Center for Connected Health Policy®
The National Telehealth Policy Resource Center

*The Center for Connected Health Policy is the **Federally Designated** National Telehealth Policy Resource Center*

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April 16, 2018

The Honorable Marsha Blackburn
Chair, Subcommittee on Communications and Technology
House Committee on Energy & Commerce
2266 Rayburn Building
Washington, Dc 20515

The Honorable Michael Doyle
Ranking Member, Subcommittee on Communications and Technology
House Committee on Energy & Commerce
239 Cannon HOB
Washington, DC 20515

RE: Comments for the record on Internet Prioritization

Dear Chairwoman Blackburn and Representative Doyle:

On behalf of the Center for Connected Health Policy (CCHP), I am submitting the following comments regarding the rollback on net neutrality and discussion of paid prioritization. CCHP is the federally designated national telehealth policy resource center. CCHP provides non-partisan research, information and technical assistance on issues related to telehealth policy to both state and federal policymakers. It has been serving the nation and telehealth community in this role since 2012. CCHP is a program under the Public Health Institute, an independent non-profit dedicated to improving health and wellness by discovering new research, strengthening key partnerships and programs, and advancing sound health policies.

The rollback of net neutrality raises several concerns on the potential impact such action could have on the use of telehealth, particularly for rural and underserved communities, and impeding recent policies and goals of the Administration, Congress and states in addressing various health issues. Telehealth is the use of technology to provide health services where the patient and provider are not in the same location. In the past few years, telehealth has generated increasing interest in how it could meet health needs and address public health concerns, most recently how it could be used to address the current opioid epidemic. Telehealth, however, cannot exist without a reliable, robust connection. Both providers and patients will not utilize the technology if the connection is unreliable or uneven. Additionally, dropped connections or pixilated images during an actual consultation could have significant consequences depending on the delicacy of the interaction, for example,

during a mental health consultation. Therefore, the limitation of access to connectivity is a significant barrier to the use of telehealth.

***Impact on Community Health Centers***

Community Health Centers (CHCs) serve over 27 million people in every state. CHCs save the US health care system $24 billion through reduction of unnecessary hospitalizations and emergency room visits.[i] CHCs have also found themselves to be at the forefront of addressing the opioid epidemic having received federal funding such as the September 2017 Health Resources and Services Administration (HRSA) grants of $200 million to 1,178 health centers and rural health organizations in every state to increase mental health and substance use services. A part of that funding was specifically used for the Substance Abuse Treatment Telehealth Network Grant Program (SAT-TNGP). Transmission and clinician payment is capped under this program at $90 per session/encounter.[ii] Any change to the rates for connectivity will impact these programs.

Beyond recent targeted funding for programs, CHCs have explored or established telehealth programs to meet the needs of their communities. In 2016, 57% of the CHCs in the nation were in the process or began implementing a telehealth program.[iii] According to the National Association of Community Health Centers (NACHC):

> *Of these, 523 health centers, or 38% of all health centers, used telehealth to deliver needed services or help patients monitor their chronic conditions in 2016. Telehealth programs were especially popular in rural health centers, where many residents can face long distances between home and health provider, particularly specialized providers. In rural communities, nearly half (46%) of health centers utilized telehealth technologies, compared to one-third (32%) of urban health centers.*[iv]

Recent draft legislation in both houses had looked to CHCs as providing services via telehealth to combat the opioid epidemic. If these centers cannot afford the connection, they will not be able to establish such programs. While FY 2018 Omnibus Appropriations bill did provide an additional $300 million to CHCs, that amount is potentially inadequate to sustain a telehealth program that may see significant increases in costs to maintain connectivity.

***Paid Prioritization May Not Work for CHCs***

Paid prioritization has been offered as a potential solution to avoid impacts on telehealth. However, many CHCs operate on slim margins and unlike larger hospitals and health systems, may not have the extra funding to pay for the robust connectivity needed in a telehealth interaction. For example, according to a NACHC 2015 survey, 79% of health centers reported plans to initiate capital projects, but 75% of those centers reported funding gaps for those projects.[v] The loss of these telehealth programs could then disproportionately impact certain groups more given the populations CHCs serve, such as rural and low income communities.

