



Via email

April 2, 2020

The Honorable Alex Azar  
Secretary  
U.S. Department of Health and Human  
Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
U.S. Department of Health and Human  
Services  
Centers for Medicare and Medicaid Services  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Secretary Azar and Administrator Verma:

Our organizations, the National Association for the Support of Long Term Care (NASL), the National Association of Rehab Providers and Agencies (NARA), Alliance for Physical Therapy Quality Innovation (APTQI), American Physical Therapy Association (APTA), and the American Occupational Therapy Association (AOTA) are writing to urge the Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) to utilize its new authority under Section 3703 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) **to issue a blanket waiver to expand the types of providers eligible to furnish telehealth services under Medicare to include physical therapists and physical therapist assistants, occupational therapists and occupational therapy assistants, and speech language-pathologists during the COVID-19 public health emergency.**

In the interim final rule, “Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency,” [CMS-1744-IFC] released in pre-publication format on March 31, 2020, CMS already identified many therapy services as having “sufficient clinical evidence” to support their addition to the Medicare telehealth list on a category 2 basis. However, the regulation makes it clear that CMS is constrained by Section 1834(m) of the

Act which does not allow physical therapists, occupational therapists, or speech-language pathologists to bill for such services, meaning that those providers and their patients are currently excluded from this relief. **This is despite the fact that, as stated in the IFC, “the majority of the [therapy] codes are furnished over 90% of the time by therapy professionals.”** A blanket waiver to include physical therapists and physical therapist assistants, occupational therapists and occupational therapy assistants, speech language-pathologists to utilize telehealth would allow patients to receive therapy services from the providers who are the most experienced and qualified to provide them.

The public health emergency declaration along with the President’s national emergency declaration empowered CMS to allow waivers consistent with Section 1135 of the Social Security Act. We applaud the swift action that you have taken including blanket waivers such as the 3-day stay waiver, spell of illness, provider licensure, and the telehealth waivers released to date.

The new telehealth waiver now allows *all* nursing facilities and other settings where frail elders live to utilize telehealth as a means for physicians, nurse practitioners, physician assistants, registered dietitians, and certain other practitioners to furnish and receive payment for covered telehealth services. This ability for all settings to utilize telehealth technology allows these practitioners to deliver services and at the same time reduce COVID-19 risk to the resident and the practitioner. While we applaud this action, more waiver flexibility is required to allow rehabilitation therapists who furnish needed services *daily* to patients in order to respond to this emergency and at the same time, reduce risk to spreading COVID-19 to nursing facility patients, beneficiaries living in other institutional settings such as assisted living, memory care, and residential living settings and themselves.

Because our members provide medical care, treatment, and therapeutics to our nation’s elders in skilled nursing facilities, long term care (LTC) facilities, assisted living communities, rehabilitation agencies, outpatient clinics and other settings, we understand firsthand the vulnerabilities of the population we serve, especially as this population is particularly susceptible to the coronavirus. We also understand how many of them do not currently have adequate access to care due to valid concerns about COVID-19, or actual COVID-19 exposures. For these reasons, we ask that CMS authorize waivers consistent with those already established to include physical therapy, occupational therapy, and the speech language pathology services provided daily by rehabilitation therapists. While reducing the spread of the COVID-19 must be the highest priority, treating patients so that they can be safely discharged from care, thereby reducing potential exposure, avoiding re-hospitalization, and freeing critical space in facilities for future patients is also of paramount importance.

Our member rehabilitation therapy companies and individual therapists and therapist assistants are actively implementing policies and procedures in support of this effort by restructuring plans of care as appropriate to reduce the number of therapists in a building and reducing therapist movement from facility to facility while still meeting the needs of patients. These steps are essential, but they reduce the availability of therapists to patients. Other factors limiting rehabilitation therapists include travel limitations, staff that must self-quarantine, limiting staff that service multiple nursing facilities or practice across sites, nursing facility screening protocols, and

providers limiting patient interactions for PPE preservation. These necessary and responsible actions are causing staffing shortages that will impact patient care. Shelter in place directions are discouraging vulnerable seniors from leaving their homes with good reason, but this can have significant negative outcomes for those that need skilled rehabilitation services including risk or re-hospitalization, exacerbation of chronic conditions, and falls with injuries.

