Telehealth Everywhere 2024 Conference DC Update

Clif Porter

Senior Vice President of Government Relations

May 21, 2024

AHCA® AMERICAN HEALTH CARE ASSOCIATION

NCAL® NATIONAL CENTER FOR ASSISTED LIVING



Minimum Staffing Update



Timing & What We Know

- Rule issued 9-1-2023
- Formal 60-day comment period closed 11-6-2023
- Proposed rule was moderated from advocates original proposal
- Rule remains highly problematic
- Final Rule announced 4-22-2024
- Will be published 5-10-2024, triggering implementation timeline

AHCA AMERICAN HEALTH CARE ASSOCIATION
NCAL NATIONAL CENTER FOR ASSISTED LIVING



Legislative Strategy

- Fischbach Bill - Protecting Rural Seniors' Access to Care Act (S. 3410/H.R. 7513)
- CBO Scores Final Rule at $17.4 billion
- Makes rule repeal very attractive
- Wholesale Republican support for repeal
- Rank and file Democrat opposition in House

AHCA
AMERICAN HEALTH CARE ASSOCIATION
NCAL
NATIONAL CENTER FOR ASSISTED LIVING



Impossible Staffing Mandate

- No funding
- Required staff are simply not available
- No pipeline is being built to produce the number of RNs needed
  - Even if it were, RNs are in demand across all health care sectors



Staffing Requirements

- Minimum 3.48 total nurse staff HPRD
  - Can include CNAs, RNs & LPNs
- Specific minimum 0.55 RN HPRD
- Specific minimum 2.45 CNA HPRD
- RN onsite 24/7
- DON now counts for 24/7 & 0.55 HPRD if providing direct care



Implementation Timelines

- 3.48 HPRD total nurse staff hours & 24/7 RN requirements
  - Effective in 2 years in urban areas
  - Effective in 3 years in rural areas
- Specific 0.55 RN and 2.45 CNA HPRD requirements
  - Effective in 3 years in urban areas
  - Effective in 5 years in rural areas



Why Telehealth Access is Important for AHCA/NCAL Member Residents

- <u>SNF, AL and ID/DD Residents</u>
  - Easier to get follow-up outpatient visits with specialty physicians without stress, cost, and time involved with leaving their home
  - Easier to access outpatient Part B therapy services more consistently when appropriate to address functional needs
  - Less risk of missed appointments due to transportation or other issues.
  - Less stress on staff time if not coordinating transport or accompanying resident to the visit
- <u>SNF Residents</u>
  - Access to physician services during off-hours (nights/weekends/holidays) with emerging conditions to help prevent avoidable ER visits or hospital admissions
  - Access to needed follow-up specialty hospice, dialysis, behavioral health, substance abuse care to prevent complications

AHCA
AMERICAN HEALTH CARE ASSOCIATION
NCAL
NATIONAL CENTER FOR ASSISTED LIVING



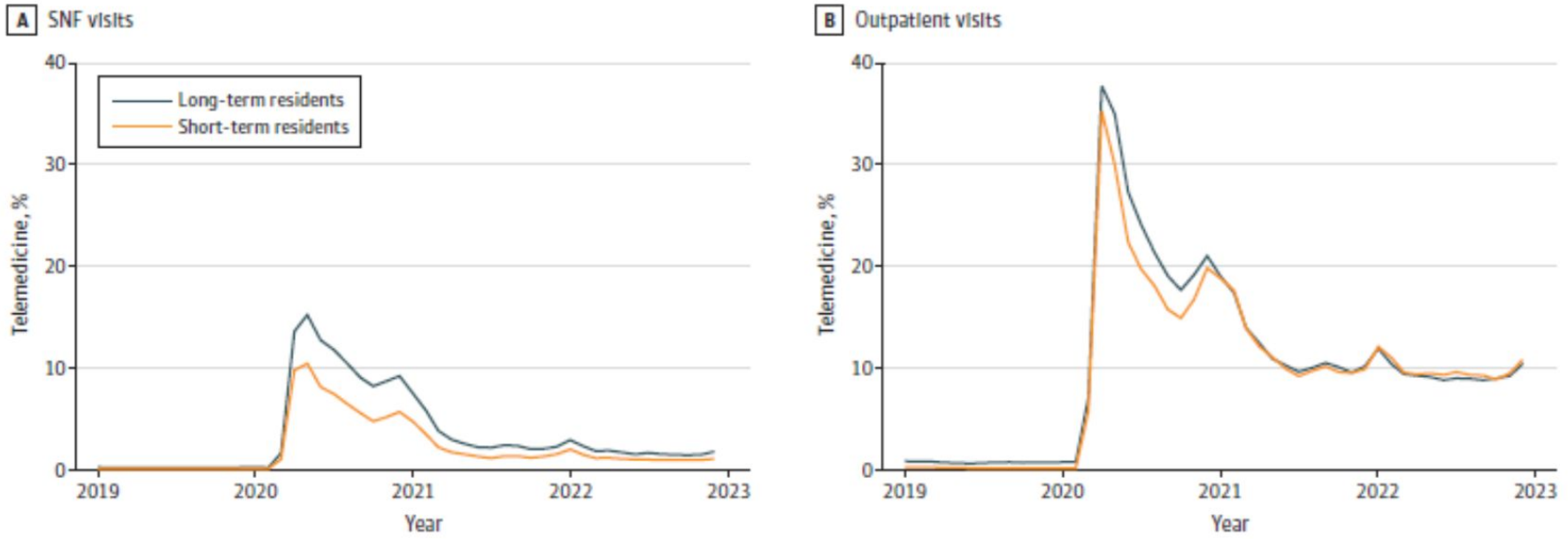
SNF/AL Resident Impacts of Telehealth Policy Pre- to Post-COVID

