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November 14, 2022

Jim Macrae, Associate Administrator
Bureau of Primary Health Care
Health Resources & Services Administration
U.S. Department of Health and Human Services

Submitted at https://hrsa.force.com/feedback/s/policy-information-notice

RE: Draft Scope of Project and Telehealth Policy Information Notice (PIN)

Dear Associate Administrator Macrae:

Bi-State Primary Care Association (Bi-State) appreciates the opportunity to provide input on the draft Scope of Project and Telehealth Policy Information Notice (PIN).

Established in 1986, Bi-State is a nonpartisan, nonprofit 501(c)(3) charitable organization promoting access to effective and affordable primary care and preventive services for all, with special emphasis on underserved populations in Vermont and New Hampshire. Bi-State's combined Vermont and New Hampshire membership includes 21 Federally Qualified Health Centers, one Look-Alike, Planned Parenthood of Northern New England, Vermont's Free and Referral Clinics, North Country Health Consortium, Community Health Access Network, and the Area Health Education Centers in New Hampshire.

Our organization is funded by the Health Resources and Services Administration (HRSA) to provide training and technical assistance to all the Federally Qualified Health Centers (FQHCs) in Vermont and New Hampshire. Our members are part of the national network of FQHCs, which together provide affordable, high quality, comprehensive primary care to 30 million medically-underserved individuals, regardless of their insurance status or ability to pay for services.

Bi-State applauds HRSA for taking steps to amend health center program requirements to expand the use of telehealth to increase the delivery of health center services to patients. Over the last two years, telehealth helped health centers stay connected to their patients, build new patient relationships, and expand the reach of the health center program. In 2020, 98% of health centers nationwide offered telehealth services compared to just 43% in 2019.[1] Health centers are located in medically underserved areas, where 1 in 3 of our patients live in poverty and face

[1] https://bphc.hrsa.gov/sites/default/files/bphc/data-reporting/uds-2021-data-trends-speakers.pdf

significant social determinants of health that create barriers to affordable health care services. In early 2020, health centers in New Hampshire and Vermont quickly pivoted to provide telehealth services to their patients to ensure continuity of care. These health centers quickly recognized the value of telehealth in supporting patients with transportation issues, patients who were unable to take time off work for travel and the medical appointment, and improved access to behavioral health services. Health centers have proven highly effective at utilizing telehealth to continue providing primary and preventive care to the most vulnerable and underserved communities. As telehealth gains more popularity, it's critical that health centers can innovate and compete with other providers and facilities.

We strongly urge HRSA to:

- Remove the requirement for patients to be physically located within the health center's service area to increase access to affordable health center services by telehealth and support patient's choice for a health home. One example is that our health centers serve patients who may be in need of services while visiting warmer climates (so called snowbirds).
- Adopt broader telehealth policies that recognize how telehealth can be a workforce solution to increase capacity at health centers to meet the rising needs of underserved patients. In addition to increasing capacity, we have learned that telehealth can enable providers who are in a COVID isolation period to continue caring for patients (assuming the provider is feeling well enough to do this). Telehealth can also be used to balance clinic schedules supporting workforce retention.
- Continue to allow health centers to provide in-scope services via telehealth to patients outside of their service area to maintain access to equitable care, despite state and local challenges.
- Amend the Federal Tort Claims Act (FTCA) Health Center Policy Manual to provide clarity on the implementation of the proposed "Scope of Project and Telehealth" PIN.

Criteria for Delivering Services via Telehealth Within the HRSA- Approved Scope of Project

A. Bi-State strongly urges HRSA to remove the requirement for patients to be physically located within the health center's service area to increase access to affordable health center services by telehealth and support patient's choice for a health home.

Health Centers are required to serve "medically underserved, or special medically underserved populations", which face barriers in accessing health care services. Under PIN 2008-01, HRSA requires health centers to address these barriers and disparities among patients' health status, through the health center's operations. Telehealth is a vital tool used to expand the reach of health center services and operations. For over two years, patients and health centers have benefitted immensely from HRSA's COVID-19 telehealth flexibilities. The number of telehealth visits provided to health center patients grew to over 26 million in 2021. Patients were able to access a variety of services using telehealth; 54% of visits were for mental health, 31% of visits addressed

substance use disorder, 27% for enabling services, and 18% for medical visits. These policies enabled health center providers to care for more vulnerable patients and improve their existing patient relationships. **Bi-State strongly encourage HRSA to adopt a broader policy, like the COVID-19 FAQs, which permit health centers to provide in-scope services via telehealth to patients outside of their service area.**

