Earlier this week President Trump signed an executive order (EO) aimed at expanding access to healthcare in rural areas and permanently implementing some of the telehealth flexibilities granted during the COVID-19 public health emergency (PHE). The EO directs HHS to review telehealth flexibilities and within 60 days propose a new regulation to permanently expand use of telehealth in Medicare. In addition, the EO directs the Department of Health and Human Services (HHS) to create a voluntary payment model pilot through CMS’ Center for Medicare and Medicaid Innovation (CMMI) that would enhance care for beneficiaries in rural areas. The order directs the project model to be announced within 30 days. In addition to expanding telehealth, the EO contains provisions intended to expand broadband access - a necessary step in expanding telehealth for many rural areas. The EO was released in conjunction with a White Press briefing, and a full summary of that event is included below.

Shortly after the signing of the executive order, the Centers for Medicare and Medicaid Services (CMS) issued a proposed Physician Fee Schedule (PFS) rule that, if finalized, would make permanent some of the telehealth provisions as directed in the order. The calendar year (CY) 2021 PFS proposed rule proposes to add certain services the permanent telehealth list, including neurobehavioral status exam, care planning for patients with cognitive impairment and home visits. The proposed rule also includes a provision to create a new list of telehealth services that would only be available use during public health emergencies and through the end of the calendar year in which the public health emergency ends. These services include home visits, emergency department visits, nursing facility discharge day management, psychological and neuropsychological testing, and others. CMS says they are soliciting comments for additional services that should be added to the temporary telehealth list. The proposed rule also seeks to increase the frequency in which telehealth can be utilized in nursing homes from one visit per 30 days to one visit per 3 days. CMS also clarifies the types of clinicians that can provide assessment and management services, virtual check-ins and remote evaluation services. The proposed rule also would permit physical and occupation therapists to be permitted to independently furnish maintenance therapy to outpatients, if delegated by a therapist.

Staff will continue to review these and other issues included in the CY 2021 Physician Fee Schedule proposed rule, as well as the CY 2021 OPPS proposed rule (released the same day), and will provide a more detailed update to membership in the coming days. We also continue to analyze the FY 2021 IRF PPS final rule, which reflected many of the priorities included in AMRPA’s comment letter; a full analysis was sent to membership the day the rule was released and is available here.

**Summary of Press Briefing as Prepared by Akin Gump**

On Monday, August 3, the White House held a briefing call on President Trump’s Executive Order in support of a permanent extension for some telehealth policies and improved health care access in rural communities. The briefing, held at 7:00 p.m., included the participation of the White House Office of Public Liaison (WHOPL) and senior administration officials.

Introduction. The WHOPL lauded the President’s actions to improve health care for Americans in rural communities and make telehealth more accessible for seniors. The WHOPL emphasized that the
President's actions today reinforce the theme of President Trump's administration, which is to make the government more efficient by eliminating burdensome regulations.

Seema Verma, Administrator, CMS. Administrator Verma argued that the pandemic further accentuated the pressing need for telehealth and that under President Trump’s leadership, CMS took unprecedented action during the pandemic to rapidly and extensively expand telehealth for Medicare beneficiaries. During the coronavirus pandemic, the Administrator explained that CMS expanded telehealth in more sites of care, including nursing homes, and allowed telehealth to fulfill face-to-face requirements in Medicare for different health care services including inpatient rehab, hospice, and home health. Among other flexibilities, CMS also expanded the types of providers to include physical therapists, occupational therapists, speech and language pathologists, as well as those practicing from rural health clinics and federally qualified health centers.

Administrator Verma explained that CMS is “carrying the President’s directive into effect” through the Physician Fee Schedule Proposed Rule released today. The rule proposes to make permanent multiple regulatory flexibilities on telemedicine that were made available through the public health emergency. CMS is proposing to permanently add some services to the Medicare telehealth list, including mental health services and additional types of in-office visits. The proposed rule also requests feedback on what other health care services CMS added under the public health emergency should be made permanent.

Additionally, CMS is proposing to extend the availability of other types of services for a certain period beyond the public health emergency, such as lower-level emergency department visits. This process would allow CMS to study the impact of these changes outside the context of a public health emergency and minimize disruption for providers and patients who have come to rely on them. Administrator Verma stated that CMS is eager to hear the health care community’s perspective on what types of telehealth services are appropriate to make permanent and would urge stakeholders to weigh in.

