Senate Committee on Finance

COVID-19 Health Care Flexibilities: Perspectives, Experiences, and Lessons Learned

May 19, 2021

10:00 A.M., Virtual Hearing

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Purpose

The purpose of today's hearing was to evaluate the COVID-19 healthcare-related flexibilities issued during the pandemic and how each of the flexibilities have been effective in supporting patients and providers during the pandemic.

Key Takeaways

- The telehealth flexibility waiver has been a critical waiver during the pandemic.
- Deploying telehealth has the potential to address healthcare disparities; however, it is important to consider how uneven access to broadband impacts access to telehealth services.
- Several Senators stated support for the continued expansion for additional audio-only services.
- While the Hospital at Home waiver was issued during the pandemic, uncertainty about how long the waiver will be effective prevents facilities from investing in the deployment of programs.
- Established payment rates for telehealth services will greatly impact utilization and practice patterns.

Members Present

Chairman Wyden, Ranking Member Crapo, and Senators Stabenow, Grassley, Cantwell, Cornyn, Menendez, Cardin, Whitehouse, Brown, Lankford, Casey, Thune, Daines, Carper, Warner, Hassan, Warren, Cortez-Masto, and Young.

Witnesses

Jessica Farb, Director, Health Care, United States Government Accountability Office, Washington, DC

Kisha Davis, MD, MPH, Member, Commission on Federal and State Policy, American Academy of Family Physicians, Leawood, KS

Linda V. DeCherrie, MD, Clinical Director, Mount Sinai at Home and Professor, Geriatrics and Palliative Medicine, Icahn School of Medicine at Mount Sinai, Mount Sinai health System, New York, NY

Narayana Murali, MD, Executive Director and Board Member of America's Physician Groups, Marshfield Clinic, Marshfield, WI

Robert A. Berenson, MD, Institute Fellow, Urban Institute, Washington, DC

Opening Statements

Chairman Wyden (D-OR) said that when COVID-19 hit, it became unsafe to take the bus to a doctor's appointment or drive to the hospital. Telehealth has always been about balancing the speed of delivering services while ensuring appropriate quality of care. Patients should have greater accessibility to telehealth, particularly after they have already seen a provider. He stated that the Committee is looking forward to discussing the expansion of telehealth after having a year of robust telehealth utilization and experience. The Senate Finance Committee led efforts to include telehealth as part of the CARES Act, temporarily eliminating originating and geographic restrictions. These flexibilities greatly expanded access for beneficiaries in receiving telehealth services. Telehealth will be a big part of the transformation moving beyond acute care and dealing with chronic diseases. Today, the Committee will hear from physicians and experts who responded to the pandemic. The Committee is dedicated to finding a solution that works for both seniors and physicians.

Ranking Member Crapo (R-ID) said Congress and the Administration provided certain healthcare flexibilities during the pandemic to ensure patients continued to receive high quality care. This hearing will highlight the common ground and strong bipartisanship for expanding telehealth post-pandemic. During the pandemic, the Centers for Medicare and Medicaid Services (CMS) waived over 200 rules in Medicare alone. Today's witnesses will provide insights into how Congress should evaluate the flexibilities that were waived. Much of the hearing will focus on care provided to patients via telehealth. Reliance on telehealth increased among rural and urban patients alike. In Idaho, telemedicine visits increased from 200 to 28,000 visits per month. To ensure financial stability, providers were reimbursed at the same rates for telehealth services as if they were provided in-person. This period of expanded telehealth will help to inform quality of care and program costs. The promise of telehealth is clear. The Government Accountability Office (GAO) will help Congress evaluate the effectiveness of the flexibilities. Identifying smart reforms that increase efficiencies will help stabilize Medicare.

Testimony

Ms. Jessica Farb said to increase access to medical services during a public health emergency (PHE), the Secretary of Health and Human Services (HHS) is able to waive or modify certain healthcare program requirements. Over the course of the pandemic, HHS waived 230 Medicare program requirements. These waivers were generally intended to improve beneficiary access to care, improve workforce and facility capacity and reduce administrative burdens. As examples of Medicare waivers, CMS allowed hospitals to provide acute care services in the home under the Hospital without Walls wavier, created an expedited process for provider enrollment and increased ability for providers to provide care via telehealth. The full effects of these waivers and flexibilities are not fully known. However, CMS does have some utilization data related to telehealth. Telehealth services drastically increased during the beginning of the pandemic. While telehealth utilization has

slowly declined, utilization is still much higher compared to pre-pandemic. Factors to consider when determining whether and how flexibilities should be expanded include program integrity, health equity, safety, and cost.

