April 11, 2024

Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Ms. Brooks-LaSure:

Western Governors appreciate the Centers for Medicare and Medicaid Services' (CMS) efforts to finalize CY 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies (88 FR 78818). As you consider changes to these policies for next year, Western Governors would like to highlight the vital role of emergency medical services (EMS) in providing health care to rural communities and certain challenges that CMS can address through reimbursement.

EMS providers serve as a lifeline in rural communities where residents are typically older and face more pronounced barriers to accessing health care than their urban counterparts. These realities affect the responsibilities of emergency medical technicians (EMTs) and paramedics in rural areas and the types of interventions that they perform. For example, EMTs and paramedics often treat patients on-scene for situations where transport is not required, such as fall recovery. With the community paramedicine model, personnel may also deliver preventative care and other services to fill gaps in rural health care systems with greater workforce and facility shortages.

Despite the urgent need for rural EMS, providers are struggling to sustain operations across the country due to low patient volumes, difficulty recruiting and retaining staff, large geographical coverage areas, and limited revenue generation opportunities. In WGA Policy Resolution 2022-07, Physical and Behavioral Health Care in Western States (attached), Western Governors urge the federal government to implement measures to ensure that states have an adequate health care workforce prepared to serve diverse populations in urban, suburban, and rural communities. In addition, federal efforts to address health care workforce and access needs should reflect early, meaningful, and substantive input from Governors, who are best positioned to assess the needs of our states and help develop solutions to meet these needs.

We are implementing strategies in our states to mitigate the issues faced by EMS providers, but we require additional support. Medicare beneficiaries constitute a considerable proportion of EMS patients, so the sustainability of rural EMS is largely dependent on federal participation in cost coverage. Medicare does not currently reimburse EMS providers for ambulance response and treatment unless the patient is transported to a hospital or another covered destination, even as the

demand for on-site EMS services continues to increase. Western Governors urge CMS to offer coverage for code A0998, Ambulance Response and Treatment, No Transport.

While community paramedicine has proven effective in increasing health care access, supporting in-home stability, and reducing emergency care and its associated costs, it is not covered by Medicare either. Western Governors request that CMS make community paramedicine eligible for reimbursement under code 99600, which is used for home visit services or procedures that do not have a specific code, so that EMS personnel may provide critical services as they wait to respond to emergency situations.

We believe that these adjustments to Medicare reimbursement could help the viability of rural EMS and more accurately reflect the ways in which personnel provide care in these communities. Thank you for your attention to this matter. CMS is an important partner in serving these vulnerable populations, and we look forward to working with you to improve our region's health care systems.

Sincerely,

Mark Gordon
Governor of Wyoming
Chair, WGA

Michelle Lujan Grisham
Governor of New Mexico
Vice Chair, WGA

Attachment

Policy Resolution 2022-07

Physical and Behavioral Health Care in Western States

A. BACKGROUND

1. Ensuring access to high-quality, affordable health care is critical to enhancing the quality of life in western states for our growing populations and is the foundation of building and maintaining healthy and vibrant communities and economies.

2. The COVID-19 pandemic illustrated the importance of our health care and public health systems and the urgency with which we must improve health inequities and disparities. Despite warnings of an impending global pandemic, federal, state, local and Tribal governments encountered significant issues containing and responding to the virus, resulting in economic turmoil, supply chain shortages, and a devastating loss of life. In addition, inequities and disparities fueled the spread of COVID-19, affecting many racial and ethnic minority groups who are more likely to live and work in suboptimal conditions.

3. Western states face unique challenges in health care that have been compounded by the pandemic, including growing rates of behavioral health conditions, which encompass mental health and substance use disorders; provider shortages in underserved and rural areas; and limited access to broadband, which has limited the availability of telehealth services. Low population densities and the vast distances between population centers also make it difficult for providers to establish economically sustainable health care practices in rural areas.

4. In addition, distance and density inhibit construction of the technology infrastructure that would provide or improve broadband connectivity in underserved and rural areas. Expanding broadband access provides numerous quality-of-life benefits for rural Americans, including economic development, social connectivity, education, public safety, and access to telehealth and telemedicine.

5. Telehealth utilization has skyrocketed due to the loosening of federal and private insurance restrictions to meet emergency needs during the pandemic. Telehealth is an essential tool to advance health care access, especially in rural areas and among underserved populations, but its use has been limited over the years by federal regulations and licensing barriers.

