



January 25, 2023

The Honorable Kevin McCarthy
Speaker, U.S. House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader, U.S. Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Steve Scalise
Majority Leader, U.S. House of Representatives
H-107, The Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Republican Leader, U.S. Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Hakeem Jeffries
Democratic Leader, U.S. House of Representatives
H-204, The Capitol
Washington, DC 20515

Dear Congressional Leadership,

With the commencement of the 118th Congress, we write to urge the House and Senate to take action on several key issues to improve health care access and delivery. Specifically, we ask that you advance policies that modernize our public health data and systems, establish a privacy commission, improve digital health, continue to advance the interoperability of our healthcare system, reduce provider burden, and streamline prior authorization systems.

The Health Innovation Alliance (HIA) is a diverse coalition of patient advocates, health care providers, consumer organizations, employers, technology companies, and payers who support the adoption and use of health IT to improve health outcomes and lower costs. We ask that you advance the following policies through legislative action this Congress.

Public Health

We applaud Congress for including policies to improve public health in the end-of-year omnibus funding package. Our public health system was not prepared for the COVID pandemic, even with the tremendous increase in funding over the past almost three years and a previous mandate to update and modernize its response plans and systems, originally required by Congress in 2006. There is more work to be done, for example, increasing oversight of the Centers for Disease Control and Prevention (CDC). Many of the provisions included from the PREVENT Pandemics Act begin to put that process into place.

Through its oversight role, Congress also should ensure that the CDC is not using the additional funding to duplicate successful work in the private sector or to create policies and regulations that require unnecessary reporting and burden on state and local public health entities. Rather, CDC should focus on taking actionable steps to ensure data is flowing both up to the agency and back to the providers, front-line health workers, and public health entities that need it for treatment and response.

There are additional opportunities with the upcoming reauthorization of the Pandemic and All Hazards Preparedness Act (PAHPA) to change and improve data collection, response and preparedness, and infrastructure.

We look forward to working with you to advance these policies and increase accountability on our public health system.

Privacy Commission

As the nation continues to adopt new and evolving technologies that surround everyday life and digitize nearly every interaction we have, personal privacy has never been a more important issue for policymakers. Last Congress several policies dealing with comprehensive privacy reform were considered – and we support these efforts – but most of these conversations are focused on consumer technology and data. Health data is either carved out of these proposals or included in a new category of “consumer health data” which could lead to many entities being subject to duplicative requirements. The Health Insurance Portability and Accountability Act (HIPAA) law that led to today’s HIPAA Privacy Rule was passed over 25 years ago, and while HIPAA is still functioning well, it does not address the growing concerns regarding third-party applications or other technologies accessing health data that fall outside of HIPAA’s reach. Providers, health plans, and other covered entities and their business associates covered by the Privacy Rule as well as the patients they serve need clarity and consistency in health data privacy and use rules.

Last Congress, the Health Data Use and Privacy Commission Act, S. 3620, was introduced by Senators Cassidy and Baldwin. The bill seeks to implement a blue-ribbon commission to provide Congress with informed recommendations on how to modernize the use of health data and privacy laws to ensure patient privacy and trust while balancing the need of doctors to have information at their fingertips to provide care and aligning privacy protections for third-party apps. We appreciate the leadership of Senators Cassidy and Baldwin on this issue and look forward to working with their offices to move this legislation forward in the 118th Congress.

Digital Health

Last December, Congress voted to extend pandemic-era telehealth flexibilities until the end of 2024. HIA was pleased to see Congress recognize the importance of increased access to care through telehealth and how this improves health care for patients nationwide.

While HIA supports the continued temporary reimbursement of telehealth services under Medicare we believe Congress needs to extend these flexibilities permanently, beyond the current deadline of December 31, 2024. HIA believes that telehealth services covered under Medicare during the COVID-19 PHE should remain reimbursable to ensure patients have continued access to care and to modernize our health delivery system. Congress needs to make sure this progress is not lost as the pandemic ends. Expanded use of telehealth and remote patient monitoring can help us capitalize on new and existing technologies to transform how care is provided and to improve reimbursement to move towards value-based care. This will not only improve patient outcomes, but it will also reduce overall health costs.

Furthermore, HIA supports the permanent extension of the High-Deductible Health Plan (HDHP) safe harbor for Health Savings Accounts (HSA) that allows patients to use their HSA to pay for telehealth services without first meeting their deductible. Without Congressional action, this benefit will expire for nearly 32 million Americans at the end of 2024.

We further support permanently allowing telehealth and remote care services to be treated as an excepted benefit under the Employee Retirement Income Security Act (ERISA). Including standalone telehealth as an excepted benefit will help ensure hardworking Americans can access high-quality, cost-effective care when and where they need it most, regardless of employment status.