Potentially, some policy could be crafted protecting and exempting CHCs from possible rates that would price them out of using telehealth. However, while policy to protect could be crafted for established health entities like CHCs, the individual consumer that directly utilizes the unique features of telehealth could be dramatically impacted by the rollback of net neutrality and there could be further impediment to the growth of telehealth.

***Potential Disproportionate Impact on Individual Use of Telehealth in the Home***

One of the unique features of telehealth is the ability to use it to provide care anywhere, including in non-traditional health care settings such as the home or schools. Some of the most compelling published research

around telehealth that highlights the impact on positive health outcomes as well as cost savings is related to a modality of telehealth known as remote patient monitoring (RPM). This modality is the continuous monitoring of patients by a provider from a distance. A lot of the published research examines the use of RPM within the patient's home.

With the elimination of net neutrality and the possibility of paid prioritization, the individual will be asked to pay more to ensure they have that a robust connection to access these health services. While policy could be crafted to protect health centers or institutions, it would be much more difficult to ensure the individual has that comparable protection if they are using their home connection for health purposes. Potential policies would have to include subsidies to the individual which raises costs somewhere else and/or monitoring of use which raises questions of privacy.

If the use of the telehealth in the individual's home is impeded, it runs counter to current efforts and policies put forward by both the Administration and Congress. These current efforts include:

- Center for Medicaid and Medicare Services (CMS) – Since 2015, CMS has been promoting the use of Chronic Care Management (CCM) services that allow services to be provided in the home.
- S 925/HR 2123 –The VETs Act of 2017 – Would allow a covered health professional to provide services via telehealth (telemedicine is the term used in the bill) within the Veterans Administration (VA) system regardless of the location of the health professional or patient.
- Similar language to S 925/HR 2132 is in the proposed rule by the VA allowing telehealth delivered services to be provided regardless of the location of the patient and provider.
- Bipartisan Budget Act of 2018 – Includes the home as an eligible originating site for Accountable Care Organizations (ACOs) and for patients receiving End Stage Renal Disease (ESRD) home dialysis to also receive monthly ESRD-services in the home via telehealth.

Each of these policies could be hamstrung should individuals find it difficult to purchase adequate connectivity to utilize these services, which have shown to be effective, produce beneficial health outcomes and save money.

***Impact on State Policies***

In the years CCHP has served as the federally designated national telehealth policy resource center, we have tracked an increased interest and adoption of telehealth policies within state governments. As of October 2017, nearly all states have some type of reimbursement for telehealth within their Medicaid programs:

- 48 States & DC reimburse for live video services
- 15 States reimburse for store-and-forward (a modality that does not take place in real time such as capture of some type of information that is sent to a physician to be reviewed later. For example a photo of a skin condition that is sent to a dermatologist).
- 21 States reimburse for RPM[vi]

The limitation of access to connectivity could also greatly impact the efforts states have made in telehealth policy. In the 2017-2018 legislative session, 167 state bills related to telehealth have been introduced in 37 states. The loss of available connectivity could stall the progress and efforts on the state level as well.

CCHP urges careful consideration of policies related to net neutrality to avoid any unintended impacts on the utilization of telehealth and the people who can benefit from it, especially those that run counter to policies proffered and supported by the Administration and Congress. Please feel free to contact CCHP for further information or clarification of these comments. Thank you for your time and consideration of these comments.

Respectfully,

Mei Wa Kwong, JD
Executive Director

[i] National Association of Community Health Centers, "Building Upon A Successful Model", < http://www.nachc.org/wp-content/uploads/2018/03/NACHC-2018-Policy-Paper-Funding.pdf>. (Accessed April 16, 2018).
[ii] Health Resources & Services Administration, Substance Abuse Treatment Telehealth Network Grant Program, Funding Opportunity HRSA-17-22, p. 15.
[iii] National Association of Community Health Centers, "The Health Center Program is Increasing Access to Care through Telehealth, February 2018" < http://www.nachc.org/wp-content/uploads/2018/02/Telehealth_Snapshot_FINAL_2.22.18.pdf>. (Accessed April 16, 2018).
[iv] Ibid.
[v] National Association of Community Health Centers, "Community Health Center Chartbook, June 2017", < http://www.nachc.org/wp-content/uploads/2017/06/Chartbook2017.pdf>. (Accessed April 16, 2018).
[vi] Please note that there are various limitations in each of these categories such as reimbursement to only certain providers, services, etc. Policies vary drastically from state to state.