We are aligned with the CDC's desire to restrict access and unnecessary contact within nursing facilities. Currently, rehabilitation therapists are treating patients in their rooms, cancelling group and concurrent therapy, and scheduling strategically to reduce the risk of exposure and to help stop the spread of the virus. We also support reducing the number of therapists in a building, however, in facilities where COVID-19 has begun to spread and staffing levels drop, rehabilitation therapy professionals anticipate providing additional public health support activities within the facility and therapy services may need to be modified in order to meet other residents' basic needs.

Rehabilitation delivered via telehealth includes physical and occupational therapists and speech language pathologists providing assessment, evaluation, and treatment using telehealth as the mode of service delivery. This also could include a therapist providing appropriate supervision to a therapist assistant who is with the patient and can include clinician-to-clinician consultation. If rehabilitation therapists are included as telehealth providers, it will enable the number of therapists who must enter facilities to be reduced because some therapists could work remotely. The duration of this authority would be the length of the national emergency or the duration of the other telehealth waivers that CMS has issued thus far.

#### Patients Receiving Medicare Part B Outpatient Therapy

**We ask that CMS take immediate steps to ensure patient safety and protect health care practitioners by waiving the current restrictions on distant site practitioners eligible to furnish telehealth services currently found at Social Security Act Section 1834(m). We request that CMS use its new waiver authority to expand the current list of distant site practitioners to include physical therapists, physical therapist assistants, occupational therapists, occupational therapy assistants, and speech-language pathologists so these providers are eligible to furnish services via telehealth under Medicare during the COVID-19 public health emergency.**

The ability of rehabilitation therapists to deliver services via telehealth would help significantly with many current requirements, including the requirement for in-person delivery of at least one unit of service to Medicare patients every 10 visits by the supervising therapist. Also, it would allow home health agencies and rehabilitation agencies to perform initial assessments or determine patients' homebound status remotely or by record review, so that beneficiaries can obtain care while minimizing the risk to themselves or others. It also would grant greater flexibility with the timing of and information included in patient assessments.

In response to the coronavirus emergency, states including California, Illinois, Kentucky, Pennsylvania, and Louisiana have authorized rehabilitation therapists to provide rehabilitative therapy using telehealth. Also, large insurers including Blue Cross Blue Shield of Louisiana and United HealthCare will now reimburse physical, occupational and speech therapy telehealth

services provided by qualified health care professionals, including rehabilitation therapists, when rendered using interactive audio/video technology.

#### Patients on a Part A Stay

For patients on a Medicare Part A stay in nursing facilities, most immediately, rehabilitation therapist shortages (see the discussion above) are causing difficulty with completing the initial evaluation of the resident so that a therapy plan of care may begin for patients in many SNFs. Orthopedic, stroke, and cardiopulmonary patients need to initiate their therapy treatment in order to avoid significant consequences. Unfortunately, they will bear the brunt of therapy limits due to therapists being limited from entering facilities amid COVID-19 restrictions. Given the situation, some SNFs are wisely limiting therapy staff to those therapists who are working only at their building or sister buildings. Under current Medicare policy, if therapists cannot enter a building to see the patient in order to complete the evaluation, the patients' rehabilitation cannot be initiated, and essential treatment must be delayed. Telehealth can solve this problem by allowing the clinicians to use the technology to connect with one another to complete the evaluation so that therapy can be initiated. In this way, entrances to the facilities can be limited while continuing to deliver necessary care.

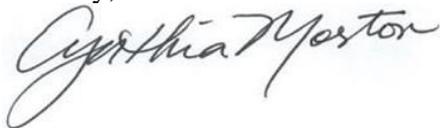
These requests represent policies that are necessary at this moment. They would allow important care to be delivered in medical facilities, homes, and at the end of life to continue as uninterrupted as possible given the unique challenges brought on by COVID-19. As we learn more about the evolving pandemic and best ways to deliver care to patients, we anticipate the need for additional assistance from CMS and appreciate your agency's willingness to remain flexible as all Medicare providers continue to deliver care to patients during this national emergency.

Rehabilitation providers want to partner with CMS to reduce the number of health care personnel who need to enter facilities and homes. This can be readily accomplished if telehealth for rehabilitation therapists is enabled. To this end, we request that CMS authorize a waiver to allow rehabilitation therapists to be recognized as distant site practitioners who may utilize and be paid for telehealth services furnished to Medicare beneficiaries during the public health emergency.

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Thank you for your consideration.

Sincerely,



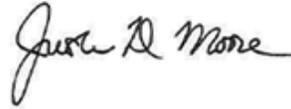
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