Dr. Kisha Davis said as a physician, she has experienced the full impact of the flexibilities issued during the pandemic. The flexibilities granted patients continued access to trusted primary care physicians. Telehealth should be a tool in the toolbox for physicians to be deployed based on clinical judgment. It is critical that Medicare and Medicaid changes advance health equity, protect patient safety and enable providers to provide the right care at the right time. Dr. Davis provided four recommendations regarding telehealth flexibilities.

1. Congress should permanently eliminate originating site and geographic restrictions to ensure all Medicare beneficiaries can receive telehealth care at home.
2. Congress should require Medicare to cover audio-only E/M services beyond the pandemic. For many patients, especially, low-income, rural and non-English speakers, audio-only phone calls is most comfortable modality to receive telehealth services.
3. Congress should ensure payment for telehealth services provided by Community Health Centers.
4. Policymakers should monitor the impact of telehealth on health equity. Congress must proactively address structural barriers to telehealth.

Dr. Linda DeCherrie said Hospital at Home is a patient-centric model providing care in the home for select conditions. Providing care in the home improves outcomes and reduces costs. The Hospital at Home model should be extended beyond the pandemic. Mount Sinai developed a proposal under the Physician-focused Payment Model (PFPM) Technical Advisory Committee (PTAC). PTACt recommended the model to the Secretary of HHS. However, the Secretary failed to implement the model. Mount Sinai invested a lot of time and money into developing the program and was unable to operate the model. Because there is uncertainty about the timeline for the Hospital at Home waiver, facilities do not want to invest in developing a Hospital at Home program. If Congress and CMS provide certainty that the program will extend beyond the pandemic even more hospitals would implement the model.

Dr. Narayana Murali said permanently supporting telehealth flexibilities issued in response to the pandemic and expanding broadband services will reduce costs and expand access to critical healthcare services to all Medicare beneficiaries. The Marshfield Clinic provides care to mostly rural populations. The Clinic leverages telehealth for a myriad of conditions and leans on telehealth to reach rural patients. Telehealth has been critical to reduce disparities and improving access to healthcare services. Telehealth has the power to become the backbone of the US healthcare system. Site of service restrictions should not deny care for patients. The greatest obstacle for patients is broadband access to internet.

Dr. Robert Berenson said telehealth improves access and quality while reducing costs. However, telehealth payment will greatly dictate how innovation in telehealth will

continue. He said telehealth in the fee-for-service (FFS) environment has many significant challenges. The fee schedules function reasonably well when code descriptors are concise and clinically accurate. Coding parameters were established for payment purposes alone, they are not useful clinically. For many telehealth services, the administrative costs outweigh the reimbursement amount for certain telehealth services. Patients also face substantial time costs in travel and in waiting rooms with in-person visits. If used properly, telehealth visits should be add-on services to in-person care. These add-on services should be within a cost restraint. CMS has deployed the Primary Care First model. It has the potential to be the permanent payment model for primary care practices and for telehealth services. This is an important time to fundamentally examine how Medicare pays physicians for clinical services under FFS.

Questions and Answers

Chairman Wyden (D-OR) said that he applauds the speed and efficiencies of new technologies; however, efforts must be made to ensure quality of care remains high. He asked what the lessons learned are during the pandemic in striking the balance between speed and efficiency versus quality and accountability. **Ms. Farb** said we have learned that we do not have complete information to determine solutions to some of the issues raised with telehealth. MedPAC recommended these flexibilities are extended with certain guardrails in order to evaluate the impact of telehealth. **Dr. Berenson** said we learned that if you simply pay physicians for generating Relative Value Units (RVUs), you will not get the services you are desiring. In 2019, CMS implemented a check-in visit, which was a visit to discuss with patients whether an in-person visit was required. Payment for these services was approximately $14. Practices would not bill for these services. When CMS raised payment to $56 during the pandemic, practices conducted and billed for these services. The payment level for services matters and will impact utilization patterns.

