



September 8, 2023

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8016

Re: Medicare and Medicaid Programs; CY 2024 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies (CMS 1784-P)

Dear Administrator Brooks-LaSure:

Thank you for soliciting feedback on the Centers for Medicare & Medicaid Services' (CMS) proposed rules to update changes for Medicare payments under the Physician Fee Schedule (PFS) and other Medicare Part B issues.

The Pew Charitable Trusts is an independent, nonpartisan research and policy organization. Through its Substance Use Prevention and Treatment Initiative, Pew works with states and at the federal level to address the nation's overdose crisis by developing solutions that improve access to timely, comprehensive, evidence-based, and sustainable treatment for opioid use disorder (OUD). In addition to the comments discussed below, Pew's Public Health Data Improvement Project is submitting comments under separate cover detailing its recommendations regarding the Agency's proposed Promoting Interoperability requirements for Medicare Shared Savings Program Accountable Care Organizations.

Pew supports CMS's proposals to improve access to OUD treatment for Medicare beneficiaries. Substance use continues to affect older adults, with an estimated 4.3 million adults 65 years and older experiencing a substance use disorder in 2021.¹ Pew submits the following comments and recommendations to expand access to treatment for this population.

Payment for Audio-only Periodic Assessments Furnished by Opioid Treatment Programs (OTPs)

Pew supports CMS' proposal to extend the audio-only flexibilities for periodic assessments furnished by OTPs through the end of CY2024. Audio-only telehealth is effective, widely used, and essential for beneficiaries' timely access to care and can address inequitable access to audiovisual technology. As noted in the proposed physician fee schedule, clinicians are experiencing higher utilization of audio-only visits for older adults and "the proportion of telephonic audio-only visits increases with the age of the patient."

Allowing payment for audio-only periodic assessments supports CMS' commitment to health equity and addressing disparities in the treatment of OUD. Studies have found that telehealth encounters are more likely to be audio-only for individuals who are older, Black, Hispanic, American Indian/Alaskan Native, Spanish-speaking, living in areas with low broadband access, low-income, and with public insurance.²

Recommendation:

- To ensure continued access to substance use disorder treatment and reduce barriers to care, CMS should extend the audio-only flexibilities for periodic assessments permanently.

Payment for Telehealth Services furnished by Rural Health Centers (RHCs) and Federally Qualified Health Centers (FQHCs)

Pew supports the continued payment for telehealth services furnished by RHCs and FQHCs. A recent study found that over 75% of RHC and FQHC patients had more than half of all OUD visits provided via telehealth services, with most of these visits done via telephone.³ In 2022, nearly 11% of patients served by FQHCs had Medicare coverage.⁴ Medicare beneficiaries who access these sites are twice as likely to have a substance use disorder, and these patients are more likely to be non-White, disabled, or eligible for Medicaid than beneficiaries who do not experience SUD.⁵

Recommendation:

- To ensure continued access to high quality care at RHC and FQHC sites, telehealth services should continue to be covered under Medicare by these providers on the same basis as if the service were provided in-person (sustaining service parity), and these providers should continue to be reimbursed in the same manner or rate as if they were providing in-person services (sustaining payment parity).

Feedback Regarding Ways to Expand Access to Behavioral Health Services

Thank you for the opportunity to provide additional feedback on opportunities where CMS can continue to expand access to behavioral health services.

The Consolidated Appropriations Act, 2022 allowed for audio-only technology to be used for the diagnosis, evaluation, or treatment of a substance use disorder, including opioid misuse.⁶ However, CMS currently limits use of audio-only to practitioners technically capable of providing care via audio and video equipment in order to bill for audio-only services.⁷

Telehealth extends the reach of specialty providers and has increased treatment access and convenience for patients in rural or remote areas where treatment for OUD is lacking.⁸ Research shows that Medicare beneficiaries who received telehealth services related to OUD were more likely to stay on medication and less likely to experience an overdose.⁹ But the requirement that a physician or practitioner be technically capable of using an audio and video connection places unnecessary barriers on clinics located in remote parts of the country with limited access to broadband. Video telehealth is not widely accessible for the 14.5 million Americans living in “digital deserts” because of inequities that include inadequate broadband, digital illiteracy, and health system barriers.¹⁰ Many rural parts of the country do not have the broadband connection necessary for audio-video telehealth services and may miss out on telehealth’s potential to increase access to essential services.¹¹ The Substance Abuse and Mental Health Services Administration acknowledges the role of telehealth in making treatment services more accessible and convenient, and emphasizes that “clinicians also need reliable and affordable internet access to provide telehealth services.”¹²

Recommendation:

- To allow health centers located in parts of the country with limited access to broadband to offer services via audio-only means, CMS should revise the regulations defining an interactive telecommunications system to allow audio-only services to be provided by physicians or



practitioners located in areas with inadequate broadband without regard to the practitioners' technical audio-visual capabilities.

Thank you again for the opportunity to provide input on these important policy changes and for your continued dedication to creating a more equitable health care system. Please contact David Wallace (dwallace@pewtrusts.org) in our Government Relations department for additional information or questions.

