



February 11, 2022

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representative
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader Schumer, Leader McCarthy, & Leader McConnell:

On behalf of the National Association for Home Care & Hospice (NAHC), National Hospice and Palliative Care Organization (NHPCO), LeadingAge, and the National Partnership for Healthcare & Hospice Innovation (NPHI), we urge Congress to suspend the full 2% Medicare sequestration payment cut through the end of the COVID-19 PHE or December 31, 2022, whichever is later. We additionally request that the flexibility provided in Section 3706 of the *CARES Act* (PL 116-136)¹ that allows hospice organizations to perform the required face-to-face hospice eligibility recertification via telehealth be made permanent or at least be extended for two years beyond the end of the COVID-19 public health emergency.

Averting harmful Medicare cuts

As the leading organizations that represent the full array of hospice and community-based palliative care providers across the United States, we are grateful for Congress' past bipartisan efforts to avert devastating sequester-related Medicare cuts during the pandemic. The passage of S.610, while greatly appreciated, came before the omicron wave. The ongoing PHE continues to impose financial pressures that impact access to care, including but not limited to: unprecedented labor expenses, high costs for personal protective equipment and other supplies, and lowered revenues due to limitations on in-person fundraisers and limited patronage of thrift stores, both of which typically provide significant revenue to many nonprofit hospices in particular. While our members continue to innovate to serve patients and families, these challenges will be exacerbated if impending planned sequestration cuts are allowed to take effect in the coming months.

Facilitating access to hospice care via telehealth flexibility

The Affordable Care Act (ACA) requires that a hospice physician or nurse practitioner (NP) must have a face-to-face (F2F) encounter with every Medicare hospice patient to determine the continued eligibility of that patient prior to the 180th day recertification, and prior to each subsequent recertification. These encounters became difficult and dangerous as the COVID-19 virus spread and put vulnerable Medicare beneficiaries at high-risk of serious illness or death. In March 2020, Congress included a provision in the *CARES Act* (Section 3706) to specifically allow hospices to perform the F2F via telehealth for the duration of the PHE. Our organizations' respective hospice members report that being able to perform the F2F

¹ <https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf#page=138>

using telehealth has been a major success and should be permanently, or at least temporarily, expanded beyond the pandemic. Hospices are able to collect all necessary clinical information, follow patient and family wishes for fewer visits during the pandemic, and allocate staff more effectively due to this flexibility.

Unlike many of the other pandemic telehealth flexibilities that are authorized in a blanket fashion under HHS' expanded Section 1135 waiver authority included in the *Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020* (PL 116-123), the hospice recertification flexibility is a separate, standalone statutory provision. As such, our organizations worry that any future broad-based legislative extension of telehealth flexibilities implemented under the 1135 waiver authority (such as that included in the recently introduced *Telehealth Extension and Evaluation Act – S. 3593* and the *Telehealth Extension Act of 2021 – H.R. 6202*) would not address the hospice telehealth recertification allowance. However, a number of other popular bipartisan and bicameral bills do call for a permanent extension of the hospice F2F telehealth flexibility, including the *Connect for Health Act of 2021* (S.1512/H.R. 2903), the *Telehealth Modernization Act* (S. 378/H.R. 1332), and the *CURES 2.0 Act* (H.R. 6000).

In addition to supporting patients, families, and hospice providers, an extension of the hospice F2F telehealth flexibility would not impose additional costs on the Medicare program, as there is no separate payment for the F2F visit. F2F visits are covered under the current daily capitated payment structure of the Medicare Hospice Benefit, so permitting them to be performed virtually is cost-neutral.

As Congress considers legislation to broadly extend the many current telehealth flexibilities beyond the end of the PHE, including as part of any FY2022 omnibus government funding package, it is imperative that the hospice F2F-via-telehealth policy is included in any umbrella expansion.

Thank you for your consideration of these important requests. We look forward to continuing to work with you.

Sincerely,

National Association for Home Care & Hospice
National Hospice and Palliative Care Organization
LeadingAge
National Partnership for Healthcare & Hospice Innovation