

ANDY LEVIN
9TH DISTRICT, MICHIGAN

228 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4961

30500 VAN DYKE AVENUE
SUITE 306
WARREN, MI 48093
(586) 498-7122

WWW.ANDYLEVIN.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC 20515-2209

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TRADE

April 20, 2020

The Honorable Eugene Scalia
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Scalia,

I write to urge the Department of Labor (the Department) to take action to improve access to telehealth during the COVID-19 pandemic. Such coverage is essential to protecting the health and wellbeing of the millions of Americans who depend on employer-sponsored health coverage governed by the Employee Retirement Income Security Act (ERISA).

As of April 2, 2020, more than 90 percent of Americans are under stay-at-home orders intended to mitigate the spread of COVID-19.¹ While these policies are necessary to save lives and hasten the resumption of Americans' typical activities, they may also prevent Americans from seeking in-person health care. Again, this is inevitable during this particular public health emergency; indeed, the Centers for Disease Control and Prevention (CDC) has urged Americans to call their provider before attempting to seek in-person care, as "many medical visits for routine care are being postponed or done by phone or telemedicine."²

Last week, the Department, along with the Departments of the Treasury and Health and Human Services, issued an FAQ document implementing health coverage provisions of the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act.³ Specifically, this included guidance to plans and issuers regarding telehealth coverage, encouraging expanded use of telehealth services and providing certain clarifications regarding requirements for plans that add new benefits to cover telehealth. However, additional steps may be needed to further ensure increased access to telehealth, particularly for the approximately 140 million participants and beneficiaries covered by group health plans subject to ERISA. Without this access, these Americans cannot safely consult with their providers on

¹ <https://www.washingtonpost.com/politics/2020/04/02/nearly-all-americans-are-under-stay-at-home-orders-some-may-have-come-too-late/>

² <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

³ <https://www.cms.gov/files/document/FFCRA-Part-42-FAQs.pdf>

possible symptoms of COVID-19 and other health issues that, while unrelated to the pandemic, may also be serious and necessitate immediate care.

To that end, I request additional information regarding any further guidance or other actions that the Department may be considering to expand access to telehealth under ERISA plans—specifically, what steps, if any, the Department is considering taking with respect to the following:

- Expanding coverage and payment for all medically necessary services that can be delivered via telehealth;
- Providing reimbursement for telehealth services at fair rates, including services delivered via audio-only telephone call;
- Temporarily suspending requirements concerning pre-existing patient-provider relationships and originating sites; and
- Eliminating cost-sharing for telehealth services, ensuring patients pay nothing out-of-pocket.

Thank you for your attention to this matter. Please know that I stand ready and eager to work with the Department to protect Americans' access to comprehensive and affordable health care.

Sincerely,

A handwritten signature in blue ink that reads "Andy Levin". The signature is written in a cursive, flowing style.

ANDY LEVIN
Member of Congress