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February 28, 2024

Gift Tee

Director, Division of Practitioner Services  
Center for Medicare  
Centers for Medicare & Medicaid Services  
7500 Security Blvd.  
Baltimore, MD 21244

**RE: Multi-Specialty Recommendations on Telehealth Parity**

Dear Mr. Tee,

Thank you for meeting with the American Academy of Neurology (AAN) in partnership with other specialty organizations on January 29, 2024. We write to provide additional information pertinent to telehealth in neurology, and address concerns raised by CMS related to the provision of telehealth services.

The AAN is the world's largest neurology specialty society representing more than 40,000 neurologists, clinical neuroscience professionals, and students. The AAN is dedicated to promoting the highest quality patient-centered neurologic care. A neurologist is a doctor with specialized training in diagnosing, treating, and managing disorders of the brain and nervous system. These disorders affect one in six people and include conditions such as Alzheimer's disease, stroke, migraine, multiple sclerosis, concussion, Parkinson's disease, and epilepsy.

Our members agree that widespread adoption of telehealth has yielded numerous benefits for patient care. To ensure access to vital health care services for Medicare beneficiaries, the AAN advocates for payment parity between in-person and telehealth encounters, paid at the non-facility rate, for both physician work and practice expense.

**Physician Work and Practice Expense**

The AAN believes that reimbursement for real-time interactive telehealth encounters should be reimbursed at parity with the comparable in-person service, provided that standards of care are met, because both elements used for evaluation and management (E/M) level selection, total time and the practitioner's cognitive work are equivalent to in-person encounters. Elements of medical decision-making including evaluation of the number and complexity of problems addressed, amount and/or complexity of data reviewed, and risk of complications and/or morbidity and mortality are equally considered in telehealth encounters, and the total time spent with a

patient is the same regardless of whether care is delivered in-person or via telehealth. These factors are also consistent when care is delivered via a two-way audiovisual modality or via an audio-only modality.

The AAN appreciates CMS' previous recognition that many practitioners who provide hybrid virtual and in-person behavioral health care must functionally maintain their practice expenses associated with their physical office, and thus would be more appropriately reimbursed by the non-facility payment. This reality is not limited to behavioral health, and neurology practitioners must also maintain clinical staff, supplies, and equipment, including electronic health records and IT infrastructure, when providing telehealth. Therefore, the AAN believes CMS ought to apply a similar rationale to payment for neurology telehealth visits, if Congress acts to extend flexibilities allowing for the patient's home to be a permissible originating site in 2025 and beyond for telehealth services other than behavioral health.

Regarding audio-only telehealth, CMS has acknowledged the utility of audio-only visits for mental health services that "primarily involve verbal conversation where visualization between the patient and furnishing physician or practitioner may be less critical to the provision of the service."<sup>1</sup> AAN members attest that certain neurology visits may also primarily involve verbal interaction between the patient and practitioner, and that visualization may not always be necessary or critical to the provision of the E/M service. Patient visualization is not always necessary in both audiovisual and audio-only telehealth encounters, yet in both scenarios, the practitioner's cognitive work is equivalent to an in-person encounter. As such, the AAN believes that as clinically appropriate, an audio-only encounter can serve as a substitute for a face-to-face encounter with patients for whom audiovisual telehealth is not a feasible option. As a result, the costs related to physician work and practice expense for both audiovisual and audio-only modalities would be accurately valued at the non-facility rate.

While telehealth-only practices exist, a hybrid care model composed of in-person and telehealth encounters represents the most common care delivery model involving telehealth both for neurology and for physicians in general. According to a recent AMA white paper titled "Policy Research Perspectives, Telehealth in 2022: Availability Remains Strong but Accounts for a Small Share of Patient Visits for Most Physicians," while 74.4% of physicians work at practices offering telehealth services, only 10% of physician practices utilize audiovisual technology for more than 20% of their visits, and only 3.2% of practices utilize audiovisual technology for more than 60% of their visits.<sup>2</sup> This trend applies to neurology, with 68.4% of neurologists delivering care via telehealth in the week prior to being surveyed, but only 17.1% conducting more than 20% of visits via audiovisual telehealth and only 6.4% conducting more than 20% of visits via an audio-only modality.<sup>3</sup> Although in neurology, there are valuable models of care that are telehealth only, including many telestroke providers, the data reflects that most neurology providers offer both in-person and telehealth services.

