



July 12, 2023

The Honorable Cathy McMorris Rodgers
 Chairwoman
 Committee on Energy & Commerce
 U.S. House of Representatives
 2188 Rayburn House Office Building
 Washington, DC 20515

The Honorable Frank Pallone
 Ranking Member
 Committee on Energy & Commerce
 U.S. House of Representatives
 2107 Rayburn House Office Building
 Washington, DC 2051

Re: Patient community concerns about the detrimental impact of HR 824, the Telehealth Benefit Expansion for Workers Act

Dear Chairwoman McMorris Rodgers and Ranking Member Pallone,

The 31 undersigned organizations, representing more than 120 million people living with a pre-existing condition in the US, urge you to oppose HR 824, the Telehealth Benefit Expansion for Workers Act.

Our organizations share three principles that we use to help guide our work on healthcare to continue to develop, improve upon, or defend the programs and services our communities need to live longer, healthier lives.¹ These principles state that healthcare must be adequate, affordable, and accessible.

With these principles at the forefront, we write to convey our concerns about HR 824, the Telehealth Benefit Expansion for Workers Act. In the report “Under-covered: How ‘Insurance-Like’ Products Are Leaving Patients Exposed,” many of our organizations documented our concerns with health insurance products that are not required to comply with the patient protections enacted in the Affordable Care Act.² We are concerned that policies included in the legislation considered today would decrease the number of consumers enrolled in comprehensive health insurance plans and threaten access to quality, affordable healthcare for the patients and consumers we represent.

Telehealth has long been a vital care delivery method for improving access in underserved communities, particularly rural areas, areas with physician shortages, and areas with limited access to primary care services. However, the COVID-19 pandemic has highlighted the role of telehealth in helping patients continue to receive timely and safe healthcare services and treatments from their providers. Telehealth – and all subspecialty modalities of telemedicine, including telemental health – can help reduce gaps in access to services and care equity, including access to primary care and specialized providers, when in-person visits are not a safe or feasible option. Today, nothing prevents an employer or health insurance carrier from offering telehealth coverage in conjunction with their health coverage, and many do. Telehealth can and should be used to increase patient access to care and our organizations have issued principles to aid lawmakers in setting appropriate policies to achieve that goal.³

We are concerned that HR 824 would create a new excepted benefit for telehealth services. Excepted benefits are a category of coverage exempt from most federal and state standards that apply to health insurance. Excepted benefits coverage can take many forms, including disease-specific policies like cancer-only, dental, and fixed indemnity plans. These plans are designed to supplement a major medical insurance plan. They are *not* comprehensive coverage, and in many cases, they are not allowed to coordinate with other coverage, leading to fragmented and lower quality care – and widening the gap in equitable care provision. These products are often exempted from federal regulation and primary regulation authority lies at the state level. While telehealth is an important coverage, it is insufficient on its own without major medical health insurance.

During the COVID-19 public health emergency (PHE), the federal government temporarily allowed employers to offer stand-alone telehealth benefits as a means to give individuals not eligible for their employer plan access to at least some care at a time when many patients and providers were worried about the health risk of in-person care. However, the public health emergency has now ended, as has the need for this temporary exception. Additionally, with the expansion of the advanced premium tax credits (APTCs) in 2021, and subsequently extended through 2025, many more individuals have options for affordable, comprehensive coverage through the marketplaces, further negating the need for this type of temporary, non-comprehensive coverage solution.

Even in the best-case scenario, where an individual enrolls in a comprehensive plan and the telehealth-only policy, we are concerned that a telehealth-only policy could create significant frustration and confusion for consumers who need in-person care to diagnose and treat their symptoms. Consider the scenario of a patient who sees a provider via telehealth and then in person, as many do in the course of receiving a diagnosis and treatment. Then imagine navigating two separate insurance companies to receive that care – two sets of paperwork, two sets of prior authorization, two sets of network

limitations, two sets of cost-sharing responsibilities, and so on. Not to mention the telehealth provider and in-person provider may be two different providers within two different medical systems. As a result, the telehealth provider would not necessarily have access to the patient's medical history and thus would be hampered in their ability to adequately treat and diagnose the patient.

