

September 22, 2022

The Honorable Charles Schumer  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Mitch McConnell  
Republican Leader  
United States Senate  
Washington, DC 20510

Dear Leaders Schumer and McConnell,

The HR Policy Association and the American Health Policy Institute applaud your work on implementing bipartisan mental health legislation to improve patient access to mental health and substance use care. We write to urge you to make permanent COVID telehealth flexibilities in any legislation that maybe considered before the end of the year. Liberalized telehealth rules during the pandemic resulted in an exponential growth in the use of telehealth, particularly telebehavioral health. These flexibilities have allowed employers to provide additional access to much needed behavioral health care services for employees and their families.

The HR Policy Association is the leading organization representing the chief human resource officers of over 400 of the largest employers in the United States. Collectively, their companies provide health care coverage to over 21 million employees and dependents in the United States. The American Health Policy Institute, which was created by the Association, serves to examine the challenges employers face in providing health care to their employees and recommends policy solutions to promote the provision of affordable, high-quality, employer-based health care.

Below are several telehealth and telebehavioral health policies we urge Congress to address.

- **Pass the Telehealth Benefit Expansion For Workers Act of 2022 (H.R. 7353).** Under current ACA rules, employers cannot extend telehealth benefits to several classes of employees including part-time and seasonal employees. In 2020, DOL, HHS and Treasury announced they would not enforce penalties against employers who wanted to offer telehealth services to employees who were not eligible for the employer-sponsored health plan. However, this important non-enforcement policy ends when the public health emergency ends. Amending the excepted benefit and eligibility classifications under federal law will allow telehealth to be treated like any other add-on benefit like vision or dental care and will greatly expand access to telehealth services for all employees.
- **Make permanent the allowance of first-dollar coverage of telehealth in high deductible health plans (HDHP).** IRS rules governing HDHPs do not consider telehealth to be eligible as preventive care, meaning employees must first meet their

deductible before telehealth is covered. While the Telehealth Expansion Act, included in CARES Act, provided this flexibility, it is set to expire at the end of 2022. HR Policy urges Congress to make this change permanent.

- **Eliminate cross-state border restrictions** on telehealth and telebehavioral health services on a permanent basis. Licensing requirements should be based on the location of the provider, not the patient.

\* \* \*

We welcome any opportunity to further outline the advantages of telehealth expansion to improve patient access and outcomes.

Sincerely,



D. Mark Wilson  
President and CEO, American Health Policy Institute  
Vice President, Health & Employment Policy  
HR Policy Association



Margaret Faso  
Director, Health Care Research and Policy  
HR Policy Association, American Health Policy Institute