Administrator Verma noted that CMS cannot make telehealth available permanently outside of rural areas, nor can CMS permanently expand the list of authorized providers. She added that any extension of sites of care, eligible providers, and non-rural areas must come from Congress, emphasizing that the legislative branch has an essential role to play following today’s action. She argued that without a change to the statute, telehealth would revert to a benefit that can only be utilized from a health care facility rather than one’s home.

Lastly, the Administrator highlighted that President Trump is calling for the release of an innovative payment model specifically designed to improve the care that rural Americans receive and is looking forward to implementing the order in the coming days.

Theo Merkel, Special Assistant to the President, National Economic Council. Theo discussed the Executive Order’s goal to limit inequities in communications infrastructure related to telehealth specifically. He highlighted that within 30 days of the order, the Sectary of HHS, USDA, in coordination with the FCC, is required to develop and implement a strategy to improve rural health by improving the physical and communications health care infrastructure available to rural Americans. Theo emphasized that this strategy would “ensure that all of these activities and entities are operating synergistically.”

Theo also stated that the Executive Order would allow communities to collaborate with CMS to design payment models that may be specific to their areas and the unique needs of their community.
Q&A Portion

Q: Is there anything on the horizon to help rural communities expand broadband?

A: Section 3 of the Executive Order directs HHS to collaborate with the FCC and the USDA to develop programs that will expand the development of broadband capabilities in rural areas. It would also encourage rural health care providers to leverage broadband technologies and inspire innovative payment and delivery models.

Q: Would the administration support a permanent Medicare telehealth expansion in the next COVID package?

A: The White House team would not comment and provided no additional information.

Q: From the perspective of the Tribal Community, a participant expressed concern about the lack of in-home health care funding for the elderly community. She emphasized that increased funding would benefit the elderly as they have been asked to quarantine at home during the public health emergency.

A: Theo Merkel explained that the White House is working to try to address this challenges. Additionally, on Monday, August 3, the White House held a Congressional briefing call to discuss the President’s Executive Order. The briefing, held at 6:30 p.m., included senior administration officials.

Introduction. White House officials emphasized that the current times have even further reinforced that volume-based reimbursement mechanisms are potentially harmful to rural areas and limit opportunities to provide telehealth services. Additionally, the White House team provided an overview of the Executive Order and its contents, noting that the White House will be following-up with subsequent actions.

Sec. 2. Launching an Innovative Payment Model to Enable Rural Healthcare Transformation. Within 30 days of the order, the Secretary of Health and Human Services (HHS) (Secretary) will announce a new model to test innovative payment mechanisms to ensure that rural health care providers can provide the necessary level and quality of care.

Sec. 3. Investments in Physical and Communications Infrastructure. Within 30 days, the Secretary of HHS and U.S. Department of Agriculture (USDA), in coordination with the Federal Communications Commission (FCC), is required to develop and implement a strategy to improve rural health by improving the physical and communications health care infrastructure available to rural Americans.

Sec. 4. Improving the Health of Rural Americans. Within 30 days, the Secretary is required to submit a report to the President, including upcoming policy initiatives to improve mental health in rural communities, prevent disease and premature illness mortality, and increase the availability of clinical health professionals.

Sec. 5. Expanding Flexibilities Beyond the Public Health Emergency. Within 60 days, the Secretary is directed to review the following temporary measures put in place during the public health emergency,
and shall propose a regulation to extend these measures, as appropriate, beyond the duration of the public health emergency:

(a) The additional telehealth services offered to Medicare beneficiaries; and

(b) The services, reporting, staffing, and supervision flexibilities offered to Medicare providers in rural areas.

Q&A Portion

Q: Will this Executive Order address audio-only telehealth and substance use disorder treatment?

A: Audio-only is an area that the White House is “digging into” to understand its value and challenges that it might present going forward. They noted interest in expanding and making permanent telehealth services related to the treatment of substance abuse disorder.

Q: Is the new model mandatory or voluntary?

A: Voluntary.

Q: Will this Executive Order expand opportunities for states to “get into new payment models” such as global budgeting? Or, are these new initiatives?

A: This Executive Order is geared toward rural communities and to examine a range of value-based payment options.

Q: With the payment model testing, how is that different from the rural health strategy that has previously been released by the Centers for Medicare and Medicaid Services (CMS)? What has prevented CMS from moving forward with testing different strategies before an Executive Order?

A: The overall rural health strategy is trying to address a wide range of issues for rural communities, including by allowing them to redesign a system that appropriately meets their needs.