



October 02, 2020

The Honorable Seema Verma, Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Hubert H. Humphrey Building, Room 445-G  
200 Independence Avenue, SW  
Washington, D.C. 20201

**RE: Comment on CMS-1734-P (“Medicare Program: CY 2021 Revisions to Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; etc.”)**

Dear Administrator Verma,

The National Organization for Rare Disorders (NORD) thanks the Centers for Medicare and Medicaid Services (CMS) for the opportunity to provide comments regarding the “Medicare Program: CY 2021 Revisions to Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; etc.” (PFS) proposed rule for fiscal year 2021.

NORD is a unique federation of voluntary health organizations dedicated to helping the 25-30 million Americans living with a rare disease. Many individuals with rare diseases rely on the Medicare program, making the PFS influential in ensuring they receive timely and appropriate care. NORD strongly believes that all patients should have access to quality and affordable health care that is best suited to their medical needs, whether that care is delivered in-person or via telehealth technologies. We appreciate CMS’s ongoing commitment to expanding the availability of telehealth services, and are pleased to offer comments on the following provisions of the PFS proposed policy changes:

1. Continuation of Payment for Audio-only Visits
2. Proposed Temporary Addition of a Category 3 Basis for Adding to or Deleting Services from the Medicare Telehealth Services List
3. Frequency Limitations for Subsequent Nursing Facility Visits

Typically, rare disease patients receive care in hospitals, health centers, and doctors’ offices. Due to the specialized nature of the treatment that many rare disease patients require, this often necessitates traveling significant distances, even across state lines, to obtain such care. In the face of the COVID-19 pandemic, these patients are at higher risk if they were to leave their homes and travel to their usual health care facilities. Though the expansion of telehealth has

thus far been driven by the necessity of responding to the COVID-19 pandemic, NORD believes that it can help to improve access to care for rare disease patients over the long term.

For the last several months, NORD has hosted virtual rare disease discussion groups in all 50 states, which have provided valuable feedback on the patient and provider experience with telehealth. In our recent survey of the rare disease community we found that out of over 800 respondents, more than 83% had been offered a telehealth visit during the COVID-19 pandemic by their health provider and of those who were offered a visit, almost 88% accepted. Out of all patients who reported having had a telehealth visit, 92% described it as a positive experience.<sup>1</sup> This is encouraging news for a patient population that depends on being able to access quality health care services in order to thrive.

Based on our engagement with the rare disease patient community, NORD has created a set of policy principles to guide our recommendations on the permanent use of telehealth.<sup>2</sup> Fundamentally, NORD believes that all patients should have equal and effective access to telehealth services, and that patients and their providers should be able to make a choice on the location and type of care they receive that is based on what is in the best interests of the patient. NORD also believes the federal government should collect and analyze data regarding the impact of telehealth on utilization, quality, health outcomes and spending during the COVID-19 pandemic, and after the pandemic abates, to ensure high quality care is provided, positive health outcomes are achieved and fraud is prevented. We are grateful for CMS's previous work to remove barriers that had resulted in reduced telehealth utilization and are eager to provide comments concerning how to realize the long-term benefits of access to telehealth for rare disease patients within this proposed rule.

### **Continuation of Payment for Audio-only Visits**

We are pleased that CMS is proposing to expand the telehealth services available to Medicare beneficiaries by adding additional services to the Medicare telehealth list on a "Category 1" basis. Within the proposed rule, CMS asks for comment on whether separate payment for audio-only telephone evaluation and management services should be a provisional policy to remain in effect until after the end of the COVID-19 public health emergency (PHE), or if the policy should be made permanent. NORD believes that it is critical that telehealth services be available and accessible to people with disabilities, with limited English proficiency, and limited technology. Many low-income Medicare patients lack health and digital literacy, or do not have the means to acquire phones or computers with video conferencing capabilities. In addition,

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<sup>1</sup> Covid-19 Community Follow-Up Survey Report. (August 4, 2020) [https://rarediseases.org/wp-content/uploads/2020/08/NRD-2061-RareInsights-CV19-Report-2\\_FNL.pdf](https://rarediseases.org/wp-content/uploads/2020/08/NRD-2061-RareInsights-CV19-Report-2_FNL.pdf)

<sup>2</sup> NORD Telehealth Principles. (2020) <https://rarediseases.org/advocate/policy-priorities/nord-telehealth-principles/>

many patients in low-income or rural communities do not have access to high-speed internet. For these patients, the option of audio-only communication is especially important.

NORD recognizes that audio-only visits may not be appropriate in some clinical settings. However, we believe that patients and their providers should have the opportunity and flexibility to choose the method with which they access care. Accordingly, we urge CMS to make permanent the communication flexibilities put into place during the PHE and allow coverage and reimbursement for audio-only services for Medicare beneficiaries.

### **Proposed Temporary Addition of a Category 3 Basis for Adding to or Deleting Services from the Medicare Telehealth Services List**

We support CMS's proposed addition of a temporary third category (Category 3) of services to the Medicare telehealth services list. Under the proposed rule, Category 3 services would remain on the Medicare telehealth service list through the end of the year in which the COVID-19 PHE declaration ends.

CMS proposes to consider three factors when assessing whether there is a potential likelihood of clinical benefit for a service such that it should be added to the Medicare telehealth services list on a Category 3 basis: (1) whether, outside of the circumstances of the PHE, there are increased concerns for patient safety if the service is furnished as a telehealth service; (2) whether, outside of the circumstances of the PHE, there are concerns about whether the provision of the service via telehealth is likely to jeopardize quality of care; and (3) whether all elements of the service could fully and effectively be performed by a remotely located clinician using two-way, audio/video telecommunication technology.<sup>3</sup> We urge CMS to revise the third factor, as it explicitly excludes audio-only services and would prevent those services from being added to Category 3 and receiving coverage and payment through the year in which the PHE ends. As stated previously, NORD strongly believes that audio-only services are essential for ensuring equitable access to telehealth for patients.

### **Frequency Limitations for Subsequent Nursing Facility Visits**

Finally, NORD is supportive of the agency's proposal to revise the frequency limitations for nursing facility visits provided via Medicare telehealth to once every three days. Currently, CMS limits the provision of visits to once every 30 days. NORD encourages CMS to go further, and assess whether patients would be better served by removing entirely the frequency limitations for subsequent nursing facility visits furnished via telehealth.

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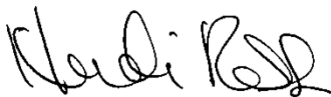
<sup>3</sup> Page 26: <https://www.govinfo.gov/content/pkg/FR-2020-08-17/pdf/2020-17127.pdf>

## Conclusion

NORD is a unique federation of health organizations dedicated to helping people with rare "orphan" diseases and assisting the organizations that serve them. NORD is committed to the identification, treatment, and cure of rare disorders through programs of education, advocacy, research, and patient services. NORD aims to ensure that the perspective of the patient is considered each time a decision by the Federal government can impact access to care.

We once again thank CMS for the opportunity to comment on this proposed rule. NORD will continue to work in support of policies that enable telehealth to be an option for patients, should they and their provider decide it is in the patient's best interests. For questions regarding NORD or the above comments please contact Corinne Alberts at [calberts@raredisease.org](mailto:calberts@raredisease.org).

Sincerely,

A handwritten signature in black ink that reads "Heidi Ross". The signature is fluid and cursive, with the first name "Heidi" and last name "Ross" clearly distinguishable.

Heidi Ross, MPH  
Director of Policy

