

March 19, 2020

The Honorable Larry Hogan
Governor of Maryland
Chair, Executive Committee
National Governors Association
100 State Circle
Annapolis, MD 21401

The Honorable Andrew Cuomo
Governor of New York
Vice Chair, Executive Committee
National Governors Association
State Capitol
Albany, NY 12224

120 South Riverside Plaza
Suite 2000
Chicago, Illinois 60606-6995
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Suite 460
Washington, D.C. 20036

Dear Governors Hogan and Cuomo:

Re: Providing Telehealth in This National Emergency

The Academy of Nutrition and Dietetics (the “Academy”) applauds the work of the National Governors Association to provide states with the information needed to respond to the COVID-19 pandemic in a timely and strategic manner and to provide leadership in a time of uncertainty and instability. Representing more than 108,000 registered dietitian nutritionists (RDNs),¹ nutrition and dietetic technicians, registered (NDTRs), and advanced-degree nutritionists, the Academy is the largest association of nutrition and dietetic professionals in the United States. Our members provide various medical and professional services in the clinical and community settings, conduct significant research, and are committed to improving the health of all Americans through the transformative power of food and nutrition.

The Trump Administration recently offered increased flexibility for the delivery of health care to Medicare beneficiaries through expanded telehealth. While the Centers for Medicare and Medicaid Services (CMS) has included Medical Nutrition Therapy (MNT) in its list of services that can be provided and billed via telehealth, **individuals covered by Medicaid and commercial payers are dependent on the action of individual states to allow for similar flexibilities.** According to the announcement:

Medicaid already provides a great deal of flexibility to states that wish to use telehealth services in their programs. States can cover telehealth using various methods of communication such as telephonic, video technology commonly available on smart phones and other devices. **No federal approval is needed for state Medicaid programs to reimburse providers for**

¹ The Academy approved the optional use of the credential “registered dietitian nutritionist (RDN)” by “registered dietitians (RDs)” to more accurately convey who they are and what they do as the nation’s food and nutrition experts. The RD and RDN credentials have identical meanings and legal trademark definitions.

telehealth services in the same manner or at the same rate that states pay for face-to-face services.²

The Academy encourages our nation’s governors to again demonstrate leadership by including MNT via telehealth in the services allowed for individuals covered by Medicaid and commercial payers in their respective states. These interactions will allow the nutrition management of childhood conditions such as type 1 diabetes and cancers, along with adult chronic diseases that can be provided while minimizing risk of COVID-19 exposure for the patient or client and for the provider.

The Academy notes that coverage for MNT for many common nutrition-related conditions such as diabetes and obesity varies by state Medicaid program and individual commercial payer products. At this time, we ask that those conditions **for which there is current MNT coverage** be allowed to be provided and paid for as a telehealth service **with similar HIPAA flexibility in technology and communication granted by CMS for Medicare services.**

Registered dietitian nutritionists are the federally-recognized providers of MNT, along with qualified, state-licensed nutrition professionals who also meet the rigorous education, training and competency requirements established in § 1861(vv)(2) of the Social Security Act. **We ask that states enable RDNs and other federally-qualified nutrition professionals be temporarily permitted to practice across state lines via telehealth consistent with federal guidance to “allow all doctors and medical professionals to practice across state lines to meet the needs of hospitals that may arise in adjoining areas.”³**

Because not all states presently license nutrition professionals, we ask states that defer to federal regulations that recognize RDNs as qualified providers of MNT when licensure is not currently possible or practicable in a state during this national emergency. In addition, the Academy requests that existing requirements for face-to-face contact between providers and members may be waived prior to treating the patient through telehealth for the first time.

² Centers for Medicare & Medicaid Services. “President Trump Expands Telehealth Benefits for Medicare Beneficiaries During COVID-19 Outbreak.” [Press release], 17 March 2020, <https://www.cms.gov/newsroom/press-releases/president-trump-expands-telehealth-benefits-medicare-beneficiaries-during-covid-19-outbreak>. (Emphasis added.)

³ United States, Coronavirus Task Force. “Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing.” *The White House*, 18 March 2020, <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-5/>.

Thank you for the opportunity to offer solutions during this national emergency that facilitate access to care and improve health. We look forward to working with you to reduce regulatory burden and to continue access to care for our nation. Please contact Pepin Tuma at 202-775-8277 ext. 6001 or by email at ptuma@eatright.org with any questions or requests for additional information.

Sincerely,



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Vice President
Policy Initiatives and Advocacy
Academy of Nutrition and Dietetics



Pepin Andrew Tuma, Esq.
Senior Director
Government & Regulatory Affairs
Academy of Nutrition and Dietetics

cc: National Governors Association, Health and Human Services Committee
The Honorable Kate Brown, Governor of Oregon, Chair
The Honorable J.B. Pritzker, Governor of Illinois
The Honorable Laura Kelly, Governor of Kansas
The Honorable John Bel Edwards, Governor of Louisiana
The Honorable Charlie Baker, Governor of Massachusetts
The Honorable Andrew Cuomo, Governor of New York
The Honorable Ralph Deleon Guerrero Torres, Governor of Northern Mariana Islands
The Honorable Ralph Northam, Governor of Virginia
The Honorable Tony Evers, Governor of Wisconsin