ASHA
American
Speech-Language-Hearing
Association

Submitted via email: PandemicPreparedness@help.senate.gov

June 25, 2020

The Honorable Lamar Alexander
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate
428 Senate Dirksen Office Building
Washington, DC 20510

Dear Chairman Alexander:

On behalf of the American Speech-Language-Hearing Association (ASHA), I would like to thank you for the opportunity to provide feedback on your white paper entitled, "Preparing for the Next Pandemic." ASHA is supportive of your recommendation to ensure that the United States does not lose the gains made in telehealth during the Coronavirus 2019 (COVID-19) pandemic.

ASHA is the national professional, scientific, and credentialing association for 211,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students. Audiologists specialize in preventing and assessing hearing and balance disorders as well as providing audiologic treatment, including hearing aids. Speech-language pathologists (SLPs) identify, assess, and treat speech and language problems, including swallowing disorders.

Overview: Audiologists/SLPs and Telehealth

ASHA has extensively explored the use of telehealth by audiologists and SLPs for the essential services they provide. ASHA maintains that the use of telehealth should be based on the unique clinical presentation of the patient and the ability of the clinician to ensure that the quality of any services provided remotely matches the quality of services provided in person.

A growing body of research on the use of telehealth for communication disorders includes many studies demonstrating its comparability with in-person services. For example, research conducted by the U.S. Department of Veterans Affairs indicates that audiology services provided via telehealth are comparable to in-person delivery of care[1], while published studies also indicate[2] that speech-language pathology services provided in this manner are as effective as services provided in person.[3]

Audiologists and SLPs are recognized to perform telehealth services by a wide range of stakeholders. Prior to the COVID-19 pandemic, twenty states had included provisions in licensure laws that specifically authorized audiologists and SLPs to perform telehealth services.[4] Private insurers in 30 states had established policies that allowed audiologists and SLPs to provide such services.[5] In addition, 27 state Medicaid programs had authorized these clinicians to perform services via telehealth.[6]

Since the pandemic began and the resulting public health emergency (PHE) was declared by President Trump on March 13, numerous states and payers have provisionally expanded coverage of telehealth services provided by audiologists and SLPs. Notably, BlueCross BlueShield of Tennessee made telehealth coverage of services provided by therapy

professionals, including SLPs, permanent, noting that the period following the COVID-19 outbreak "has proven virtual care can work for preventive, routine and maintenance care," adding "we're making this decision because the added convenience can bring better health."[7]

Telehealth Gains During COVID-19

ASHA agrees that lessons learned from the COVID-19 pandemic have demonstrated that challenges remain in ensuring that our nation continues to respond effectively to this pandemic and is properly prepared for future ones. ASHA also shares your assessment that legislative action is necessary this year, especially to solidify and expand upon gains made in telehealth coverage, which benefit both patients and providers and serve to deter the transmission of this and other respiratory viruses that disproportionately impact older Americans.

The ability to provide services remotely is critical to deter the spread of COVID-19 among Medicare beneficiaries who are older and often have underlying health conditions that put them at high risk for adverse outcomes from the disease. Current federal guidance urging social distancing and government-mandated stay-at-home orders for older and immuno-compromised individuals is resulting in beneficiaries foregoing needed rehabilitative and habilitative care, as well as audiologic assessments. This care may be provided effectively through telehealth without jeopardizing the safety of patients and providers and risking further transmission of this deadly virus.

Prior to the congressional and regulatory changes in response to the pandemic, audiologists and SLPs were precluded from providing telehealth services to Medicare beneficiaries because Section 1834(m) of the Social Security Act, which outlines restrictions on telehealth services in Medicare, limited such services to being provided by physicians and practitioners as defined in statute. These unnecessary and outdated provisions prevented audiologists and SLPs from providing medically necessary services to older individuals during the COVID-19 pandemic.

In fact, the Centers for Medicare & Medicaid Services (CMS) has reported that "the greatest barriers to expansion of Medicare telehealth under Section 1834(m) are that the statute . . . limits the types of practitioners that can furnish services."[8] CMS added that "there is overwhelming agreement that telehealth can bring medical care into communities with limited access to health care providers, reduce wait times for patients, and be more convenient than traveling to a health care provider's office. Based on the experiences of multiple payers and health care providers, it appears that telehealth plays an important role in achieving the goals associated with value-based models by providing clinically indicated, high quality, 'anytime, anywhere' care to patients."[9]

Congress has taken several actions to expand telehealth as a result of the COVID-19 pandemic. Section 101 of Division B of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (P.L. 116-123) authorized the Secretary of the U.S. Department of Health and Human Services (HHS) to waive certain Medicare telehealth restrictions, including originating site and geographic requirements, for some beneficiaries during the PHE. Section 6010 of Division F of the Families First Coronavirus Response Act (P.L. 116-127) ensured that new Medicare beneficiaries could access telehealth flexibility provided to existing beneficiaries under the emergency authority granted in the previously enacted supplemental appropriations bill.

Section 3703 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) authorized HHS to waive the requirements within Section 1834(m) of the Social Security

Act, which restrict coverage of telehealth services to only those services provided by physicians and practitioners. This authority gave the Secretary the ability to designate additional categories of clinicians, including audiologists and SLPs, as authorized to provide and be reimbursed for services to Medicare beneficiaries through telehealth. On April 30, CMS used this authority to enable audiologists and SLPs, and other health care professionals, to bill for certain telehealth services provided during the PHE.

