



April 3, 2020

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Attention: CMS-1744-IFC
P.O. Box 8016
Baltimore, MD 21244

RE: Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency

Dear Administrator Verma:

On behalf of the American Speech-Language-Hearing Association, I write to respond to the interim final rule (IFR) and request expansion of Medicare telehealth coverage for services provided by audiologists and speech-language pathologists using the waiver authority provided to the Secretary of the U.S. Department of Health and Human Services (HHS) under Section 3703 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).

The American Speech-Language-Hearing Association (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.

ASHA will provide more in-depth comments on the IFR in advance of the comment deadline; however, ASHA provides these initial comments with the knowledge that the Centers for Medicare & Medicaid Services (CMS) continues to respond to the needs of our health care system, providers, and consumers to allow the flexibility needed to address the Coronavirus Disease 2019 (COVID-19) pandemic. ASHA recognizes that CMS has taken extensive action within the agency's authority to remove barriers to providing care in the safest and most efficient manner possible. Considering the broad waiver authority provided by Section 3703 of the CARES Act, ASHA urges CMS to take immediate action to expand telehealth coverage to include additional clinicians, including audiologists and speech-language pathologists (SLPs), as soon as practicable.

ASHA appreciates that the IFR included several codes, in Section 11.Z.16, that are provided by SLPs in an effort to work within what had been the limits of the agency's authority. However, the CARES Act extends additional authority to CMS to allow SLPs to provide the services previously recognized as critical to Medicare beneficiaries. Maintaining access to medically necessary services during the COVID-19 pandemic demands effective and efficient action to flatten the curve of transmission. Ensuring access to care over the coming weeks or months may only be done by issuing additional waivers to current telehealth restrictions in Section 1834(m) of the Social Security Act as authorized by Congress.

ASHA commends the significant efforts that HHS and CMS have taken thus far to address the numerous issues and needs associated with the pandemic and expand telehealth coverage to more than 80 additional services, including speech-language pathology codes. However, further

action is required now to implement the waiver authority vested in HHS by Section 3703 of the CARES Act, which states:

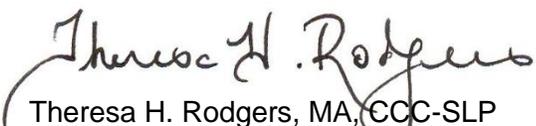
“Section 1135 of the Social Security Act (42 U.S.C. 1320b–5) is amended—
(1) in subsection (b)(8), by striking “to an individual by a qualified provider (as defined in subsection (g)(3))” and all that follows through the period and inserting “, the requirements of section 1834(m).”; and (2) in subsection (g), by striking paragraph (3).”

This amendment grants the Secretary authority to waive the requirements within Section 1834(m) of the Social Security Act, which restricts coverage of telehealth services to only those services provided by physicians and practitioners. This authority is broad, which is critical during national emergencies. This gives the Secretary the authority to designate additional categories of clinicians authorized to provide and be reimbursed for services provided to Medicare beneficiaries via telehealth. ASHA recommends that the Secretary use this authority expeditiously to include audiologists and SLPs based on the parameters outlined below. The attached bipartisan, bicameral letter clarifies congressional intent for CMS to “immediately and broadly exercise this waiver authority, including by allowing additional types of health care professionals to furnish telehealth services . . .”.

ASHA recognizes that the IFR was written prior to passage of the CARES Act and its provisions were guided by the statutory authority HHS possessed at that time. While expansion of the use of “e-visits,” virtual check-ins, and other forms of communication-based technology codes help facilitate some interactions between patients and SLPs, these types of services do not facilitate comprehensive evaluation and treatment, have limited practical utility, and do not extend access to services otherwise covered when provided in-person. Therefore, while we appreciate CMS’s efforts to provide flexibility in the provision of services in a public health emergency (PHE), these efforts have been insufficient to meet the needs of certain nonphysician clinicians and their patients. Applying the full waiver authority vested to CMS by Congress will help small or solo audiology and speech-language pathology practices survive by providing them an opportunity to continue treating the Medicare beneficiaries they are committed to serving, while adhering to state and federal mandates discouraging the spread of the virus by staying at home and social distancing.

As the fourth week of the PHE approaches, Medicare beneficiaries and their health care providers cannot afford to wait any longer. ASHA urges you to exercise the statutory authority of the CARES Act to remove the barrier to audiologists and SLPs who provide critical health care services to the country’s most vulnerable patients. If you or your staff have any questions, please contact Sarah Warren, MA, ASHA’s director of health care policy, Medicare, at swarren@asha.org.

Sincerely,



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

Attachment