6. The health care sector faces severe workforce shortages in western states despite efforts of Western Governors, such as the foundation of Western Governors University and other medical training programs in western states, to ensure adequate numbers of qualified medical personnel. This issue has been further exacerbated by COVID-19 and is particularly acute in the West's underserved and rural areas. Ensuring access to health care services requires an adequate number and distribution of physicians, nurses, mental and behavioral health counselors, and other trained health care professionals. Population growth, aging residents, and challenges involving Tribal health care and services for veterans require a renewed focus on developing our nation's health care workforce.

7. Social and economic factors distinct from medical care are powerful predictors of health outcomes and disease burden throughout a person's life. The U.S. Department of Health and Human Services (HHS) defines these social determinants of health (SDOH) as conditions in the environments in which people live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks. It has also identified five key areas of SDOH: economic stability; education; social and community context; health and health care; and neighborhood and built environment.

8. In many cases, SDOH disproportionately affect communities of color and other minority populations in the West and drive disease, worsen health disparities, and present barriers to accessing health care. As such, the integration of health and human services is important to promote a whole person orientation to care that is focused on prevention and is delivered in a culturally and linguistically appropriate manner. Understanding the effect of SDOH on health and health care can inform the development of effective policy to increase access and improve health outcomes for these populations.

9. Western states have a unique body of experience, knowledge, and perspective with respect to health care. The Western Governors' Association (WGA) is ideally situated to collect and disseminate information, including best practices, case studies and policy options, that states can use to improve the foundation for health care services and advocate for shared policy priorities on behalf of their citizens.

Behavioral Health Integration

10. Behavioral health needs are often associated with negative stigma and harmful misperceptions, which can have many detrimental effects, including: a lack of understanding by family members, friends, coworkers, and others; reduced professional, educational, and personal opportunities; various forms of discrimination; and bullying, physical violence, or harassment. Stigma can result in a reluctance to seek help or treatment and contribute to self-doubt and shame associated with behavioral health conditions, including mental health and substance use disorders.

11. Two-thirds of all diagnosable mental illness onset before adulthood, yet the vast majority of adolescents do not receive any treatment. Access to prevention and early intervention services and support for children and youth helps treat behavioral health conditions before they become debilitating and lead to negative outcomes in adulthood.

12. Western states experience higher than average suicide rates. Suicide is the second leading cause of death among youth, and the ten states with the highest suicide rates in the nation are all located in the West.

13. Integrating behavioral and physical health care services and supports can have many positive effects on health outcomes and health care spending. Behavioral health integration presents a more holistic approach to patient care and offers increased access for consumers. Integration can also be an effective tool to de-stigmatize treatment for behavioral health.

14. Substance use disorders (SUDs), including alcohol and drug misuse, are a major public health and safety crisis affecting nearly 21 million Americans. They are particularly prevalent in western states, where individuals are more likely to experience SUDs or have a family member who has. SUDs cross all social and economic lines and tragically take the

lives of tens of thousands of Americans every year. Much attention has been focused on opioid use, and recent federal investment has prioritized opioid prevention and treatment. In western states, however, methamphetamine overdose deaths outpace those resulting from opioid use. It is important to recognize that SUDs encompass all drug classes and polysubstance misuse, and to balance federal SUD investments accordingly. While state and federal progress has been made to address SUDs, additional efforts are necessary to help bridge prevention, treatment, and recovery gaps in western states.

15. Jails and prisons have become de facto behavioral health treatment facilities, which are unequipped to provide needed care. This reality results in inefficient use of public resources and poor outcomes for patients. Youth experiencing a first episode of psychosis are too often sent to juvenile halls, and adults with mental illness and SUD become incarcerated without proper treatment for their underlying chronic behavioral health conditions.

16. Many people experiencing homelessness also struggle with a behavioral health condition, which contributes to the risk of being unhoused. Both supportive housing and adequate, coordinated health and social services must be available to prevent and reduce homelessness for people with mental health and SUDs.

17. The quality and completeness of patient records is an important element of care coordination and patient safety. Ensuring the protection and privacy of these records is a critical aspect of maintaining patient confidence in the health care system and ensuring that patients are forthcoming about their behavioral health needs.

18. Currently, federal privacy rules prohibit SUD treatment providers from fully participating in health information exchanges. This may leave health care providers without a full understanding of a patient's medical history and use of medications, which can reduce the quality of care and lead to negative patient outcomes, including potentially deadly medication interactions.

19. Electronic health records (EHR), state Prescription Drug Monitoring Programs (PDMP), and Health Information Exchange (HIE) are important tools in improving care coordination and addressing the opioid crisis, allowing prescribers and pharmacies to help prevent opioid misuse. At present, there are instances of limited interoperability between EHRs and PDMPs that reduce the potential positive effect of these tools on patient safety. Robust systems for HIE can help to address these shortfalls.

