

# Congress of the United States

## Washington, DC 20515

April 3, 2020

The Honorable Alex Azar II  
Secretary  
US Department of Health & Human Services  
Hubert H. Humphrey Building  
200 Independence Ave, S.W.  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Hubert H. Humphrey Building  
200 Independence Ave, S.W.  
Washington DC, 20201

### **RE: EXPANDING TELEHEALTH ACCESS FOR BEHAVIORAL AND MENTAL HEALTH SERVICES**

Dear Secretary Azar and Administrator Verma:

Due to the ongoing coronavirus pandemic, we strongly urge the Centers for Medicare & Medicaid Services (CMS) to immediately expand telehealth access for Medicare recipients to include audio-only telehealth services. During this public health emergency, telehealth can play a critical role in providing behavioral and mental health services, such as psychotherapy, and no Medicare recipient should be denied access to treatment of any kind.

Current CMS regulations only reimburse telehealth services conducted through “communications equipment that includes, at a minimum, audio and video equipment permitting two-way-real-time interactive communications” (42 C.F.R. §410.78(a)(3)). This would include laptops, tablets and smart phones; however, it excludes telephone conversations.

CMS did issue guidance on March 30th that grants providers the ability to evaluate patients by audio-only communications. However, this guidance does not allow for the use of audio-only communications to provide psychotherapy services and psychotherapy with evaluation and management (E/M) services covered by Medicare under CPT codes: 90785, 90791, 90792, 90832, 90833, 90834, 90836, 90837, 90838, 90853, 90845, 90839, 90840, 90846, 90847, 90849 and 90875.

This guidance also does not allow for health behavior assessment and intervention services which help Medicare patients cope with or manage one or more physical health conditions. These services are covered by Medicare under CPT codes: 96156, 96158, 96159, 96164, 96165,

96167, 96178, 96170, and 96171, and medical evaluation and management for inpatient and outpatient services in a variety of facilities are covered under: 99212-99214, 99231-99233, 99307-99310, 99334-99337.

It is our understanding that Sec. 3703 of the recently passed Coronavirus Aid, Relief, and Economic Security Act does provide authority for the Secretary of the U.S. Department of Health & Human Services to waive this requirement during a public health emergency. As Members of the Mental Health Caucus, we strongly urge you to waive this requirement.

According to a May 2019 Federal Communications Commission report, between 21.3 million and 42 million Americans lack broadband access. This includes Medicare beneficiaries, some mental health providers, rural Americans and older adults. Due to this lack of access, expanding telehealth access to include audio-only telehealth services, could immediately help these vulnerable communities.

The Centers for Disease Control and Prevention (CDC) has recommended that those age 60 and older avoid crowds, and that those in a community with an outbreak stay home as much as possible. However, social isolation and loneliness are serious health programs.

According to a 2020 National Academies of Sciences, Engineering and Medicine report, 43 percent of adults age 60 or older in the United States reported feeling lonely. A 2010 Annals of Behavioral Medicine report and a 2016 Gerontology report found that stay-at-home orders may cause those who are socially isolated to experience elevated anxiety and depressive symptoms, and loneliness can also impact physical health, including raised blood pressure, lowered immune function and increased risk of death.

While the CDC does offer advice for managing stress around the outbreak, it is important that we help Medicare beneficiaries maintain interpersonal connections and ease their transition to any new routine around social support, including access to behavioral and mental health services.

During this public health emergency, we will continue to examine ways in which both the U.S. Department of Health & Human Services and the Centers for Medicare & Medicaid Services can increase access to mental health services.

Thank you for your prompt attention to this serious matter.

Sincerely,



Grace F. Napolitano  
Member of Congress  
Co-Chair, Mental Health Caucus



John Katko  
Member of Congress  
Co-Chair, Mental Health Caucus



Brian Fitzpatrick  
Member of Congress

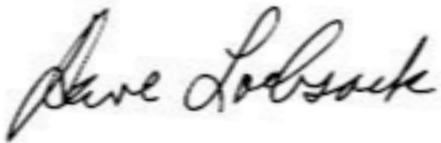


David Trone  
Member of Congress



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