December 31, 2018

Attention: CMS-4185-P
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: *Multi-stakeholder Comments to the Centers for Medicare and Medicaid Services on* Medicare and Medicaid Programs; Policy and Technical Changes to the Medicare Advantage, Medicare Prescription Drug Benefit, Program of All-Inclusive Care for the Elderly (PACE), Medicaid Fee-for-Service, and Medicaid Managed Care Programs for Years 2020 and 2021 *(83 FR 54982)*

We represent a diverse coalition of stakeholders that span the healthcare, medical, and technology sectors who support connected health technologies. An established body of evidence demonstrates that connected health technologies such as "telehealth," "mHealth," "remote patient monitoring," and other modalities improve patient care, expand access, reduce hospitalizations, avoid complications, promote patient engagement, and increase efficiencies. These digital health tools leverage patient-generated health data (PGHD) range from wireless health products, mobile medical devices, telehealth and remote services, clinical decision support, chronic care management, and cloud-based patient portals. These essential health and medical tools are being leveraged by the public and private sector to address the rising costs and growing challenges of healthcare.

We, the various stakeholders representing a diverse group of technological, health, and medical industries join together in this letter to provide our consensus input on the Centers for Medicare and Medicaid Services' (CMS') proposed rule, particularly regarding proposed "additional telehealth benefits" as part of basic Medicare Advantage (MA) benefits, per the Bipartisan Budget Act of 2018, Pub. L. 115-123 (BBA). We agree that these should be defined as services furnished by MA plans for which benefits are available under Medicare Part B but which are not payable under section 1834(m) of the Social Security Act and have been identified by the MA plan for the applicable year as clinically appropriate to furnish through electronic exchange. We specifically support providing MA plan sponsors with the discretion to make the determination that the telehealth services are clinically appropriate as opposed to limiting coverage to only those services CMS covers under the telehealth benefit. However, we urge CMS to note that the definition only applies to telehealth as specified under Part B, two-way audio and visual real time and interactive services. Furthermore, CMS should note that all other virtual services such as remote patient monitoring are not considered telehealth and therefore are not subject to restrictions as CMS has stated recently in the 2018 and 2019 Physician Fee Schedule[1] and the 2019 Home Health Rule.[2] As a result, MA plan sponsors are already able to include other virtual services, including remote patient

[1] CMS, *Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2019; Medicare Shared Savings Program Requirements; Quality Payment Program; and Medicaid Promoting Interoperability Program*, 83 Fed Reg 35704 (Nov. 23, 2018).

[2] CMS, *Medicare and Medicaid Programs; CY 2019 Home Health Prospective Payment System Rate Update and CY 2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations*, 83 Fed Reg 56406 (Nov. 13, 2018).

monitoring, in the basic benefits so long as considered clinically appropriate, providing a pathway to use innovative digital tools in MA.

Please also note that in this draft rule, as required by Section 50323 of the BBA, CMS proposes to allow MA plans to cover Part B benefits provided via electronic exchange as "additional telehealth benefits" and as a basic benefit as defined in § 422.101. Created by the BBA, section 1852(m) of the Social Security Act allows MA plans to provide "additional telehealth benefits" to enrollees starting in plan year 2020, and to treat such services as basic benefits for purposes of bid submission and payment by CMS. The BBA limits these authorized "additional telehealth benefits" to services for which benefits are available under Medicare Part B, but that are not payable under section 1834(m) and have been identified for the applicable year as clinically appropriate to furnish through "electronic information and telecommunications technology." In its efforts to implement the BBA, CMS has noted in the preamble that "[e]xamples of electronic information and telecommunications technology (or "electronic exchange") may include, but are not limited to, the following: secure messaging, store and forward technologies, telephone, videoconferencing, other internet-enabled technologies, and other evolving technologies as appropriate for non-face-to-face communication." We strongly urge CMS to rescind this preamble language and leave the proposed regulatory language as outlined: "[e]lectronic exchange means electronic information and telecommunication technology."

CMS must re-approach its implementation of Section 50323 of the BBA to ensure MA's alignment with CMS' established approaches to Medicare telehealth services, as well as to remote patient monitoring and other "remote communications technology" that CMS has expressly stated do not fall under 1834(m) and its restrictions. Further, we urge CMS to expressly state that remote patient monitoring technologies may be included as part of basic MA benefits, and are not subject to 1834(m).

We commend CMS for its efforts to advance the uptake of connected health innovations across its programs, particularly through recent program changes made for calendar year (CY) 2019. For example, in the CY 2019 Physician Fee Schedule (PFS), CMS has activated and provided payment for three new Current Procedural Terminology® (CPT) Codes that capture the technical and professional elements of remote patient monitoring, and has allowed home health agencies to include evidence-based remote patient monitoring expenses used to augment the care planning process as allowable administrative costs that are factored into the costs per visit under the Home Health Prospective Payment System (HHPPS). CMS has also put key incentives in place for the future value-based Medicare system, as well as to take steps to promote flexible use of PGHD in care coordination in the Quality Payment Program (QPP) Merit-based Incentive Payment System (MIPS). As a community, we continue to support CMS' efforts to utilize advanced technology to augment care for every American patient.

With approximately one in three Medicare beneficiaries enrolled in an MA plan, it is essential that MA rules allow for caregivers and beneficiaries to realize the benefits associated with leveraging PGHD collected by connected health technology, consistent with key policy changes already made in other payment systems such as those noted above. We support the greater use of Medicare telehealth services in MA plans and support the waiver of the outdated section 1834(m) restrictions.

We appreciate CMS' seeking input on its draft rule, and for its partnership in leveraging the incredible potential of connected health technologies. We encourage CMS' thoughtful consideration of the above input and stand ready to assist further in any way that we can.

Sincerely,

American Association for Respiratory Care (AARC)
AliveCor, Inc.
American Society of Nephrology
Association for Behavioral Health and Wellness
Baxter Corporation
Catalytic Health Partners
College of Healthcare Information Management Executives (CHIME)
Connected Health Initiative
Consumer Technology Association (CTA)
Diasyst, Inc.
Dogtown Media
eCare21
eMEDICALSENTRY
For All Abilities
Healthcare Information and Management Systems Society (HIMSS)
InTouch Health
Life365
LifeWIRE
Medical Alley Association
Nex Cubed
NTCA – The Rural Broadband Association
Personal Connected Health Alliance (PCHA)
Podimetrics
Proteus Digital Health
Pt Pal
Qualcomm Life
Remote Cardiac Services Provider Group
Rimidi
StartUp Health
Telehealth Suite, LLC
TytoCare
UnaliWear