Expanding the use of telehealth in the health center program enables more patients to receive comprehensive and affordable care. Bi-State encourages HRSA to permit health centers to deliver in-scope services to individuals located inside their service area or with in *areas adjacent* to the covered entity's service area. Additionally, HRSA should permit health centers to provide in-scope services via telehealth to individuals *outside the service area* and recognize those services within the health center program scope of project**.** Adopting the COVID-19 flexibilities will enable health centers to retain and build new patient relationships that helped the health center program reach 30 million patients in 2021. Under the current requirements, HRSA recognizes that "health centers may also extend services to those residing *outside of service area*" when defining underserved populations within their established service area.[2] **Bi-State urges HRSA to amend the proposed PIN to reflect the existing health center program requirement to "address the acute care needs of all who present for service, *regardless of residency*"[3].**

A patient seeking services via telehealth should not be turned away based on their physical location or proximity to the health center. Bi-State is concerned that the proposed PIN will be a barrier to access essential health center services and may stifle a patient's ability to choose the right health center to meet their specific needs based on their ability to physically present on site. **Patients should have the flexibility to choose a health center based on their health care needs and the types of services offered via telehealth.** Health centers act as comprehensive medical homes for underserved patients, playing a critical role in delivering primary care and advancing care coordination across their patients' medical and mental health services, dental, and health-related social needs. There are several factors related to social determinants of health, employment, and family commitments that may lead a patient to seek care from a specific health center. At the same time, there are also several factors that dictate what type of services a health center can provide. As mentioned above, we have patients who travel to warmer climates for a portion of the year. It is better for continuity of care to be able to support the patient in need rather than have the patient avoid care or utilize more expensive services because of lack of access to primary care.

Health centers depend upon over 220,000 clinicians, providers, and staff to deliver affordable and accessible health care. **Every health center is different, and the services offered largely depend on the types of providers and staff the health center can retain and recruit**. A recent NACHC survey found that 68% of health centers lost between five and twenty-five percent of their workforce in early 2022, with a majority citing financial opportunities at a large health care organization as the main reason for departure.[4] For instance, health centers have reported extreme difficulty retaining behavioral health staff like psychiatrists, licensed clinical psychologists, and

[2] PIN 2008-01

[3] PIN 2008-01

[4] The National Association of Community Health Centers. (2022, March). Current State of the Health Center Workforce. Pandemic Challenges and Policy Solutions to Strengthen the Workforce of the Future. https://www.nachc.org/current-state-of-the-health-center-workforce/

social workers. Health centers are a key resource for patients who otherwise may not have access to behavioral health care, especially for the more than one-third of Americans who live in Mental Health Professional Shortage Areas.[5] Workforce challenges can adversely affect patients and their health, as they contribute to longer wait times, decreased hours of operation for health centers, and decreased appointment availability. For instance, patients experiencing behavioral health issues should have the option to quickly schedule a same day telephone visit with an available health center to allow rapid evaluation and management. The patient should have the freedom to schedule health center appointments based on their urgency and not physical location. The combination of growing workforce challenges and the behavioral health crisis can lead patients to seek services from health centers not located directly in their community. In highly competitive markets, health centers could offer services not available at surrounding health centers or even other local providers. **Given ongoing health center workforce challenges, it's imperative the finalized PIN recognizes how telehealth can be a solution to increasing capacity at health centers to meet the rising needs of underserved patients.** We have health centers that are able to retain staff because they can offer a schedule that blends in person and telehealth appointments. In the current competitive environment, all retention tools need to be available to our health centers.

Besides the workforce challenges that can adversely affect health center patients, they often experience challenges accessing health care services due to social determinants of health. Health centers tailor their services to meet the unique needs of their surrounding communities and address barriers to culturally competent and comprehensive primary health care services. Some health centers receive specific funding to focus on certain special populations like: persons experiencing homelessness, migrant and seasonal farmworkers, and residents of public housing. Other health centers develop expertise in serving communities that need specialized care and providers. For instance, health centers that specialize in serving LGBTQ patients see an influx of patients from outside of their service area based on the lack of access to affordable essential services and a respectable medical home. **If the proposed PIN is finalized, it could create disruptions in care for patients that *choose* a certain health center based on the services available, not the location.** A study from the LGBTQIA+ Primary Care Alliance found that 9 out of 11 health centers noted significant demand for health care from out-of-state patients. Telehealth helps these patients access life-saving care without the unnecessary burden of arranging travel, requesting time off from work, arranging childcare, and other logistical barriers. It is critical health centers are able to maintain their ability to provide care to the most vulnerable patients and use telehealth to meet the patient's needs in the least burdensome way. **Bi-State urges HRSA to continue to allow health centers to provide in-scope services via telehealth to patients outside of their service area to maintain access to equitable care, despite state and local challenges.**

Additionally, Bi-State encourages HRSA to consider the recent reimbursement policy changes in Medicare and Medicaid that have created new opportunities for health centers to provide a range of services via telehealth. Considering that Medicare and Medicaid make up over 60% of health center patients, it's critical the finalized PIN does not create a barrier to care for existing and new health center patients. Across the country, a number of states have passed new laws permitting health centers to provide Medicaid services via audio-visual and audio-only telehealth at the PPS rate. Oftentimes, health centers are registered Medicaid providers in neighboring states. Telehealth should be used to increase access to health center services for patients in areas with limited access

[5] National Association of Community Health Centers. (2021). Telehealth and Health Centers During COVID-19. Available online at:

to Medicaid providers or sliding fee discount arrangements. **Bi-State is concerned the requirement for the patient to be physically located in the health center's service area would negatively impact patients that cross state lines to receive certain services from a specific health center.** This is particularly concerning for patients in rural communities, where there is limited access to medical providers and patients travel to designated sites to receive telehealth services.

