



March 27, 2020

Bill McBride
Executive Director
National Governors Association
444 North Capitol St.
Suite 267
Washington, DC 20001

Michael F. Consedine
Chief Executive Officer
National Association of Insurance
Commissioners
444 North Capitol Street NW
Suite 700
Washington, DC 20001

Dear Mr. McBride and Mr. Consedine:

On behalf of the American College of Physicians (ACP), the largest medical specialty organization and the second largest physician group in the United States, the College writes to urge the National Governors Association (NGA) and the National Association of Insurance Commissioners (NAIC) to take bold and swift action to enable physicians and other clinicians to focus on caring for patients impacted by the coronavirus pandemic. ACP members include 159,000 internal medicine physicians (internists), related subspecialists, and medical students dedicated to scientific knowledge and clinical expertise in the diagnosis, treatment, and compassionate care of adults across the spectrum from health to complex illness.

Some examples of these important actions include the Centers for Medicare and Medicaid Services (CMS') decision to [broaden telehealth services and use discretionary enforcement for certain HIPAA requirements and](#) UnitedHealth's [policy](#) to provide reimbursement for telephone evaluation and management services. While the College applauds these actions, the actions of CMS and a few private payers alone are not enough to ensure the safety of patients, internal medicine specialists, and other physicians on the front lines of care.

Therefore, we strongly recommend that NGA and the NAIC take action together and encourage all the member governors and insurance commissioners to take decisive actions, as exemplified by the [Governor](#) and the Insurance Commissioner of [California](#), that will allow constituents to continue to have access to necessary medical care. ACP believes there are steps that will assist physicians in meeting these unprecedented challenges and patient needs. The College would like to make the following comments and recommendations for all governors and insurance commissioners to direct all health plans, effective immediately, to comply with the following:

Telehealth

- During this public health emergency, health plans should fully support physicians as they work to assess the multiple complex factors to determine the need to see a particular

patient in person and then transition their patients who do not need to be seen to virtual visits (e.g., telehealth video or telephone services) or to delay their visits until such time as the benefits are outweighed by the harms that could occur when timely care is not delivered. This transition is tremendously challenging for many physicians and their patients in terms of obtaining and implementing the necessary technology and adjusting their workflows, and many practices are already suffering from financial consequences due to making these necessary changes.

- **Provide reimbursement for CPT codes 99441 – 99443, which are telephone evaluation and management services** provided by a physician to an established patient, parent, or guardian not originating from a related E/M service provided within the previous 7 days nor leading to an E/M service or procedure within the next 24 hours or soonest available appointment. **Additionally, we urge these services be paid at the same rate as in-person visits during this national emergency.** Not reimbursing for telephone visits (99441-99443) at a payment level on par with in-person visits disproportionately affects physicians caring for elderly patients, many of whom are managing multiple chronic conditions, who do not have smartphones, or may have one but do not know how to use FaceTime or Skype. These individuals are the ones who most need to practice social distancing from physician practices and clinics—and in some cases, from their own family members—to protect themselves from exposure to the virus while still receiving uninterrupted primary care services.
- **Allow physicians to waive co-pays for all types of telemedicine and telephone services.** While we appreciate the guidance issued by CMS last week that waived co-pays for certain types of telehealth visits, we urge that Governors and Insurance Commissioners direct health plans to grant this authority to physicians for virtual check-ins, e-visits, and telephone services.
- **Make all types of telemedicine, including telehealth visits, virtual check-ins, phone consultations, and e-visits, available to both new and established patients.** We are encouraged by the actions of some payers thus far to improve telehealth accessibility, and we urge Governors and Insurance Commissioners direct health plans in their states to make additional changes to allow all patients to take advantage of these expanded flexibilities.
- **The College urges Governors and Insurance Commissioners direct health plans to ensure that the Evaluation and Management (E/M) coding changes, as finalized in the 2020 Medicare Physician Fee Schedule final rule, are implemented on January 1, 2021 without delay or other changes that will undermine their impact.** This will ensure stability and more appropriate payment for internal medicine specialists and other physicians that provide primary and comprehensive care—critically important during this time of extreme instability in the health care system.

Prior Authorization

- **ACP recommends Governors and Insurance Commissioners direct health plans to waive all prior authorization (PA) requirements during this period of national emergency.** These hurdles have become even more problematic given the current COVID-19 national emergency when frontline physicians need to focus their time and resources on curtailing the pandemic. The numerous and varying requirements for prior authorization requests often result in substantial effects on the health care system, physicians, and most importantly patient outcomes and well-being. Physicians continue to report frequent care delays as a direct result of prior authorizations, as well as negative impacts on clinical outcomes. There are clear cost effects on physician practices as well—with the annual average burden on primary care physicians ranging from \$2,161 to \$3,430 per full-time employee for these activities.¹ Most recently, ACP members have raised concerns regarding patients in hospitals awaiting prior authorization approval for discharge (e.g., discharges into Skilled Nursing Facilities have been a common complaint). These delays are ranging from four days to two weeks, thus resulting in patients occupying hospital beds that could be used during this emergency.

Home Health Care

- **ACP recommends Governors and Insurance Commissioners direct health plans to relax the Home Health Care (HHC) regulations for home-bound patients.** In an effort to keep these patients safe, clinicians need to avoid sending these elderly patients to the lab for follow-up testing to ensure continued improvement. Ideally, these patients should stay in their homes and not put themselves at risk. Currently, if they do not meet the home-bound status requirements, they don't qualify for HHC and the only option is for them to go to a lab which will put them at risk for exposure to COVID-19. Therefore, we urge Governors and Insurance Commissioners direct all health plans to consider allowing HHC agencies to come to homes to draw needed blood work.

In Conclusion

ACP is extremely thankful and encouraged by the actions taken by the Governors and Insurance Commissioners of a number of states to date that will be enormously beneficial to physicians and their teams in both caring for patients impacted by this pandemic and for patients at-large. At the same time, we continue to strongly recommend that Governors and Insurance Commissioners direct health plans take additional emergency actions to adequately assist and prepare physicians and other clinicians with the resources and burden reduction they need to be successful in treating patients during this pandemic. ACP would like to offer our full assistance toward these efforts, and we intend to continue voicing the perspective of internal

¹ Erickson SM, Rockwern B, Koltov M, et al, for the Medical Practice and Quality Committee of the American College of Physicians. Putting Patients First by Reducing Administrative Tasks in Health Care: A Position Paper of the American College of Physicians. *Ann Intern Med.* 2017;166:659–661. [Epub ahead of print 28 March 2017]. doi: <https://doi.org/10.7326/M16-2697>

medicine specialists, who are witnessing firsthand the impact of this pandemic. Please contact Brian Outland, PhD, Director, Regulatory Affairs, by phone at 202-261-4544 or email at boutland@acponline.org if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert M. McLean". The signature is fluid and cursive, with the first name "Robert" being the most prominent.

Robert M. McLean, MD, MACP

President

cc:

Larry Hogan, NGA Chair

[Raymond G. Farmer](#), NAIC President, Director