20. Current federal statute limits the ability of state Medicaid programs to cover inpatient and residential treatment and recovery services at facilities with more than 16 beds, also known as the Institutions for Mental Diseases (IMD) exclusion. This antiquated limitation prevents many adults with behavioral health needs from receiving adequate treatment in a licensed health care facility. Waivers for this exclusion offered by the U.S. Department of Health and Human Services (HHS) have provided states with important flexibility and improved access to treatment for patients with SUD, but barriers still remain.

21. Medication-assisted treatment (MAT), including opioid treatment programs, combines behavioral treatment and recovery services with medications to treat SUDs. While MAT has been proven to improve health outcomes and reduce mortality among opioid addiction patients, stigma and myths surrounding the use of MAT limit its potential use in SUD treatment and recovery.

22. The passage of the SUPPORT for Patients and Communities Act in 2018 was a significant step forward for MAT, including by promoting greater flexibility in its use and expanding access to and coverage for MAT. However, significant limits remain on MAT use and providers' ability to take full advantage of these treatment methods.

23. Support from individuals with lived experience, peer support groups, and community-based organizations, including faith-based and cultural organizations, are important components of effective treatment and recovery for SUD and other behavioral health conditions.

B. GOVERNORS' POLICY STATEMENT

1. Federal efforts to address health care workforce and access needs should reflect early, meaningful, and substantive input from Governors, who are best positioned to assess the needs of their states and help develop solutions to meet these needs. State-federal collaboration and coordination are integral to addressing these health care challenges. Wherever possible, and where appropriate, the federal government should respect state authority and maximize flexibility granted to states and Governors.

2. The federal government should work with states to facilitate the deployment of broadband to underserved and rural areas, recognizing that adequate broadband access has a direct correlation to rural populations' ability to access telehealth and telemedicine.

3. Western Governors urge the federal government to make permanent regulatory changes based on waivers and authorizations granted during the COVID-19 public health crisis to provide flexibility and increase access to telehealth and telementoring. We propose actions to create an environment conducive to the expansion of telehealth beyond the pandemic, including but not limited to permanently changing provisions of 42 CFR and Section 1834(m) of the Social Security Act (SSA) such as:

    a. Eliminating the requirement for physicians and non-physician practitioners to perform in-person visits for nursing home residents and allowing visits to be conducted, as appropriate, via telehealth options (42 CFR 483.30);

    b. Waiving interactive telecommunications systems requirements and permitting audio-only visits for certain services (Section 1834(m)(1) of the SSA);

    c. Removing requirements specifying the types of practitioners that may bill for their services when furnished as Medicare telehealth services from the distant site, which expands the type of practitioner that can provide services through telehealth and allows all practitioners eligible to bill Medicare for services to deliver those services via telehealth (Section 1834(m)(4)(E) of the SSA);

    d. Making Federally Qualified Health Centers and Rural Health Clinics qualified distant site providers of telehealth services (1834(m) of the SSA);

    e. Granting clinicians the ability to provide remote patient monitoring services to new and established patients for both acute and chronic disease management and for patients with only one disease condition (1834(m) of the SSA);

f. Eliminating originating site requirements to allow patients to take visits from their homes (42 CFR 409.46(e)); and

g. Expanding geographies to include all counties, not just those located outside metropolitan statistical areas or in health professional shortage areas (1834(m) of the SSA).

Any changes to federal telehealth policy should ensure that patient needs are at the center of those changes. Any changes should also ensure that patient choice to receive in-person services is preserved and only clinically appropriate services are provided via telehealth.

4. Despite efforts by Western Governors to address the shortage of qualified health care workers, significant challenges remain. Governors urge the federal government to examine and implement programs to ensure states have an adequate health care workforce – including in primary care, behavioral and oral health as well as other in-demand specialties – that is prepared to serve diverse populations in urban, suburban, and rural communities. Additionally, the federal government should consider funding new types of personnel, such as community health workers or promotores, in order to further extend the health care team and ensure that patients are connected to resources. Understanding that there remain significant disparities in access and treatment for many populations, Governors also support efforts to increase diversity and representation in the health care workforce to improve health outcomes for all.

