

While the clinical benefit of making subspecialty services available in rural and underserved communities is well established, telehealth has potential to efficiently deliver certain other services. For the appropriate services, with supervisory guides to protect against inappropriate utilization and fraud, the economics of telehealth can be more efficient for both patient and provider, which should result in clinical benefits and cost savings.

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<sup>1</sup> The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

While the Academy’s Health Care Delivery Committee and Telehealth Work Group have attempted to study what services are appropriate for substitution by telehealth, discontinuities caused by the COVID-19 PHE have made analyses difficult. Therefore, we believe it is appropriate to revise the timeframe for inclusion of the services added to the Medicare telehealth services list on a temporary, Category 3 basis, at least until the end of calendar year (CY) 2023. Further, we encourage the Centers for Medicare & Medicaid Services (CMS) to similarly include the services that were added to the Medicare telehealth list for the duration of the COVID-19 PHE to those added on a Category 3 basis to allow for additional data collection and analysis.

We suggest that CMS consider allowing diagnosis or practitioner specialty to drive ultimate inclusion for certain services such as evaluation and management (E&M) visits, as the propriety of telehealth can vary by specific conditions or specialty. Congress and CMS have already recognized<sup>2</sup> some specialty and diagnoses differentials as evidenced by the handling of diagnosed substance use disorder and the proposal to revise the regulatory definition of “interactive telecommunications system” to permit use of audio-only communications technology for certain mental health telehealth services.

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We appreciate the opportunity to provide comments on the proposed CY 2022 physician fee schedule in regard to telehealth delivered services. We would welcome the opportunity to speak with you to provide more detail and answer any questions you might have regarding these comments. If you have any questions or would like to discuss further, please contact Matthew Williams, the Academy’s senior health policy analyst, at [williams@actuary.org](mailto:williams@actuary.org).

Sincerely,

Rebecca Owen, MAAA, FSA, FCA  
Chairperson, Health Care Delivery Committee  
American Academy of Actuaries

Kenneth S. Avner, MAAA, FSA  
Chairperson, Telehealth Work Group  
American Academy of Actuaries

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<sup>2</sup> See section 1834(m)(7) of the Consolidated Appropriations Act 2021 (CAA) (Pub. L. 116-260, December 27, 2020) as added by section 2001(a) of the SUPPORT for Patients and Communities Act (Pub. L. 115-271, October 24, 2018).