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September 13, 2021

Submitted electronically via www.regulations.gov

Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1859

RE: CMS-1751-P, Medicare Program: CY 2022 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Provider Enrollment Regulation Updates; Provider and Supplier Prepayment and Post-Payment Medical Review Requirements

Dear Administrator Brooks-LaSure:

The Conference of Boston Teaching Hospitals, on behalf of our 12 member hospitals, appreciates the opportunity to comment on the Centers for Medicare & Medicaid Services' (CMS) Medicare Physician Fee Schedule (PFS) proposed rule for calendar year (CY) 2022.

In response to the COVID-19 pandemic, COBTH's hospitals temporarily ended all in-person elective procedures and non-emergency care to expand our capacity to meet the needs of severely ill COVID-19 patients. In order to continue to safely meet patient needs, our members relied on the use of telehealth pursuant to state and federal guidance and flexibilities. Telehealth has helped COBTH members' patients access much needed care, assisted with patient triage, helped preserve critical personal protective equipment and maintain social distancing, and helped keep clinicians and other essential hospital staff safe. Utilization of telehealth has surged in Massachusetts under these conditions due to necessity, but we should not overlook the clear benefits that telehealth provides: patients and providers like it, it helps improve access to care for many residents, and it keeps people safe, especially those who are immunocompromised.

Regarding services on the Medicare telehealth list, we agree with CMS's proposal to continue covering services under Category 3 until the end of CY2023. This proposal gives providers needed certainty to continue scheduling and providing these services via telehealth and will continue to add to the evidence for potential inclusion on the Category 1 and 2 lists. We continue to urge CMS to take a broad look at what is appropriate to be covered via telehealth, as providers have demonstrated throughout the COVID-19 public health emergency that a vast array of services can be safely and effectively provided to patients via telehealth.

We are grateful that during the public health emergency CMS allowed for audio-only telehealth visits to take place. These have been especially critical to ensuring that our senior and low-income patients who may not have access to necessary devices or internet connection were able to access



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the care they needed in a timely manner. To that end, we are disappointed that CMS proposes only to continue the use of audio-only telehealth services for mental health diagnosis, evaluation, and management. While we agree that audio-only telehealth is appropriate for these services, we believe there are other services that can be rendered effectively via audio-only telehealth. Ultimately, it should be up to the clinician whether an interactive audio/video or in-person visit is necessary for a patient. We urge CMS to consider broadening the application of audio-only telehealth services after the conclusion of the PHE. This is critical to ensuring equitable access to health care services.

We are also deeply concerned about the requirement that an in-person visit be furnished every 6 months in order to continue receiving mental health services via telehealth. In addition to the logistical hurdles for patients and providers, we are incredibly concerned that this requirement perpetuates stigma related to receiving mental health care. We are aware that this requirement is statutory, and that CMS is unable to unilaterally eliminate it, but we urge the agency to work with Congressional partners to eliminate this unnecessary and burdensome requirement. Until such time as it is repealed, we encourage CMS to take a broad view of the types of in-person visits that satisfy this requirement, including flexibility on who the provider is and/or the exact type of visit that is conducted.

Similarly, we urge CMS to work with Congress to eliminate Medicare's telehealth originating site requirements, which were waived pursuant to the public health emergency. We note that these statutory restrictions cannot be ended permanently by CMS alone but wanted to underscore the importance of eliminating these restrictions, which present a significant barrier to patients receiving telehealth care in the safest place for them.

CMS also seeks comment on direct supervision being provided virtually. COBTH's member hospitals have successfully used the flexibility provided by CMS to safely and effectively provide direct supervision to physician trainees. While we agree that virtual supervision may not be appropriate in every instance, we do believe there are certain low-risk services that can be appropriately supervised via telehealth. We encourage CMS to consider continuing this flexibility, perhaps with appropriate limitations, beyond the public health emergency.

Finally, we appreciate CMS's solicitation of comments on the impact of the COVID-19 public health emergency on costs incurred by health care providers. Due to the need for additional resources, like personal protective equipment, and additional time to ensure the safety of patients and staff, our members have certainly experienced increased costs while responding to the pandemic. We strongly support CMS's exploration of finding a way to account for PHE-related costs. While we appreciate the financial assistance from the provider relief fund, rollout of the funding has been inconsistent and at times confusing, hampering its ability to support our day-to-day response and the additional costs that come with it. We urge CMS to find a way to respond to future public health emergencies efficiently and ensure that health care providers on the frontlines are not financially harmed by the increased outlays required when responding to such an emergency.



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Thank you for your consideration of our comments. COBTH's member hospitals are also members of the Association of American Medical Colleges (AAMC) and strongly support the in-depth comments submitted by AAMC on behalf of the nation's academic medical centers and teaching hospitals. We also support the comments submitted by the Massachusetts Telemedicine Coalition, *tMED*, of which COBTH is a member. Please do not hesitate to be in touch with any questions or if we can provide additional information on these or other matters.

Sincerely,

A handwritten signature in blue ink that reads "Patricia McMullin". The signature is written in a cursive style with a large, looped initial "P".

Patricia McMullin
Executive Director
Conference of Boston Teaching Hospitals