The PHE revealed that the majority of telehealth services are most effective when integrated with in-person services. Specialties vary in the degree to which they embrace telehealth because some components of their daily work can be accomplished with telehealth technology, whereas other components cannot. The degree to which different services integrate telehealth with in-person care and the aspects of that care that can be reliably provided through telehealth are truly still at question. To that end, we encourage policymakers to regard telehealth as a tool to enhance the traditional delivery of health care services rather than disrupting or displacing standard care pathways. Moving forward, the focus should be on maintaining that integration rather than reverting to a stance in which telehealth is seen as something separate from, or as an alternative to, traditional in-person care.

We also want to draw the committee's attention to a concerning trend. In recent years, excepted benefits have been marketed and sold – sometimes bundled – as replacements for traditional health insurance.⁴ This can lead to significant consumer confusion and a false sense of security for people who believe they've purchased high-quality coverage, only to find substantial gaps and higher out-of-pocket costs when they use their plan. And as we have seen with other types of non-ACA compliant coverage, disclosures alone are not adequate to protect against these risks.

Finally, on Friday, July 7, the Biden Administration released a proposed rule to return short term limited duration to just that – short term (3-month) plans – as well as take action on other excepted benefit plans (like telehealth only plans). This is not the time for Congress to move in the other direction by expanding another type of excepted benefit plan that wouldn't provide comprehensive coverage.

In sum, we are concerned that HR 824 would be harmful to patients and consumers, and we encourage the Committee to instead consider approaches that would promote consumer access to integrated telehealth benefits within a comprehensive health plan. If you have questions or would like to discuss this further, please contact Brian Connell VP, Federal Affairs with The Leukemia & Lymphoma Society at brian.connell@lls.org.

Sincerely,

American Cancer Society Cancer Action Network
American Heart Association
American Kidney Fund
American Lung Association
ALS Association
Arthritis Foundation
Asthma and Allergy Foundation of America
CancerCare
Child Neurology Foundation
Chronic Disease Coalition
Crohn's & Colitis Foundation
Cystic Fibrosis Foundation

Epilepsy Foundation
Hemophilia Federation of America
Lupus Foundation of America
Lutheran Services in America
Mended Little Hearts
Muscular Dystrophy Association
National Alliance on Mental Illness
National Eczema Association
National Health Council
National Hemophilia Foundation
National Kidney Foundation
National Multiple Sclerosis Society

National Organization for Rare Disorders
National Patient Advocate Foundation
National Psoriasis Foundation
Pulmonary Hypertension Association

Susan G. Komen
The AIDS Institute
The Leukemia & Lymphoma Society

¹ Consensus Healthcare Reform Principles. <https://www.lung.org/getmedia/0912cd7f-c2f9-4112-aaa6-f54d690d6e65/PPC-Coalition-Principles-FINAL.pdf>.

² Under-Covered: How “Insurance-Like” Products Are Leaving Patients Exposed. <https://www.ils.org/advocate/under-covered-how-insurance-products-are-leaving-patients-exposed>.

³ Principles for Telehealth Policy. [https://www.lung.org/getmedia/ac136df2-5984-46b6-9503-8523f71f5425/FINAL-Principles-for-Telehealth-Policy- 8 27 2020-\(003\).pdf](https://www.lung.org/getmedia/ac136df2-5984-46b6-9503-8523f71f5425/FINAL-Principles-for-Telehealth-Policy- 8 27 2020-(003).pdf).

⁴ Limited Plans with Minimal Coverage Are Being Sold as Primary Coverage, Leaving Consumers at Risk. <https://www.commonwealthfund.org/blog/2021/limited-plans-minimal-coverage-are-being-sold-primary-coverage-leaving-consumers-risk>.