



March 3, 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 extend, permanently or for at least for two years beyond the end of the COVID-19 public health emergency (PHE), the flexibility provided in Section 3706 of the *CARES Act* (PL 116-136)<sup>1</sup> that allows hospice organizations to perform the required face-to-face hospice eligibility recertification via telehealth. Hospice patients, families and providers have all found this allowance to be of great benefit, and its continued availability post-PHE will improve care, alleviate critical workforce shortages, and result in no additional costs to Medicare.

#### **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 180<sup>th</sup> 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 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. A 2020 study found that patient and provider satisfaction with virtual F2F visits was high, and that there were no differences in hospice recertification recommendations when the F2F was performed either via telehealth or in-person<sup>2</sup>.

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,

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

<sup>2</sup> Moore, S. L., Portz, J. D., Santodomingo, M., Elsbernd, K., McHale, M., & Massone, J. (2020). Using Telehealth for Hospice Reauthorization Visits: Results of a Quality Improvement Analysis. *Journal of pain and symptom management*, 60(3). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7276118/>

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

cc:

Chairman & Ranking Member, Senate Committee on Finance  
    Senator Ron Wyden, Chairman  
    Senator Chuck Grassley, Ranking Member  
Chairman & Ranking Member, House Committee on Ways and Means  
    Representative Richard Neal, Chairman  
    Representative Kevin Brady, Ranking Member