Chairman Wyden said every time the Committee discusses a healthcare issue, health equity is always considered. He asked what actions the Committee can take to promote equity in telehealth. **Dr. Davis** said there has been unequal access to telehealth services and the communities with access have been whiter and more affluent. In expanding telehealth, analyses of utilization and access must be stratified by race and ethnicity. We must also continue to invest in infrastructure and continue to address access to telehealth services in underserved areas.

Ranking Member Crapo (R-ID) said the waivers have increased access, however it is more complex to evaluate the quality of care provided via telehealth. He asked what quality metrics GAO uses to evaluate quality of care. **Ms. Farb** said the GAO does not create quality measures. However, the National Quality Forum (NQF) is evaluating key areas to evaluate quality of care in telehealth including the timeliness of care, how well it encourages care coordination and patient empowerment and engagement. There are several quality metrics that are used to evaluate telehealth. GAO is continuing to assess how quality should be evaluated. **Ranking Member Crapo** asked if telehealth is more feasible in a capitated payment arrangement. **Dr. Murali** said transactional FFS does not encourage people to innovate. Capitation enables physicians to focus on care coordination and build the infrastructure to support patient-focused care. **Dr. Berenson** said he agrees with Dr. Murali. Problems with billing are not present in capitation. **Ranking Member Crapo** asked how Marshfield Clinic made the necessary investments in infrastructure

and workforce training. **Dr. Murali** said Marshfield Clinic supported broadband expansion in the community. Providers must invest in platforms and technology in order to optimize telehealth deployment.

Senator Stabenow (D-MI) said she supports the desire to make telehealth permanent. She said mental health and addiction services dropped in utilization and asked what is required to ensure all patients that require mental health services have access. **Dr. Davis** said mental health services offered via telehealth greatly increases access to services. **Senator Stabenow** asked about the benefits of meeting patient needs at home. **Dr. DeCherrie** said she provides multiple types of care for patients in the home. She believes in multiple models of home-based care and all have increased in need during the pandemic. These models should all be considered for expansion.

Senator Grassley (R-IA) said this is a very important issue. He asked while the pandemic has shown many flexibilities do not compromise patient safety and quality, which additional flexibilities should Congress consider to improve patient access. **Dr. Davis** said other flexibilities beyond telehealth, including allowing physicians to provide supervision services via two-way audio-visual technologies and permanently removing the volume of prior authorizations or step-therapy, should be considered as we evaluate pandemic flexibilities. **Senator Grassley** said the PHE permitted more than 140 services to be administered via telehealth. He asked what types of services are most widely used and which are the most effective. **Dr. Murali** said the number of mental and behavioral telehealth consults have doubled during the pandemic and have been very effective in meeting the needs of patients. **Dr. Berenson** said he would agree with the importance of telehealth in expanding access to mental and behavioral health services. However, he would add there may be some confidentiality concerns for patient when receiving mental health services at home.

Senator Cantwell (D-WA) asked if the US needs more affordable healthcare options for patients. All panelists agreed with this statement. She noted that the state of New York operates a basic health plan permitting Americans living under 200% of the federal poverty level to have access to healthcare savings. She stated this program should be expanded to other states. She asked what must be done for telehealth payment to ensure the reimbursement rate for telehealth services is appropriate. **Dr. Berenson** said FFS should be continued as an interim strategy. Payment parity for telehealth services would create payment amounts that are too high for telehealth services. However, maintaining the payment amount based on the resource-based relative value scale will set payment for certain telehealth services too low, potentially resulting in reduced access to telehealth services. **Senator Cantwell** asked analysis to determine the appropriate payment level is achievable in the next several weeks. **Dr. Berenson** said it is achievable in the next several months.