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<sup>1</sup> 88 Fed. Reg. at 52297

<sup>2</sup> "Policy Research Perspectives, Telehealth in 2022: Availability Remains Strong but Accounts for a Small Share of Patient Visits for Most Physicians," 2023, American Medical Association.

<sup>3</sup> Id.

The AAN acknowledges CMS' stated concerns regarding the potential inappropriateness of reimbursing at the non-facility rate for care models that employ telehealth full time, and as such do not incur expenses associated with maintaining a physical office. In alignment with the other specialty societies present in the January 29 meeting and the available data, the AAN believes that the overwhelming majority of providers who deliver care via telehealth, do so in a hybrid-model in which they see patients both in-person and via telehealth. As such, CMS should maintain payment parity for audiovisual and audio-only telehealth services with in-person service because it reflects the work and practice expenses of the typical care delivery model provided by neurology practitioners.

### **Equivalency and Effectiveness**

The increasing body of evidence supports diagnostic concordance and positive patient and practitioner experiences between real-time audiovisual telehealth and in-person evaluations for acute and routine assessment of various neurologic conditions. In a series of virtual examinations, neurologists reported that the information gathered from the exam was sufficient for appropriate medical decision-making in 95% of telehealth encounters. Further, fourteen of the twenty-five elements of the neurologic exam could be performed sufficiently, and more than 90% of patients and their neurologist agreed that the telehealth encounters were effective overall.<sup>4,5</sup> In appropriate situations as determined by the needs of the patient and clinical problem to be addressed, the telehealth encounter is sufficiently analogous to an in-person encounter. These telehealth encounters are serving to substitute for, rather than entirely add, a face-to-face encounter.

### **Access to Care**

Telehealth can promote the right care, in the right place, at the right time. It enables engagement with patient caregivers who may also experience physical limitations or live distantly. The expansion of telehealth services has been particularly beneficial for Medicare beneficiaries with cognitive and mobility impairments. Patient safety considerations can limit access to in-person encounters, as is the case for many patients managing frequent seizures or those experiencing behavioral symptoms such as agitation or anxiety from Alzheimer's disease and related disorders. For many neurology patients and their families, especially the elderly or those with adverse social risk factors, telehealth, including audio-only services, has been a successful model of health care delivery.

Lastly, the AAN is concerned that unequal payment between in-person and virtual services may disproportionately disincentivize telehealth adoption in small and/or solo practices. Further, the AAN is concerned that reverting to pre-pandemic payment policies may foster access disparities between Medicare beneficiaries who can be seen in-person and those who cannot.

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<sup>4</sup> Thawani, Sujata P et al. "Neurologists' Evaluations of Experience and Effectiveness of Teleneurology Encounters." *Telemedicine journal and e-health: the official journal of the American Telemedicine Association* vol. 29,3 (2023): 442-453. doi:10.1089/tmj.2021.0551

<sup>5</sup> Thawani, Sujata P et al. "A Comparison of Patients' and Neurologists' Assessments of their Teleneurology Encounter: A Cross-Sectional Analysis." *Telemedicine journal and e-health: the official journal of the American Telemedicine Association*, 2023, doi:10.1089/tmj.2023.0168

## Conclusion

The AAN appreciates CMS' attention to promoting telehealth as a necessary modality of care both during and after the Federal COVID-19 Public Health Emergency (PHE). Telehealth has been critical to maintaining access to health care services, and strongly believes that payment must appropriately reflect the physician work and practice expense associated with delivering virtual care. Nevertheless, neurologists have identified the potential modification of coverage and payment policies implemented during the PHE as the primary deterrent to offering telehealth services long-term.<sup>6</sup> The AAN strongly urges CMS to implement policies that promote permanent stability and patient access to virtual services, including permanent payment parity between in-person and telehealth care. For any questions or requests for further information, please contact Matt Kerschner, the AAN's Director, Regulatory Affairs and Policy at [mkerschner@aan.com](mailto:mkerschner@aan.com) or Michaela Read, Telehealth and Practice Program Manager at [mread@aan.com](mailto:mread@aan.com).

Sincerely,

A handwritten signature in black ink that reads "Carlayne E. Jackson". The signature is written in a cursive, flowing style.

Carlayne E. Jackson, MD, FAAN  
President, American Academy of Neurology

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<sup>6</sup> American Medical Association, (2021), Telehealth Survey Report – Neurology.