MISSISSIPPI DIVISION OF MEDICAID

Mississippi Administrative Code Title 23, Part 225, Rules 1.3-1.5

Public Comments:

May 28, 2021

Division of Medicaid
550 High Street, Suite 1000
Jackson, MS 39201

Delivered via e-mail: margaret.wilson@medicaid.ms.gov

RE: Title 23: Medicaid, Part 225: Telemedicine, Chapter 1: Telemedicine, Rule(s)1.3 – 1.5

Fresenius Medical Care North America (FMCNA) is a leading provider of dialysis services and, through its Fresenius Kidney Care (FKC) division, operates 81 outpatientdialysis facilities in Mississippi, serving over 5,650 patients with End Stage Renal Disease (ESRD).

Telehealth has become an integral part of our services during the Covid-19 pandemic. We, along with many others, see the value of continuing telehealth beyond the pandemic, and we appreciate the opportunity to comment on these regulations and changes necessary for ESRD Medicaid patients to have continued access, and opportunity, to receive care via telehealth in a manner consistent with how we have beenoperating for over the past year.

Pursuant the authority granted under Miss Code Ann. § 43-13-117 and 43-13-121, we respectively request that the Division of Medicaid consider amending current regulationsand the State Plan as described below.

- **Originating Site:** We propose that the eligible originating sites be expanded toinclude:
  - the patient's home and
  - dialysis facility (without any facility fee).

- **Distant Site:** We propose that the dialysis facility be added as an eligible distantsite for telehealth services (without any facility fee).

- **Telepresenter Requirement:** We propose removal of this requirement or, at a minimum, narrowing when such a requirement may be necessary. ESRD patientswho dialyze at home do not have health professionals with them, as they dialyze independently.

- **Eligible Providers:** We propose that additional providers be eligible to providetelehealth services, including:

- licensed or registered dietitians
- registered nurses

- **Telehealth Definition:** We propose that the definition of telehealth services be expanded to include telephone, at least in instances when a real-time, audiovisual interaction is not available. We also propose potentially re-evaluating the servicesthat are appropriate for delivery via telehealth (e.g., level of E&M visits), particularly in light of the experiences and insights gained during the pandemic.

To provide more context to some of the requests above, during the pandemic, while FKCutilized telehealth as a tool for clinic staff providing care to patients, it was of particular import to the attending physicians. The attending physicians were able to continue to provide their monthly visits to their patients – both incenter and home dialysis patients – while minimizing exposure risk to this particularly vulnerable population. Sometimes, the patient might be located at the dialysis facility when receiving such physician telehealth services, with the dialysis facility serving as the originating site, while the physician provided services from a distant site. At other times, the patient might be at home when receiving such physician telehealth services, with the physician delivering such telehealth services from the dialysis facility (thus the dialysis facility serving as the distant site).

Many of the regulatory changes requested above echo the flexibilities that were granted by the Mississippi Division of Medicaid in its Emergency Telehealth Policy (March 20, 2020, as revised). Even post-pandemic, telehealth has the potential to greatly increase patient access and treatment compliance. However, the current regulatory restrictions oneligible originating site locations and the requirement there be a telepresenter at the originating site effectively eliminates the ability for patients to receive telehealth services from their home.

Thank you for the opportunity to submit comments. Please contact me for questions orfurther information.

Sincerely,

Wendy Funk Schrag

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Region 6 appreciates the modifications to the Administrative Code that allow CMHCs to serve as originating and distant site providers. We recommend adding guidance that would clarify that it is permissible for telehealth services to be provided by DMH credentialed staff for those services allowable under that specific credential. Additionally, we request permanent authority to forgo the requirement that a co-presenter must be present when providing telehealth services to individuals in their home.

It is also our understanding that it is the Division's intent on June 30, 2021, to terminate a number of the telehealth flexibilities afforded to providers during the PHE period. It has been conveyed to us that the Division is concerned that the Medicaid Tech Bill that becomes effective on July 1,2021, precludes the Division from making changes to services without legislative approval. Given that these flexibilities are temporary under federal authority in the Appendix K Addendum and not permanent changes, we hope that the Division would reconsider this interpretation. These telehealth flexibilities have ensured access to care, as well as continuity of care, at a time when the demand for mental health services has soared. Many of the individuals served by the CMHCs do not have the resources to engage in telehealth services with both audio and visual components.

Telephonic only services promote equitable delivery of care given that most of our individuals lack access to broadband connection that would support a video component. Ending these flexibilities before the end of the PHE will disrupt care at a critical juncture and create an unnecessary reliance on more costly emergency care for our most vulnerable individuals.