Senator Cornyn (R-TX) said that, as a result of the pandemic, utilization of screening services dropped dramatically. Approximately one-third of adults did not receive recommended screenings and 43% of patients skipped preventive services. There are only two good things that came out of the pandemic: margaritas to-go and telehealth. He asked how telehealth services furnished by audio-only technologies can increase access to care in rural areas. **Ms. Farb** said both patient and provider access to internet reduces access to telehealth services. Audio-only services were critical to increase access. **Dr. Davis** said the need for audio-only services is

essential for underserved communities. **Dr. Murali** said more than 50% of telehealth visits in Wisconsin are audio-only. Not covering audio-only services and not including audio-only services in Medicare Advantage (MA) risk adjustments increases disparities. **Senator Cornyn** said security of personal health information is critical to protect. As we continue to provide more telehealth, there may be concerns with the patient and provider relationship. He asked how we can ensure security for patients. **Dr. Murali** said investing in infrastructure can support secure connections and enabling patients to receive care in the home provides additional peace of mind for the patient.

Senator Menendez (D-NJ) asked why coverage for audio-only services is critical to ensure we do not further healthcare disparities. **Dr. Murali** said in his region, you can travel for two hours without having access to internet. To address geographic isolation, permitting audio-only services is critical to ensure patients have access to care. **Dr. Davis** said the investment in primary care is helpful to address the digital divide. Audio-only is essential to getting past barriers. Payment must be adequate to support the flexibility in modality of care. **Senator Menendez** asked what role telehealth can play in addressing longstanding healthcare disparities. **Dr. DeCherrie** said that in order to provide care for patients in their home, clinicians need all options available to ensure access. **Senator Menendez** said there is a need for better data collection during the pandemic. He asked what data is needed to demonstrate the impact of the flexibilities and inform which flexibilities should be made permanent. **Ms. Farb** said the Committee should evaluate how well flexibilities align across Medicare and Medicaid. GAO has made numerous recommendations about appropriate data collection. **Senator Menendez** said it is critical that the Congress evaluate the US response to the COVID-19 pandemic.

Senator Cardin (D-MD) said those that lacked infrastructure were most greatly impacted during the pandemic. Telehealth grants have provided timely access to care for so many individuals. As a practical matter, having audio-only care is better than not having any care. However, we must be careful to not establish a two-tier system. As it relates to the reimbursement structure and access to broadband to support telehealth, he asked what steps should be top priority to expand telehealth. **Ms. Farb** said audio-only should be expanded and studied to evaluate the quality of care furnished. A targeted study of differences between telehealth, audio-only and in-person care should be conducted to determine differences in care provided. **Dr. Berenson** said most patients with chronic conditions can receive appropriate follow-up care via telephone. **Senator Cardin** said a study between the different types of care will be helpful to inform care transformation.

Senator Whitehouse (D-RI) said Rhode Island has experienced great success with the use of waivers issued during the pandemic. There is no going back on telehealth services, and they have been increasingly useful in improving access to mental health services. He asked if GAO has seen any increase in utilization due to increased costs. **Ms. Farb** said this is something that the agency is looking to evaluate. **Senator Whitehouse** asked whether or not the Hospital at Home waiver should be extended. **Dr. DeCherrie** said patients are comfortable in the home. Furnished telehealth services or having a provider in the home under the Hospital at Home Waiver can help inform care delivery.

Senator Brown (D-OH) asked about the increased reimbursement for audio-only services and how it has improved delivery of services to underserved beneficiaries. **Dr. Murali** said

audio-only services are very powerful in managing patient populations, especially those with chronic diseases. It is extremely difficult to expand broadband in rural areas in Wisconsin. **Senator Brown** asked how audio-only services reduce disparities and how CMS should monitor the impact of telehealth on access and equity. **Dr. Davis** said audio-only care, when used appropriately, is high quality care. She said being able to connect with rural and urban seniors is essential, no matter the modality. Telehealth and audio-only services are best when provided as part of the care continuum, rather than just one-off telehealth services.

Senator Lankford (R-OK) said there were over 200 flexibilities issued during the pandemic. He asked about the 3-day rule for skilled nursing facilities (SNF); when he engaged with hospitals in his state, this flexibility was largely discussed. **Dr. Berenson** said the 3-day SNF rule was around since the onset of the program to prevent Medicare from covering long-term services. The rule has a perverse incentive the increase hospital visits and lengths of stay. We need to figure out a way to eliminate the rule without creating a long-term care benefit. It is a real problem that deserves real attention. **Dr. Davis** said the AAFP is in favor of addressing the 3-day rule. **Dr. Murali** shared his experience with innovative ways in which Marshfield Clinic leverages SNFs to prevent unnecessary hospitalizations under a capitated arrangement.

