



## **Telehealth Services**

- Telehealth services have emerged as a critical tool during the COVID-19 pandemic to provide care to patients while supporting physical distancing efforts and reducing the spread of SARS-CoV-2 and other infectious diseases by avoiding unnecessary outpatient visits.
- The AMA continues to hear success stories from patients and physicians who see the expansion of telehealth as a positive step for health care delivery due to increased convenience, better provider/patient communication, greater provider/patient trust, and access to real-time information related to a patient's social determinants of health (i.e., a patient's physical living environment, economic stability, or food insecurity), which can lead to better health outcomes and reduced care costs.
- Congress should act to ensure that telehealth services are covered and remain available at the end of the COVID-19 public health emergency.
- **Specifically, Congress should permanently lift the geographic and site restrictions on telehealth technologies so all Medicare beneficiaries have access to telehealth services, including from home, regardless of where they live.**
  - Congress gave CMS the ability to waive the geographic origination requirement for the duration of the COVID-19 pandemic, but this restriction will snap back into place abruptly when the emergency declaration ends unless Congress acts first.
  - Two-way audio-visual services are the only communication modality that Medicare places such a prohibition on. Audio-only phone, remote patient monitoring, text, and other communication technologies do not meet the definition of a telehealth technology. Also, services furnished via these technologies are not subject to the 1834(m) geographic and originating site restrictions and go through regular Medicare coverage and payment processes.
  - The success of telehealth technology adoption during the COVID-19 public health emergency has made it abundantly clear that these outdated and arbitrary restrictions make no sense with today's technology. Physicians and patients have seen the value of telehealth services and should not be forced to stop using these tools when the public health emergency ends.

## **Liability Protections for Health Care Workers**

- During this unprecedented national health emergency, physicians and other health care professionals have been putting themselves at risk every day while facing shortages of medical supplies and safety equipment, and making critical medical decisions based on changing directives and guidance.
- Physicians and other health care professionals are now facing the threat of years of costly litigation due to the extraordinary circumstances.
- The public health emergency triggered by the COVID-19 pandemic has created unprecedented challenges to our nation's health care system.
- In addition to facing inadequate supplies and safety equipment, physicians, hospitals, and other frontline health care professionals have been met with rapidly changing guidance and directives from all levels of government. Examples include suspending elective in-person visits and procedures, being assigned to provide care outside the physician's general practice area, rationing

care due to shortages of equipment such as ventilators, inadequate testing that could lead to delayed or inaccurate diagnosis, and delays in treatment for patients with conditions other than COVID-19.

- In these and other scenarios, physicians face the threat of costly and emotionally draining medical liability lawsuits due to circumstances that are beyond their control. These lawsuits may come months or even years after the current ordeal is over.
- The liability protections we call on Congress to pass are not universal; they are intended to provide targeted and limited protections where health care services are provided or withheld in situations that may be beyond the control of physicians/facilities (e.g., following government guidelines, directives, lack of resources) due to COVID-19.
- The protections extend to those who provide care in good faith during the COVID-19 public health emergency (plus a reasonable time, such as 60 days, after the emergency declaration ends), and not in situations of gross negligence or willful misconduct.
- As physicians and other health care professionals, and the facilities in which they provide their services, continue their heroic efforts to stop the spread of COVID-19 while caring for COVID-19 patients as well as meeting the needs of other patients, they will remain vulnerable to the threat of unwarranted and unfair lawsuits.
- **As Congress considers the next COVID-19 relief package, we strongly urge Congress to include the targeted and limited liability protections that are in the bipartisan bill, H.R. 7059, the “Coronavirus Provider Protection Act.”**

#### **Public Health Emergency Fund:**

- We seek Congressional action to clarify and correct what we believe are the unintentional tax consequences of policies meant to provide vital funding to health care providers through the Public Health and Social Services Emergency Fund (PHSSEF) and other programs as part of the nation’s response to the novel coronavirus (COVID-19) pandemic.
- Government payments to corporations are generally considered taxable. Congress recognized this concern in enacting the Paycheck Protection Program (PPP) in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* in March 2020.
- That program included a provision specifically exempting PPP funds from being taxed.
- After passage of the *CARES Act*, there was a realization that Congress inadvertently failed to protect the ability for entities receiving PPP funds from maintaining their tax deductions for expenditures attributable to PPP funds.
- We understand there is bipartisan support to address the deduction issue in upcoming legislation, and the U.S. House of Representatives included such a correction in the *Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act*, which passed the House on May 15th.
- We respectfully urge a similar clarification for tax-paying health care providers to ensure that: 1) PHSSEF and similar funding provided in response to COVID-19 is not taxable; and 2) that entities receiving these funds maintain tax deductions attributable to these funds. It is essential that these provisions are enacted together to avoid the situation that occurred with the PPP.
- Without such a correction, tax-paying health care providers lose at least 21 percent of the benefit of these funds and are treated unequally as compared to non-tax-paying providers.
- It is critical that the actions taken to support front-line caregivers and hospitals are not diluted by technical issues around the taxability of support funds.
- The current grant structure creates an inefficient process that provides grants, and then takes back 21 percent or more of the same grants for many of the organizations that need the assistance the most.
- **We urge Congress to streamline the assistance process and ensure health care providers receive 100 percent of the assistance Congress intended.**

### **Paycheck Protection Program (PPP) Improvements:**

- We greatly appreciate the actions taken by Congress to help physicians on the frontlines of patient care meet the demands of the COVID-19 pandemic.
- This includes passage of the CARES Act and the Paycheck Protection Program and Health Care Enhancement Act, which established and provided supplemental funding for the Paycheck Protection Program (PPP).
- These Acts have helped many physician practices and other small businesses, including 501(c)(3) nonprofit organizations, cover payroll and other expenses during a period of severe loss in revenue caused by the COVID-19 public health emergency.
- The CARES Act limited the types of nonprofit organizations that are eligible for a PPP loan to 501(c)(3) organizations. This means that other 501(c) nonprofit organizations, such as 501(c)(6) professional associations, cannot access the same PPP loans—or the favorable features of such loans, such as forgiveness—as other small businesses.
- However, many 501(c)(6) organizations are small businesses, and the COVID-19 public health emergency has had the same devastating impact on their business operations and ability to retain employees as other small businesses.
- For example, many medical professional associations generate a significant portion of their revenue by holding conferences and providing essential continuing medical education sessions that help maintain and improve quality patient care.
- Because the COVID-19 public health emergency has caused these conferences to be cancelled, many professional associations are facing severe financial losses and are in urgent need of financial assistance to remain in business.
- This could lead to the reduction in other services that benefit patients and are essential to maintaining a strong physician workforce, such as programs that improve the quality and efficiency of physician practices, improve physician satisfaction and wellbeing, or provide a pathway for clinical reentry following a life event such as raising a family.
- 501(c)(6) nonprofit organizations not only contribute significantly to the economy, they employ staff that are dedicated to improving the quality of the professional membership or trade they represent.
- **We join with thousands of other professional and trade associations throughout the country in urging Congress to extend eligibility for the PPP loan program to include Internal Revenue Code section 501(c)(6) nonprofit organizations in the final version of the next COVID-19 aid package.**