Additionally, Medicare amended the FQHC "mental health visit" statutory definition to include encounters where services are furnished using interactive, real-time, audio and video telecommunications technology, or audio-only interactions. Research shows that Medicare patients often have chronic diseases and/or suffer from disabilities that create challenges when accessing routine or specialized care. For patients with chronic conditions, audio-only check-ins can be done more frequently to better address challenges like poorly controlled diabetes or hypertension. Audio-only telehealth allows patients to follow up with the care team while caring for parents or children, working at essential jobs, and during illnesses. Additionally, while broadband is expanding in our rural communities, we have many where audio and video is not viable yet. Having audio-only allows the primary care team to deliver the right care at the right time. **As health centers advance towards value-based care, health centers need maximum regulatory flexibility to compete with other provider types and offer services through the patient's modality of choice.**

B. Bi-State urges HRSA to amend the proposed PIN to permit "established patients" *and* new patients to access services via telehealth when temporarily outside of the service area.

Bi-State seeks clarity around new terms introduced in the proposed PIN that potentially may create different standards for "established" and new health center patients seeking to access services via telehealth. We appreciate HRSA recognizing patients who presented at health centers for care during the COVID-19 pandemic as "established patients." **However, we urge HRSA to broaden the scope of the proposed PIN to permit "established" and *new patients* to access services via telehealth when temporarily outside the health center's service area.** Additionally, the proposed PIN should take into consideration patients that are temporarily *inside* of the service area for travel or work and maintain a *demonstrable connection*[6] to the community. Bi-State encourages HRSA to amend the proposed PIN to focus on the patient's choice in selecting a health center and continuing to receive services via telehealth to maintain access to care with their trusted and preferred provider.

This travel restriction is particularly concerning for health centers that serve special populations. For instance, health centers that serve patients experiencing homelessness often cross several service areas in order to reach particularly underserved populations. Operationally, it will be challenging for health centers to identify the location of the patient at the time of the appointment and what "service area" that patient resides in. According to the National Health Care for the Homeless Council, audio-only phone visits work best for patients experiencing homelessness, evidenced by a decrease in missed appointments.[7] Additionally, health centers that serve transient

[6] Health Center Program Compliance Manual: Chapter 20 Board Composition
[7] National Health Care for the Homeless Council. (2020) Ensuring Access to Care Through State Medicaid Telehealth Policies: https://nhchc.org/wp-content/uploads/2020/11/Issue-brief-COVID-19-Homelessness-Telehealth-final.pdf

populations like migrant and agricultural workers use telehealth to maintain a consistent connection with the workers and their families. Health centers strive to "meet patients where they are," to foster trust and build lasting patient relationships. **We urge HRSA to finalize a PIN that preserves the health centers' ability to provide services via telehealth to new and established patients that routinely move in and out of service areas due to unstable housing, employment industry, or other determining factors.**

Telehealth and Eligibility for Other Federal Programs

Bi-State urges HRSA to amend the Federal Tort Claims Act (FTCA) Health Center Policy Manual to provide clarity on the implementation of the proposed "Scope of Project and Telehealth" PIN.

As the health center program continues to grow, health centers need maximum clarity from HRSA to ensure in-scope services provided to "established" and *new patients* are eligible for FTCA coverage and liability protections. We encourage HRSA to incorporate their "Determination of Coverage for COVID-19 Related Activities by Health Center Providers under 42 U.S.C. § 233(g)(1)(B) and (C)" into the FTCA Health Center Policy Manual to reflect telehealth related policy changes. Specifically, we request updated guidance to clarify:

- Should health centers amend employee contracts to ensure the scope of employment includes providing services via telehealth?
- How to define "temporarily outside of the service area" for established and new patients?
- Services within the health center's scope of project delivered via telehealth are covered if all other FTCA program requirements are met?

Bi-State thanks HRSA for its consideration of these comments, and we urge HRSA to implement a broader policy that supports the growing use of telehealth in the health center program. Telehealth has proven success in expanding access to care and improving health outcomes for the most vulnerable patients.

If you have any questions, please contact Georgia Maheras, Senior Vice President of Policy and Strategy: gmaheras@bistatepca.org.

Sincerely,

Tess Kuenning
Tess Stack Kuenning, CNS, MS, RN
President and Chief Executive Officer