Congressional Telehealth Caucus
Congress of the United States
Washington D.C. 20515

E-Consult Workgroup
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April 1, 2019

Dear Co-Chairs of the Congressional Telehealth Caucus:

The California-based E-Consult Workgroup, facilitated by BluePath Health and consisting of over 100 payer, provider and patient advocacy organizations, aims to advance the adoption of E-Consult at both the state and national levels. We welcome the opportunity to respond to this Request for Information on telehealth. Our members recognize the important role telehealth plays in the practice of medicine and its place in the standard of care. We are particularly interested in requesting changes to federal law regarding telehealth in the Medicare program, given that states often look to Medicare payment policy in shaping their own laws around commercial and Medicaid payment.

Telehealth in its various modalities has been associated with improved patient outcomes.[1,2,3] Telehealth has also been associated with cost savings for patients, payers and the health care system writ large. Cost savings and/or effectiveness have been associated with telehealth-enabled emergency medical services,[4] asynchronous provider-to-provider electronic consultations (e-consult),[5] synchronous live video visits for pediatric rheumatology,[6] and telestroke,[7] among others. With specific regard to e-consults, in numerous studies e-consult has demonstrated cost savings and efficiencies to patients, providers and payers.[8,9,10]

We agree Congress should consider access, cost and quality when determining what telehealth services should be covered. Although we support MedPAC's call to include telehealth benefits in Medicare Advantage plans and ACOs, we strongly urge Congress to take additional action to expand telehealth benefits for all beneficiaries, including fee-for-service. Although risk-bearing entities like Medicare Advantage and ACOs are indeed prime ways to pilot new innovations, many telehealth modalities are post pilot phase and are now accepted as the standard of care. Congress should make advancements in telehealth technologies—including provider-to-provider modalities like e-consult—reimbursable encounters in the Physician Fee Schedule to ensure equitable access to efficient and quality technologies.

We recommend that the Congressional Telehealth Caucus make several changes to federal law surrounding telehealth. These proposed changes are meant to align the law with current and future industry definitions and advancements in telehealth and digital health more broadly. We believe our recommendations will enable telehealth innovators to have a clear understanding of

how the government defines telehealth and most importantly, ***enable individuals***, particularly Medicare beneficiaries, to clearly understand their telehealth benefits.

Recommendations:

1. **Revise the Medicare statutory definition of telehealth to be inclusive of all potential telehealth modalities**

We ask that Congress amend the definition of telehealth in 42 U.S.C. § 1395(m)(1) for use in the Medicare program and adopt a definition that includes ***all*** forms of telehealth, including provider-to-patient and provider-to-provider telehealth, and synchronous and asynchronous interactions. Congress should adopt a definition along the lines of A.B. 744 in California, which seeks to broaden the legal definition of telehealth used in the state:

> "Telehealth" means the mode of delivering healthcare services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's healthcare. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.[11]

This definition would allow for future coverage of recent advances in remote patient monitoring technologies and cutting-edge interventions being developed more widely in the field of digital health, should CMS decide to include such services and products in the Physician Fee Schedule.

The current statutory definition of telehealth limits its application to provider-to-patient modalities, excluding those such as provider-to-provider interprofessional electronic consultations from its definition. While we applaud CMS for including interprofessional consultations in the Physician Fee Schedule for 2019 as a health care service outside the federal legal definition of telehealth, we encourage Congress to amend the legal definition of telehealth to encompass all modalities and regardless of whether they are provider-to-patient or provider-to-provider.

2. **Remove Medicare restrictions on originating sites and allow for telehealth services to be furnished to beneficiaries in all areas**

We also specifically request that Congress eliminate the language referring to originating sites to remove the barriers in 42 U.S.C. § 1395(m)(4)(C) that prohibit Medicare reimbursement for telehealth services for originating sites not located at an enumerated originating site in a county outside of a Metropolitan Statistical Area or a rural Health Professional Shortage Area located in a rural census tract. This would allow for Medicare beneficiaries in all areas to reap the benefits associated with telehealth visits in avoiding long travel and wait times.

Researchers have increasingly noted the role that telehealth plays in increasing access to both rural and urban health care.[12] Relying on data from the Bureau of Labor Statistics, a study recently identifies that Americans spend an average of 45 minutes traveling to and waiting for

health care appointments.[13] A separate UC Davis study notes that by using telemedicine for clinical appointments and consultations, its patients avoided travel distances that totaled more than 5 million miles,[14] and the use of interprofessional electronic consultations between providers throughout Los Angeles County has led to decreased wait times for specialty appointments.[15]

Several states including California and Colorado allow for the use of telehealth to meet network adequacy standards in both the Medicaid and commercial markets across geographies.[16] These state-based policy developments recognize that network shortages exist in urban areas and that telehealth can be used to address them.

3. **Remove Medicare restrictions limiting asynchronous telehealth to Alaska and Hawaii demonstration projects**

We also specifically request that Congress remove the language in 42 U.S.C. § 1395(m)(1) limiting the inclusion of asynchronous telehealth into the definition of telehealth in only Alaska and Hawaii demonstration projects.

As a coalition of organizations that promotes the adoption of asynchronous provider-to-provider electronic consultations, we recommend that Congress expand the definition of telehealth to include ***all*** advancements in health services furnished by telecommunications technologies. As noted above, electronic consultations and other forms of asynchronous telehealth benefit patients and providers, and lead to cost savings especially in cases where patient travel is burdensome.

4. **Require Medicare reimbursement for both specialists and primary care providers for interprofessional internet consultations**

We ask that Congress instruct CMS to cover both primary care provider (PCP) and specialist time spent on interprofessional internet consultations.

In the 2019 Physician Fee Schedule, CMS for the first time adopted CPT codes to reimburse specialists for time spent on interprofessional internet consultations, which includes secure messaging platforms like e-consult. We request that Congress include in any telehealth bill an update that would require CMS reimburse PCPs for any time spent on provider-to-provider enabled telehealth services for the direct benefits of Medicare beneficiaries. PCPs often spend considerable time on e-consults and other consultations documented in the medical record. We request that Congress instruct CMS to equitably reimburse PCPs for time spent on such documented consultations outside of their regular provider-to-patient visits.

5. **Require reimbursement for telehealth services across all public health programs**

Lastly, we ask that Congress amend federal law to require that all public health insurance programs across the country include coverage for telehealth in all its forms. This would include Medicare, Medicaid, the Children's Health Insurance Program, TRICARE, the Veteran's Health Administration, and the Indian Health Service.

While we believe that our aforementioned recommendations for changes to the Medicare program will strongly influence the adoption of telehealth in the Medicaid and commercial markets, we also firmly believe that Congress should direct agencies such as CMS (the largest single payer of health care in the U.S.) to reimburse and recognize the innovative services being delivered to Americans via telehealth. As a first mover in the health technology space, these federal programs and their delegated entities like managed care organizations and ACOs stand to become first movers in the telehealth space, where Americans are seeking an increasing share of their care.

Conclusion

We thank the Congressional Telehealth Caucus for the opportunity to respond to this Request for Information, and look forward to working with you to advance the adoption and payment of telehealth services across the U.S. Please direct any questions to Robby Franceschini at robby.franceschini@bluepathhealth.com.

Sincerely,

The E-Consult Workgroup

Timi Leslie
President and CEO
BluePath Health

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