March 15, 2021

Chairman Weisz and members of the North Dakota House Human Services Committee,

My name is Dylan Wheeler, Senior Legislative Affairs Specialist, Sanford Health. On behalf of Sanford Health, I would like to provide comments In Support of SB 2179, as amended.

Telemedicine has played a critical role over the past year during COVID-19 for patients, members, providers, and payers alike. Payers, such as Sanford Health Plan (SHP) in partnership with the ND Department of Insurance, responded by waiving member cost-sharing for telemedicine visits for a period of time. The provider community stepped up and met the challenge of adapting to and implementing telemedicine to meet the needs of patients. The regulatory and statutory flexibility currently in North Dakota played a key role in quickly responding to the COVID 19/Public Health Emergency. Looking forward, telemedicine policy at the Federal level continues as the Public Health Emergency declaration triggered additional flexibility for telemedicine utilization and access.

The previous version of this bill had several concerning areas in addition telemedicine payment parity – including copay parity, utilization management parity, and the inclusion of audio-only for purposes of payment parity. We previously shared concerns with this bill - concerns that provide context and may be informative if the bill is further amended:

Expansion of the Definition of Telehealth to Include "Audio Only"

The proposed addition of "audio-only" to the statutory definition of telehealth gives rise to the question whether an audio-only provider/patient interaction is in parity (the equivalent or directly comparable) with either a video/virtual or an in-person interaction. An audio-only patient interaction, if outside of traditional patient-provider EHR record platform, could result in an incomplete medical record. However, we do not want to minimize the value that audio-only interactions may have in practice, such as behavioral health. The question here is whether those – and all telemedicine uses - are to be considered the same for reimbursement.

Coinsurance or Copayment Parity Amendment

By prohibiting payers from allowing lower copayments for telehealth visits, consumers would be penalized and payers inhibited from offering different copays for telemedicine.

Utilization Management Parity Amendment

Utilization management is another tool that payers, in partnership with providers, use to help guide and track patients through the healthcare process. The prohibition of "any type of utilization management" as written in the bill is concerning. We are still learning about consumer behavior and telemedicine (e.g. utilization) during the COVID-19 pandemic. In addition, this provision may hinder innovation towards value based reimbursement arrangements.

Telemedicine Payment Parity

Payment parity specifically mandates that reimbursement for telehealth services "may not be less than" its in-person counterpart. Statutorily setting the minimum reimbursement threshold would be counterproductive to market flexibility, future innovation, and may inflate costs to the patient/member. This is particularly of concern for the inclusion of "audio-only" in the definition.

Other Considerations

Before setting any statutory price/parity requirements, we should consider to what extent telemedicine has been utilized and can or will be used going forward. As payers and providers move away from fee-for-service reimbursement mechanism – telemedicine payment parity requirements could thwart the health care systems' shift to value based payments or other quality based reimbursement/payment models. Additionally, provider licensure recognition across state lines is an integral part of the long-term and broader telemedicine policy discussion. Recognizing other state licenses of healthcare providers may better serve broader populations, provider greater access, and reduce overall costs and spending.

Support SB2179 as Amended

Currently, SB 2179, as amended, would require a study over the next legislative interim regarding telehealth costs, services, and reimbursement options. This study shall include input from key stakeholders, encourage collaboration between providers and payers, and begin with a focus on behavioral health. These are ideas that Sanford Health supports.

Efforts to amend this bill to possibly include a pilot program or other parity amendments, however, give us concern. The purpose of the interim study would be to inform all stakeholders as to where opportunities for improvement and efficiencies would be. If a pilot program is narrowly tailored to a particular service or provider, then undoubtedly, that would call into question whether it is a "mandate" and its cost, scope, and applicability to NDPERS. The study is an opportunity to do just that – study. The interim study is a proactive measure to understand costs, look at payment models, and seek North Dakota specific solutions – this must be completed before a pilot or additional amendments are considered.

Through COVID-19, we have learned the significant potential for utilization of telemedicine for North Dakotans. By studying this essential tool available to patients, members, providers, and payers – we may better understand where telemedicine may be going in the future, but also what can we learn from the past.

Thank you for your time and consideration – I would be glad to answer any questions.

Respectfully Submitted,

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