5. Western Governors recognize the role that social determinants of health (SDOH) have on the health outcomes and well-being of our citizens, and the effect that social determinants – including economic stability, education, social and community context, and neighborhood and built environment – have on an individual's health status. Western Governors support efforts to identify risks facing high utilizers of health care services, including food insecurity, domestic violence risk, unmet transportation needs, lack of housing and housing instability, utility, and other essential supports and services, and to develop innovative models designed to improve coordination of medical and non-medical services and use of evidence-based interventions. These models can provide valuable information on how meeting non-health needs and addressing other social determinants can improve overall health status and decrease health spending.

6. Western Governors encourage Congress to adopt legislation that would empower states and local governments to address persistent economic and social conditions – like limited access to health care providers, stable housing, reliable transportation, healthy foods, and high-quality education – that often hinder health outcomes. Such legislation would assist states in developing plans to target social determinants that negatively affect health outcomes for western populations.

7. Western Governors acknowledge the importance of improving our nation's public health preparedness and response systems. The federal government must examine the lessons learned from COVID-19 in collaboration with states and ensure that we have the capability and necessary public health infrastructure investment to effectively confront future public health challenges. We recommend that the federal government clarify pandemic response roles and build operational capacity within the appropriate health-related agencies. The federal government should also consider how to expand our international health surveillance and public health threat detection mechanisms.

Behavioral Health Policy

8. Western Governors believe patients should have the same access to behavioral health care as they have for physical health care, including prevention and early intervention services and supports for chronic conditions like mental illness.

9. Western Governors support efforts to improve the quality and quantity of behavioral health services and supports available to our residents, as these services and supports are essential to reducing suicide rates and treating a range of behavioral health conditions, including mental illness and SUDs.

10. Western Governors recognize and support efforts at the federal, state, and local levels to promote the integration of physical and behavioral health services. The Governors encourage Congress to adopt legislation and the Administration to implement policies that support states' integration efforts and that encourage health care providers to better integrate behavioral and physical health into their practice of care.

11. Western Governors also support innovation within the behavioral health workforce to create new classifications and address gaps in the continuum of care professionals.

12. Western Governors believe the federal government should work toward treating addiction as a chronic illness and work with Western Governors to develop strategies for addressing SUD that work in concert with state efforts and recognize regional variations in SUD patterns.

13. Western Governors believe that the federal government should take steps to increase opportunities for early intervention and law enforcement diversion to prevent entry into the justice system for individuals with behavioral health conditions. That includes providing law enforcement and emergency service providers with the resources and training they need to divert when appropriate and expanding the availability of community reentry programs that provide appropriate treatment for underlying behavioral health conditions that contribute to involvement in the justice system.

14. Western Governors support efforts to increase the availability of transitional and permanent supportive housing with coordinated health and social services to more fully support and sustain recovery for people with behavioral health conditions.

15. Western Governors encourage Congress to pass legislation that aligns federal privacy requirements for SUDs (42 CFR Part 2) with the requirements for all other types of medical conditions under the Health Insurance Portability and Accountability Act (HIPAA) to improve care coordination and reduce stigma for patients with SUD.

16. The exchange of health information is fragmented and often does not occur, limiting the ability of a provider or team of providers to understand the complete needs of a patient and provide whole-of-person care. Western Governors believe the federal government should take steps to support and help sustain states' administration of PDMPs and ensure that EHRs and PDMPs are fully interoperable between states and the federal government, accessible to relevant health care providers, including opioid treatment providers, and include adequate protections for patients from stigmatization and discrimination.

17. Western Governors support legislation to address the so-called Institutions for Mental Diseases (IMD) exclusion to improve access to SUD treatment and recovery services at residential and inpatient facilities with more than 16 beds, as well as to the full continuum of community-based behavioral health care. This policy solution must also improve access to both inpatient and ongoing, recovery-focused treatment in community settings. Until a legislative solution is enacted, the federal government should continue working with states to provide IMD waivers that offer important flexibility and improve access to treatment for patients with SUD. Implementation of these waivers must also occur in connection with expansions of the full community-based continuum of behavioral health care so that consumers receive services in the lowest level of clinically appropriate care in the community whenever possible.

18. Western Governors support legislative action to increase access to MAT for patients with SUD. This includes eliminating the unnecessary and burdensome registration requirements for physicians, physician assistants, and nurse practitioners to obtain a waiver from the Drug Enforcement Administration to treat opioid use disorder with buprenorphine, which would provide health care professionals with additional flexibility to use MAT to treat opioid-related SUD.

19. Western Governors urge the federal government to develop an evidence-based, culturally competent national education and awareness campaign to reduce the stigma associated with mental health and SUDs and encourage individuals to seek help for these health conditions.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.

2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in December 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult http://www.westgov.org/resolutions for the most current copy of a resolution and a list of all current WGA policy resolutions.