



September 17, 2021

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Attention: CMS-1753-P
P.O. Box 8010
7500 Security Boulevard
Baltimore, MD 21244–1850

RE: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model; Request for Information on Rural Emergency Hospitals

Dear Administrator Brooks-LaSure:

On behalf of the American Speech-Language-Hearing Association (ASHA), I write to offer comments on the calendar year (CY) 2022 Medicare outpatient prospective payment system proposed rule. ASHA members, primarily audiologists, provide health care services to patients under this payment system and have a vested interest in telehealth coverage policies.

ASHA is the national professional, scientific, and credentialing association for 218,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

Section X.D. Comment Solicitation on Temporary Policies to Address the COVID–19 PHE

CMS seeks feedback on stakeholders' experience with hospital staff furnishing services remotely to beneficiaries in their homes through use of communications technology as it relates to the flexibility allowed during the coronavirus disease 2019 (COVID-19) federal declared public health emergency (PHE). Since the beginning of the PHE, the Centers for Medicare & Medicaid Services (CMS) has shown tremendous ingenuity and dedication to ensuring Medicare beneficiaries maintain access to health care services in ways that mitigate the risk of transmitting COVID-19. Over the course of one year, CMS developed a variety of policies—based on its statutory authority at a given time—for health care settings including outpatient clinics, skilled nursing facilities (SNF), and outpatient hospital departments. CMS also established a sub-regulatory process to update the telehealth services list on a rolling basis, rather than on an annual basis through the traditional rulemaking cycle. These efforts maintained the quality of and access to care for Medicare beneficiaries and helped clinicians remain employed.

Audiologists and speech-language pathologists (SLPs) utilized these flexibilities to maintain the quality and continuity of care for their patients. Audiologists and SLPs provide effective services using telehealth because of their professional training. ASHA's Code of Ethics requires that clinicians use their clinical judgment to determine the most appropriate services for their patients and deliver care via telehealth only if the services are equal in quality to those delivered in person.¹ Delivering care that does not meet the standard for in-person care represents an

actionable violation of ASHA's Code of Ethics, which helps ensure patient protection when receiving telehealth services from ASHA certified audiologists and SLPs.

ASHA surveyed audiologists and SLPs who were using telehealth services during the PHE and found that 38% of audiology respondents and 43% of speech-language pathology respondents do not provide services via telehealth because they have determined those services are not clinically appropriate for individual patients. This demonstrates that ASHA members maintain a commitment to upholding professional ethical standards and only providing telehealth for clinically appropriate patients when audiology and speech-language pathology services are equivalent in quality to in-person care.

One example of an innovative approach to telehealth flexibilities during the PHE is the ability for outpatient hospital departments to register a patient's home as a temporary extension site through the regional office and to consider services, including audiology and speech-language pathology services, provided via audiovisual technology as in-person services. In these instances, the use of modifier 95 (synchronous telemedicine service) is not required. Therefore, based on the claim alone, it is not clear that the services were provided via audiovisual technology rather than in person without reviewing the medical record documentation. **ASHA supports the permanent application of using audiovisual technology as in-person services in outpatient hospital departments.** However, one challenge this policy may create is a lack of complete data or understanding of the use of audiovisual technology in service delivery during the pandemic. While CMS notes that it saw a sustained increase in the use of telehealth associated with mental health services, it is possible that using audiovisual technology to deliver a variety of services is more significant than claims data might reflect given the flexibilities outlined above.

While CMS notes in the proposed rule a need to better understand the use of communications technology associated with the delivery of mental health care, **ASHA recommends CMS look at health care services more broadly by including audiology and speech-language pathology services to ensure future policies associated with telehealth coverage or in-person services provided via communication technologies are as comprehensive as possible and meet the needs of all Medicare beneficiaries.** ASHA maintains that audiology and speech-language pathology services are provided safely, effectively, and ethically via audiovisual technology—either as telehealth or in-person services—both during and after the PHE.

Conclusion

Thank you for your attention to our comments. If you or your staff have questions, please contact Sarah Warren, MA, ASHA's director for health care policy for Medicare, at swarren@asha.org.

Sincerely,



A. Lynn Williams, PhD, CCC-SLP
2021 ASHA President

¹ American Speech-Language-Hearing Association. (2016). *Code of Ethics*. <https://www.asha.org/Code-of-Ethics/>.