Senator Casey (D-PA) said patients prefer to receive care in the home and in the community, rather than in the hospital. The Hospital at Home program is similarly a way for seniors to receive wrap around care in the home. He asked what the value is in expanding these programs. **Dr. DeCherrie** said expanding access for home-based programs is very important. During the pandemic, patients wanted this type of care and we should act to expand access to it. **Senator Casey** asked if there are ways to address the rising mental health crisis for children and teens in Medicaid and CHIP. **Dr. Davis** said the expansion of telehealth for mental health is crucial for children, and expanding the treatment network is huge. Creating payment parity in Medicaid will have a big impact in increasing access to mental health services.

Senator Thune (R-SD) said for four Congresses, the telehealth working group has advocated for the expansion of telehealth. He asked if Dr. Murali supports the CONNECT for Health Act. **Dr. Murali** said expanding the FQHC and RHC authority is very important to expand the pool of providers eligible to provide telehealth care. **Senator Thune** said that Dr. Murali stated that 16% of all appointments per month could be handled via telehealth, including via audio-only in his written statement. He asked Dr. Murali to elaborate on the data and if it included both Medicare and commercial payer data. **Dr. Murali** stated that the data did include both commercial and Medicare data. There are a lot of established visits that can be done via telehealth services once the patient has had an initial visit with the provider. This can significantly reduce costs for patients traveling to appointments and missing work. Telehealth can especially be effective for evaluation and management services for all specialties to manage care.

Senator Daines (R-MT) said the COVID-19 flexibilities have been a success, especially for telehealth services. The expansion of telehealth should be made permanent. Senator Daines is reintroducing legislation to make these policies permanent, allowing first dollar coverage for telehealth under high-deductible health plans (HDHPs). Access to virtual care should not be solely a pandemic issue. He asked about the advantages in making this policy permanent. **Dr. Murali** said the HDHP policy makes strides to increase access to services. It will be extremely well received from the standpoint of increasing access to care. **Senator Daines** said rural patients do not have the option for face-to-face visits as they do not have access to broadband internet. He is working on payment parity for audio-only services. He asked how important payment parity is in improving access to care. **Dr. Murali** said there are great investments that must be made in order to offer telehealth services.

Senator Carper (D-DE) said he had visited technology companies, including a behavioral science company focused on using telehealth to bring help to people suffering from mental health illnesses. During the pandemic, telehealth had become an essential service. Increasing access to telehealth can improve the timeliness and availability of healthcare services. He asked what the main policy changes are that need to be made in order to permanently increase access to mental health services for children. **Dr. Davis** said Medicaid payment parity is critically important to maintain access to services. **Senator Carper** asked if further studies of telehealth in Medicaid and CHIP is needed and what can we learn from experiences during the pandemic. **Dr. Davis** said there has been a lot of studies already and we can recognize the benefit of payment parity. **Ms. Farb** said GAO is looking at studying waivers issued during the pandemic now to help inform questions like these. There is a lot evidence available.

Senator Warner (D-VA) said COVID-19 exposed racial disparities in healthcare coverage. He asked whether an expansion of Medicaid will help diminish some of the racial disparities in healthcare. **Dr. Berenson** said there need to be incentives to ensure expansion in all states. Expanding coverage of Medicaid improves access to care. **Senator Warner** said the opioid and substance abuse issues are a huge challenge. He has been working with the Drug Enforcement Agency (DEA) to promulgate rulemaking to permit certain physicians to prescribe certain substances via telehealth. The DEA, however, has not worked on this issue. He asked about the importance of the ability to prescribe controlled substances via telehealth. **Dr. Davis** said there has been a reduction in racial disparities in states that have expanded Medicaid. It is important to be able to prescribe controlled substances remotely, and it essential to prevent patients from relapsing. **Ms. Farb** said GAO has evaluated barriers to medication assisted treatment for opioid use disorder. The GAO did not make any recommendations out of the study, but did enumerate the various barriers providers experience.

