

April 15, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20010

RE: Patient Access to Telemedicine Services

Dear Secretary Scalia:

On behalf of the physician and medical student members of the American Medical Association (AMA), I write to ask your assistance in securing patient access to telemedicine during the COVID-19 national emergency. Physician practices are working hard to quickly establish the ability to provide care to patients through virtual means to avoid patients' risk of exposure to the virus. However, the ability to access needed care through telemedicine will remain limited for many patients without clear guidance from the Department of Labor (DOL) to health plans regulated by the Employee Retirement Income Security Act of 1974 (ERISA) regarding coverage of telemedicine services.

Access to care via telemedicine during the COVID-19 pandemic is proving particularly important for individuals with chronic conditions who may require frequent care from their physician, but who are also most susceptible to the dangers of exposure to COVID-19. Additionally, those in need of mental health care, a population that may be experiencing increased demand for care during this time, can benefit greatly from telemedicine services, but unfortunately, there are reports of limited access to mental health care providers via telemedicine.

Medicare, as well as many state departments of insurance, now require that services provided via telemedicine are reimbursed at the same rate as in-person services, that acceptable modalities for the provision of telemedicine include telephone visits and visits using common audio-video technology, and that physicians can offer telemedicine services to new and established patients. These changes have made it possible for Medicare patients and enrollees of many state-regulated health insurance plans to access the care they need without having to travel to their physician's office or a hospital.

Additionally, even for those plans that have expanded telemedicine access, it is important that barriers preventing patients from seeking care from *their* physician are quickly removed. For example, the AMA continues to hear from physicians who would like to provide care to their existing patients through virtual means but are not able to do so. Health plans frequently have separate telemedicine networks that may not include physicians who normally provide in-person care. As such, physicians may not be given the option to continue seeing their patients via telemedicine, or in some instances, the plan's credentialing process to allow physicians to participate in these networks is slow and cumbersome.

We also have heard concerns that plans are requiring physicians to sign up with a specific telemedicine company to provide these services or incentivizing or directing patients to a select telemedicine provider for care rather than the patient's physician, thereby disrupting continuity of care and creating confusion for the patients.

Finally, physicians are reporting barriers to providing telemedicine services to their existing patients that reside in another state. For example, we have heard of instances where existing state policies may be preventing physicians from continuing to provide care to their patients via telemedicine in border towns, rural areas, or for out-of-state college students, during this pandemic. These policies may be tied back to state licensure laws and regulations, but

plan policies often require that physicians are licensed in the state where the patient is located. While this comports with AMA policy, we support temporarily allowing physicians to practice across state lines during this public health emergency to ensure continuity of care for patients.

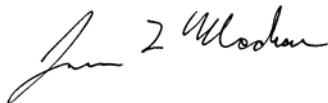
While some health plans have taken voluntary steps to increase access to telemedicine services, many efforts are insufficient and there remains both limited access and a lack of uniformity among plans governed by ERISA. This leaves physicians and other health care providers unsure of for whom and under what conditions they are permitted to practice telemedicine.

As such, the AMA urges the DOL to issue immediate guidance to health plans regulated by ERISA to:

- **Ensure broad coverage and payment for all telemedicine services;**
- **Temporarily allow coverage and payment for all telemedicine modalities, including voice-only;**
- **Require that telemedicine visits, including telephone visits, should be treated the same as in-person visits and should be paid at the same rate as an in-person visit;**
- **Temporarily suspend requirements that an existing patient-physician relationship must be established prior to the provision of telemedicine services;**
- **Provide coverage and payment of COVID-19-related telemedicine services with no cost-sharing (co-pays, co-insurance, deductibles);**
- **Suspend restrictions on telemedicine including types of services, originating sites and geographic limitations; and**
- **Prohibit restrictions that prevent any contracted physician from offering telemedicine services to patients.**

In conclusion, telemedicine is a vital tool for physicians and other health care professionals in caring for their patients while protecting them from COVID-19. The DOL has an important role to play in guaranteeing access to that tool and, therefore, helping to ensure the health and safety of millions of Americans. The AMA stands ready to work with the DOL on this important matter and appreciates your consideration. If you have any questions or need additional information, please contact Margaret Garikes, Vice President, Federal Affairs, at (202) 789-7409 or margaret.garikes@ama-assn.org.

Sincerely,



James L. Madara, MD

cc: The Honorable Preston Rutledge, Assistant Secretary of Labor, Employee Benefits Security Administration