



September 13, 2021

*Submitted electronically via: [www.regulations.gov](http://www.regulations.gov)*

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1751-P  
P.O. Box 8016  
Baltimore, MD 21244-8016

Re: CMS-1751-P – Medicare Program; CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies

Dear Sir or Madam:

Business Group on Health (the Business Group) appreciates the opportunity to respond to the Centers for Medicare and Medicaid Services' (CMS) notice of proposed rulemaking on payment policies under the physician fee schedule, Part B payment policies, Medicare Shared Savings Program requirements and others.

The Business Group represents a [network of today's largest and most progressive employers](#), including 70 Fortune 100 companies, providing health coverage for 60 million workers, retirees and their families in 200 countries.

As the largest single payer for health care in the U.S., Medicare has significant influence to transform the delivery system away from a costly fee-for-service (FFS) structure that leads to misaligned incentives. Instead, Medicare should join with private sector efforts to transform the delivery system to one that will reduce overall costs and improve health outcomes by adopting alternative payment models, managing the total cost of care, achieving health equity, managing population health and keeping people well. The looming insolvency of the Medicare trust fund should accelerate CMS efforts.

Specific to the proposed rule, the Business Group is commenting on increasing access to health services provided via telehealth.

## Promoting Telehealth

The Business Group supports CMS efforts to increase access to health services provided via telehealth both during the COVID-19 public health emergency (PHE) and beyond. Medicare coverage and payment rules can facilitate increased access for employers and plan participants in private plans.

The Business Group agrees with CMS approach to continue evaluating temporary expansion of telehealth services that were added to the telehealth coverage list during the COVID-19 public health emergency (PHE) by permitting coverage of those services until the end of December 31, 2023. As CMS evaluates these services for permanent coverage, we re-iterate the main takeaways from our [2020 comments](#) that:

- CMS closely monitor and evaluate telehealth procedures to guard against fraud, waste, and abuse; ensure quality and safety, and protect patients' privacy.
- CMS use caution in permanently expanding coverage of emergency services provided in a telehealth setting where a beneficiary cannot receive additional in-person care follow-up care.

The Business Group also supports CMS efforts to expand access to mental health care via telehealth. Access to mental health care in the U.S. is widely inconsistent and [can differ drastically based upon which state individuals reside](#). Specific to the proposed rule, the Business Group supports:

- CMS implementation of Section 123 of the Consolidated Appropriations Act, 2021 (CAA) which removed certain geographic restrictions and added a person's home as an originating site for diagnosis, evaluation, or treatment of a mental health disorder.
- CMS proposal to implement the CAA's requirement of an in-person visit within 6 months prior to the initial telemental health encounter and CMS' recommendation of follow-up in person encounters of once every 6 months thereafter. However, we recommend that CMS:
  - Waive the initial encounter requirements if the doctor/patient relationship is already established at a previous in-person encounter.
  - Defer to the provider's clinical judgement of appropriate in-person follow up care for that is not defined as a [severe mental health disorder by the National Institute of Health](#).
- CMS proposal to grant flexibility for required in-person visits among physicians or practitioners of the same specialty and same subspecialty within the same group, thereby increasing access to care when the provider is unavailable to see the patient.

Thank you for considering our comments and recommendations. Please feel free to contact me ([kelsay@businessgrouphealth.org](mailto:kelsay@businessgrouphealth.org)), or Matthew Sonduck ([sonduck@businessgrouphealth.org](mailto:sonduck@businessgrouphealth.org)), Policy Associate to discuss.

Sincerely,

A handwritten signature in black ink that reads "Ellen Kelsay". The signature is written in a cursive, flowing style with a long, sweeping tail on the "y".

Ellen Kelsay  
President and CEO