Senator Hassan (D-NH) said the dramatic expansion of telehealth services has benefited both rural and urban patients. The news that there could be an authorized COVID-19 vaccine by the end of the year is very exciting. However, over the past year, preventive visits and routine primary care services have been declining. She asked how we can ensure children can continue to receive in-person check-ups. **Dr. Davis** said she has experienced resilience in providers getting creative in getting vaccines including drive-up clinics. Telehealth won't replace the primary care relationship and providers will continue to ensure kids are getting the care they need in-person. **Senator Hassan** said there is more to be done to ensure older adults have access

to in-home care. She asked what changes are needed to expand the home health workforce. **Dr. DeCherrie** said in geriatrics, family and community support is critical. It is vitally important that caregivers receive the support they need. **Senator Hassan** said the pandemic has demonstrated the need to provide vaccinations at no cost. She asked how we should apply lessons learned from the pandemic and vaccinations offered at no cost. **Dr. Davis** said all recommended vaccines should be offered at no cost to all patients.

Senator Warren (D-MA) said when the coronavirus hit, patients still required access to primary care services. She asked what steps CMS has taken to make it easier for patients to access care from audiologists via telehealth during the pandmeic. **Ms. Farb** said CMS expanded the list of providers eligible to furnish telehealth services. The list included services typically performed by audiologists. GAO spoke with the Association for Speech Language Pathologists and Audiologists and they were very supportive of the changes. **Senator Warren** said audiologists are not typically treated equally in the Medicare program. They are considered suppliers and not practitioners in the program. Medicare requires a referral to an audiologist. She asked why it is so critical for seniors have access to the providers they need. **Dr. DeCherrie** said the ability to hear is especially important for seniors. Patients need their hearing assessed. **Senator Warren** said audiologists provide critical services. She and other senators are introducing legislation to reclassify audiolgists as practitioners in the Medicare program, eliminating the requiremnt that patients receive a referral to an audiologist. This bill will help seniors get the care that they need.

Senator Cortez-Masto (D-NV) said audio-only diagnostic information is very important to address this. She is introducing legislation to include diagnostic information gathered during an audio-only visit into risk adjustment calcualtions. She asked if patients in HDHPs are more or less likely to seek care. **Dr. Davis** said these patients are less likely to seek care. The AAFP is concerned with the permanent expansion of the waiver and support the waiving of deductibles for primary care and telehealth care to prevent low income patients with these plans from only seeking virtual care. **Senator Cortez-Masto** asked if the GAO is looking at developing quality metrics for telehealth services. **Ms. Farb** said creating the metrics is not part of the scope of GAO. The NQF has been working this past year to adapt metrics to incorporate telehealth. **Senator Corez-Masto** asked what do hospitals need from Congress in order to invest in Hospital at Home programs. **Dr. DeCherrie** said the Hospital at Home waiver is tied to the PHE, the uncertainty prevents hospitals from investing in the technology, platforms and infrastructure necessary to deploy a Hospital at Home program.

Senator Young (R-IN) said prior to the pandemic, telehealth increased access and reduced costs. Since the beginning of the PHE, telehealth flexibilities have been a lifeline for vulnerable seniors. He asked what regulatory flexibilties are key to providing telehealth today and should be made permanent. **Dr. Murali** said all telehealth waivers should be expanded, espeically those waivers that expand access to mental health services. Hospital at Home has demonstrated to be effective in improving outcomes and reducing costs. Geographic site requirements must also be removed. **Senator Young** said mental health providers have increased patient retention rates and patients like having consultaitons via telehealth in order to receive care comfortably in the home.

Senator Wyden thanked the witnesses for joining the Committee for a hearing evaluating COVID-19 healthcare flexibilities. Audio-only services should be made accessible for patients,

as it can be a lifeline for patients in rural communities where broadband is limited. Additionally, the Hospital at Home program should also be made permanent. Removing originating site and geographic restrictions should be made permanent. In terms of challenges, there is a process of billing and approvals bouncing from office to office, leaving both patients and providers in a bureacratic limbo.