We urge you to permanently extend these flexibilities, including the ability to use HSAs to pay for telehealth services.

Interoperability

HIA convened key stakeholders to develop and publish the [Interoperability Workgroup report](#) in early 2022. The Workgroup successfully brought leaders from across the health care industry together to determine what concrete steps are needed to accelerate the implementation of health care interoperability through policy and private sector action with the goal to improve care, outcomes, cost, efficiency, access, and population health by 2030.

All of this work and discussion resulted in 21 detailed solutions within six different categories ranging from public health to medical devices. This includes recommendations like allowing patients to share their health information with medical researchers at their discretion and promoting accessible repositories of clinical trials to promote medical research, to integrating automated public health reporting tools into existing systems.

We believe there are tremendous opportunities to ensure that our healthcare system is on the path to being truly interoperable. Common sense reforms like having detailed coverage information available at the point of care would ease burdens for both providers and patients while creating more efficiency in delivery. Clinical trials need to be modernized to allow a streamlined, easily understandable authorization process, and patients should be able to participate in trials remotely through secure technology and devices. Congress should incentivize interoperability and connectivity in medical devices by establishing an accelerated approval pathway for devices that are truly interoperable. These are just a few of the solutions that HIA recommends be adopted to improve the interoperability of our healthcare system, better patient safety and care, improve access and efficiency, and reduce costs. HIA looks forward to working with the 118th Congress to turn our recommendations into legislation and law where applicable.

Electronic Prior Authorization (ePA)

We worked closely with Congress to develop and pass into law requirements for the use of ePA for covered medications in the Medicare Part D and Medicare Advantage Prescription Drug spaces as part of the SUPPORT for Patients and Communities Act in 2018. This was a critical first step to streamlining prior authorizations (PA), reducing friction in the system, alleviating burden for providers, and improving the timeliness of access to necessary therapy for patients. Streamlining and digitizing PA processes in other programs will ensure more patients receive the same benefits.

Switching from more traditional PA processes to real-time ePA could result in \$437 million in savings and give providers 16 minutes of their time back for each transaction.¹ According to the HHS Office of the Inspector General, 13 percent of PA denials actually met Medicare requirements and would have been approved by the Centers for Medicare and Medicaid Services (CMS).² Decreasing provider burden while improving consistency for plans will result in better care for patients and savings for the healthcare system.

Last Congress, we watched closely the advancement of the Improving Seniors' Timely Access to Care Act, H.R. 3173, culminating in passage by the House. We understand the concerns raised by the Congressional Budget Office's estimate that H.R. 3173 would raise costs by \$16.2 billion over 10 years due to increased services and the cost of technology adoption. With the release of the proposed rule on ePA for medical services by CMS in December 2022, that score should now be much lower. Given the negligible score of the 2018 policy for drugs, we urge you to consider standardizing ePA for drugs as well as items and services to ensure patients have access to both the medications and services they need.

HIA believes that improving PA processes will benefit nearly every actor in these transactions, and we ask you to work toward advancing these commonsense policies. Congress should pass legislation implementing a standards-based, real-time approach to PA that is adopted consistently between providers and plans to achieve seamless exchange and improving patient care and access to both prescriptions and services.

¹ <https://www.caqh.org/sites/default/files/explorations/index/2021-caqh-index.pdf>

² <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>

We appreciate the work Congress and the Administration have done to improve our healthcare delivery system, and we encourage Congress to include measures implementing expanded ePA policies in any moving legislative vehicle.

Modern Fraud Detection and Prevention

Medicare loses about \$70 billion each year to errors, fraud, and abuse. Current efforts to combat fraud have hinged on expensive, frequent audits of providers, chasing crooks after they've been paid, and requiring patients to see doctors in person before using remote care. The private sector long ago adopted use of Artificial Intelligence (AI) to combat improper payments. These models outperform government strategies because they incorporate more factors that can predict fraud and because it is easier and faster to retrain models to keep up with or stay ahead of fraudsters.

Congress can take steps to ensure HHS and CMS have the resources necessary to identify and reduce fraud in real-time. Medicare and its fraud units have a strategic plan in place that purports to leverage AI and Machine Learning to better predict the potential for fraud, waste, and abuse while supporting the oversight of future programs. Congress should act to ensure that fraud detection and prevention at CMS is actually modernized and incorporates new technologies like AI. HIA urges Congress to take direct action by updating existing authorities for fraud prevention to include the use of AI in the Medicare program.

Thank you for your consideration of these priorities. We stand ready to work with you and your staff to advance these policies.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joel White".

Joel White
Executive Director