Pre-COVID Policy	During COVID PHE to Current	January 2025 if no Action
Limited to Rural and Underserved Locations	No Limits Based on Location	Limited to Rural and Underserved Locations (Except Some Mental Health)
Only Costly Secure Bi-Directional Technology	Added Smartphones/ Pads/ Internet and Voice-Only	Only Costly Secure Bi-Directional Technology
PT/OT/SLP Not Permitted	PT/OT/SLP Permitted	PT/OT/SLP Not Permitted
Not Available for Hospice Residents in SNF	Available for Hospice Residents in SNF	Limited Availability for Hospice Residents in SNF
Not Available for Dialysis Residents in SNF	Available for Dialysis Residents in SNF	Not Available for Dialysis Residents in SNF
Rigid Restrictions for Substance Abuse Access	Added Flexibilities for Substance Abuse Access (less face-to-face)	Rigid Restrictions for Substance Abuse Access

HCA HEALTH CARE ASSOCIATION
NCAL NATIONAL CENTER FOR ASSISTED LIVING

Telehealth Use in SNF/NF Trends
Low Volume But Important to Retain

Figure 1. Proportion of Skilled Nursing Facility (SNF) and Outpatient Visits Delivered by Telemedicine for Short- and Long-Term SNF Residents in 2019 to 2022



The group SNF visits (A) captures regular primary care encounters within SNFs, and the outpatient visits group (B) captures visits with primary and specialty care clinicians who are not affiliated with SNFs.

JAMA Network Open. 2023;6(8):e2329895.
doi:10.1001/jamanetworkopen.2023.29895

AHCA ERICAN HEALTH CARE ASSOCIATION
NCAL NATIONAL CENTER FOR ASSISTED LIVING



Telehealth Outlook
Relief Past 2024 Uncertain

- Cost to extend current waivers ~ $1.6B for 1 year/$3.8B for 2 years
- Example bills most helpful to AHCA/NCAL member residents - <u>none are perfect</u>
  - H.R. 8261– Extends key telehealth waivers 2 years through 12/31/26 (e.g. geographic and PT/OT/SLP) (<u>not permanent</u>)
  - HR 134 – Eliminates geographic limits. No other provisions
  - HR 3432 –Telementalhealth geographic barriers eliminated
  - HR 3875 – PT/OT/SLP therapy telehealth (would be ideal as an amendment to a bigger bill)
    - HR 8151 - Same benefits of HR 3875 but different approach (would be ideal as an amendment to a bigger bill)
    - HR 7623 – Similar but therapy language not as strong as HR 3875
  - HR 4189 – Eliminates geographic limits and other relief, but weak on therapy
  - HR 7711 – Eliminates geographic limits, allows some audio-only telehealth, increases telehealth flexibilities for home dialysis in the SNF, stroke telehealth, and substance abuse and telehealth, but SNF therapy unclear
- AHCA/NCAL priorities are to preserve as many of COVID-era telehealth policies that benefit our member's residents as possible.
  - We cannot do it alone and have joined forces with several coalitions advancing all of our priorities.

AHCA
AMERICAN HEALTH CARE ASSOCIATION
NCAL
NATIONAL CENTER FOR ASSISTED LIVING

AHCA®
AMERICAN HEALTH CARE ASSOCIATION

NCAL®
NATIONAL CENTER FOR ASSISTED LIVING

IMPROVING LIVES *by*
DELIVERING SOLUTIONS *for*
QUALITY CARE