ASHA appreciates that Congress and CMS have taken extensive action to remove barriers to providing care in the safest and most efficient manner possible by authorizing audiologists and SLPs to bill for certain audiology and speech-language pathology related services. To date, CMS has not fully followed congressional intent to allow for broad and robust coverage of services provided by these professionals. ASHA is encouraging CMS to add additional audiology and speech-language pathology services delivered via telehealth through its sub-regulatory process to further improve access to medically necessary care for more Medicare beneficiaries with hearing, communication, cognitive, and swallowing disorders to deter the spread of COVID-19. However, there are additional steps Congress can take right now to solidify telehealth gains to better prepare for the next pandemic.

Recommendation 4.2: Ensure that the U.S. does not lose the gains made in telehealth

ASHA recommends that Congress take the following actions this year to improve preparedness for future pandemics by ensuring that the U.S. does not lose the aforementioned telehealth gains made during the COVID-19 pandemic:

1. **Permanently expand access to telehealth services for Medicare beneficiaries.** ASHA supports making current telehealth authority permanent to ensure continuity of care and access to medically necessary audiology and speech-language pathology services for Medicare beneficiaries. This includes lifting restrictions related to geographic location, originating and distant sites, and provider types, such as audiologists, SLPs, and other qualified health care professionals not currently authorized to provide telehealth services beyond the pandemic. Allowing broad, continuous access to telehealth services will encourage Medicare beneficiaries to seek safe and medically necessary care during and after the pandemic and will help providers better prepare their practices for a potential resurgence of COVID-19 or for future PHEs. Further, permanently expanding access to telehealth services is consistent with Executive Order 13924, *Regulatory Relief to Support Economic Recovery*, issued on May 19, directing agency heads to rescind, modify, or waive unnecessary regulations that impede economic recovery following the COVID-19 pandemic, as these restrictions on telehealth inhibit the ability of a broad range of health care providers to recover from the financial impact on their practices that reduced hours and closed doors have caused.[10] Finally, on June 15, 2020, 30 members of the Senate wrote Leaders McConnell and Schumer asking that these authorities be made permanent.[11]

2. **Require HHS to provide coverage of telehealth services provided by audiologists and SLPs.** CMS regulations to date have limited coverage of audiology and speech-language pathology services in scope and duration during the PHE. Should CMS not augment and extend coverage of these services beyond the PHE, and Congress not codify these and other aforementioned gains in statute, ASHA recommends specifically authorizing coverage of telehealth services provided by audiologists and SLPs in a manner similar to legislation introduced in the House of Representatives (H.R. 6654, the

Emergency COVID Telehealth Response Act), which would authorize CMS coverage of audiology and speech-language pathology services during the PHE.

3. **Passage of S. 2741, the CONNECT for Health Act.** ASHA supports S. 2741, the Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2019, introduced by Senators Brian Schatz, Roger Wicker, Ben Cardin, John Thune, Mark Warner, and Cindy Hyde-Smith. The bill, which has 34 bipartisan cosponsors, would permanently eliminate several barriers in Medicare that prevent telehealth services from being provided efficiently and effectively, including those related to the types of providers who can provide such services, specifically giving the HHS Secretary authority to enable ineligible providers to bill for telehealth services outside the PHE.

4. **Passage of S. 2446, the Medicare Audiologist Access and Services Act.** Medicare precludes seniors from accessing the full range of services provided by audiologists in a timely manner by requiring a physician order and limiting reimbursement to diagnostic services only, even though audiologists' scope of practice includes auditory and vestibular treatment and neurological monitoring. This administrative barrier imposes unnecessary costs on the health care system, delays care, and impinges beneficiary access to the full range of audiology treatment services available to most other Americans. Medicare covers these treatment services when furnished by clinicians, such as physicians or other nonphysician practitioners, as do other state and federal programs. To address these deficiencies, ASHA has endorsed S. 2446, the Medicare Audiologist Access and Services Act, introduced by Senators Elizabeth Warren, Rand Paul, Roger Wicker, and Sherrod Brown. S. 2446 fixes these problems by enabling audiologists to provide both diagnostic and treatment services, allowing beneficiaries direct access to audiologists without a physician order (eliminating unnecessary physician visits and helping program beneficiaries avoid exposure to COVID-19 and other illnesses), and reclassifying audiologists as practitioners under Medicare, which would allow these licensed health care professionals to provide telehealth services, further solidifying telehealth gains made during the COVID-19 pandemic.

Conclusion

ASHA commends your many years of public service, particularly with regard to your work improving and expanding access to health care. We look forward to working with you to enact these identified reforms this year to ensure that the United States maintains telehealth gains beyond the current public health emergency. Extending telehealth capabilities on a permanent basis will ensure Medicare beneficiaries continue to have uninterrupted access to medically necessary services in a manner that promotes public health and that will provide certainty to health care providers to encourage its continued use as an integral part of preparing for future pandemics.

Thank you again for the opportunity to provide comments on the "Preparing for the Next Pandemic" white paper. If you or your staff have any questions, please contact Jerry White, ASHA's director of federal affairs, health care, at jwhite@asha.org.

Sincerely,

Theresa H. Rodgers MA, CCC-SLP
2020 ASHA President

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