Sincerely,

Brandee Izquierdo
Director, Behavioral Health
The Pew Charitable Trusts

¹ Substance Abuse and Mental Health Services Administration, National Survey on Drug Use and Health, 2021: Annual Detailed Tables, Table 5.4A, <https://www.samhsa.gov/data/release/2021-national-survey-drug-use-and-health-nsduh-releases#detailed-tables>.

² J.A. Rodriguez et al., "Differences in the Use of Telephone and Video Telemedicine Visits During the COVID-19 Pandemic," *The American Journal of Managed Care* 27, no. 1 (2021), <https://www.ajmc.com/view/differences-in-the-use-of-telephone-and-video-telemedicine-visits-during-the-covid-19-pandemic>; R.P. Pierce and J.J. Stevermer, "Disparities in Use of Telehealth at the Onset of the COVID-19 Public Health Emergency," *Journal of Telemedicine and Telecare* (2020): 1-7, <https://doi.org/10.1177/1357633X20963893>; J.E. Chang et al., "Patient Characteristics Associated with Phone Versus Video Telemedicine Visits for Substance Use Treatment During COVID-19," *J Addict Med* 16, no. 6 (2022): 659-65; C. Shoff, T-C Yang, B.A. Shaw, "Trends in Opioid Use Disorder Among Older Adults: Analyzing Medicare Data, 2013–2018," *American Journal of Preventive Medicine* 60, no.6 (2021): 850-855, <https://doi.org/10.1016/j.amepre.2021.01.010>.

³ S.R. Bailey et al., "Use of Telehealth for Opioid Use Disorder Treatment in Safety Net Primary Care Settings: A Mixed-Methods Study," *Substance Use & Misuse* 58, no. 9 (2023): 1143-51, <https://doi.org/10.1080/10826084.2023.2212378>.

⁴ U.S. Department of Health and Human Services, Health Resources & Services Administration, "2021 Patient Characteristics Snapshot," accessed 8/26/2022, <https://data.hrsa.gov/tools/data-reporting/data-snapshot>.

⁵ T.A. Lavelle et al., "Utilization of Health Care Services among Medicare Beneficiaries Who Visit Federally Qualified Health Centers," *BMC Health Services Research* 18 (2018): 41, <https://doi.org/10.1186/s12913-018-2847-x>.

⁶ Consolidated Appropriations Act, 2022, H.R. 2471, <https://www.govinfo.gov/content/pkg/BILLS-117hr2471enr/pdf/BILLS-117hr2471enr.pdf>.

⁷ 42 CFR Section 410.78, <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-B/section-410.78>; Centers for Medicare & Medicaid Services, CY 2022 Physician Fee Schedule, <https://www.federalregister.gov/documents/2021/11/19/2021-23972/medicare-program-cy-2022-payment-policies-under-the-physician-fee-schedule-and-other-changes-to-part>

⁸ Guille, C. et al., "Treatment of opioid use disorder in pregnant women via telemedicine: A nonrandomized controlled trial," *JAMA Network Open* 3, no. 1 (2020):e1920177, doi: 10.1001/jamanetworkopen.2019.20177; L. Uscher-Pines et al., "Treatment of Opioid Use Disorder During COVID-19: Experiences of Clinicians Transitioning to Telemedicine," *Journal of Substance Abuse Treatment* 118 (2020): 108124, <http://www.sciencedirect.com/science/article/pii/S0740547220303809>; C.A. Grimm, "Geographic Disparities Affect Access to Buprenorphine Services for Opioid Use Disorder" (U.S. Department of Health and Human Services, Office of Inspector General, 2020), <https://oig.hhs.gov/oei/reports/oei-12-17-00240.pdf>; L. Dunlap et al., "Using Telehealth to Support Opioid Use Disorder Treatment Issue Brief" (Office of the Assistant Secretary for Planning

and Evaluation, 2018), <https://aspe.hhs.gov/reports/using-telehealth-support-opioid-use-disorder-treatment-issue-brief-0>.

⁹ C.M. Jones et al., “Receipt of Telehealth Services, Receipt and Retention of Medications for Opioid Use Disorder, and Medically Treated Overdose among Medicare Beneficiaries before and During the COVID 19 Pandemic,” *JAMA Psychiatry* 79, no. 10 (2022): 981-92, <https://doi.org/10.1001/jamapsychiatry.2022.2284>.

¹⁰ Federal Communications Commission, “FCC Annual Broadband Report Shows Digital Divide Is Rapidly Closing” (2021), <https://www.fcc.gov/document/fcc-annual-broadband-report-shows-digital-divide-rapidly-closing>; The Pew Charitable Trusts, “How Can the United States Address Broadband Affordability?”, April 29, 2022, <https://www.pewtrusts.org/en/research-and-analysis/articles/2022/04/29/how-can-the-united-states-address-broadband-affordability>.

¹¹ B.C. Bauerly, R.F. McCord, R. Hulkower, D. Pepin. “Broadband Access as a Public Health Issue: The Role of Law in Expanding Broadband Access and Connecting Underserved Communities for Better Health Outcomes.” *J Law Med Ethics* 47(2_suppl) (2019):39-42, <https://doi.org/10.1177/1073110519857314>.

¹² Y. Turcios, “Digital Access: A Super Determinant of Health,” (2023) (Substance Abuse and Mental Health Services Administration), <https://www.samhsa.gov/blog/digital-access-super-determinant-health>.