



March 23, 2020

The Honorable Nancy Pelosi  
Speaker of the House  
U. S. House of Representatives  
1236 Longworth House Office Building

The Honorable Mitch McConnell  
Majority Leader  
U.S. Senate  
317 Russell Senate Office Building

The Honorable Kevin McCarthy  
Minority Leader  
U.S. House of Representatives  
2421 Rayburn House Office Building

The Honorable Charles Schumer  
Minority Leader  
U.S. Senate  
322 Hart Senate Office Building

Dear Speaker Pelosi, Leader McCarthy, Leader McConnell, and Leader Schumer:

We appreciate the work you are undertaking to ensure Americans have access to virtual care during this emergency, when access to care and treatment is more important than ever. Telehealth and remote physiologic monitoring (RPM) ease the burden on in-person facilities and help limit the spread of the COVID-19 virus by allowing people to receive care remotely without exposing themselves unnecessarily. We appreciate the Senate’s proposed improvements to Health Savings Accounts (HSAs) and high-deductible health plans (HDHPs), providing that telehealth expenditures are pre-deductible for these plans. These are important updates, and we support their inclusion in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. We urge you to build on these improvements to further remove barriers in the tax code to digital health and RPM solutions.

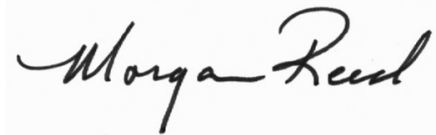
The CARES Act should include additional flexibility for HSAs and Flexible Spending Accounts (FSAs). The Employee Benefits Research Institute estimates that enrollment in high-deductible plans was between 21.4 and 33.7 million in the most recent year for which data is available. That’s nearly three in 10 employees, and larger than the number of people enrolled in the entire Medicare Advantage market. Similarly, 63 percent of employers offered healthcare FSAs in 2018, making it the most popular tax-advantaged healthcare account for employers. While the current CARES Act provisions provide an update for high-deductible plans, you should extend similar updates to FSAs, which are generally offered to employees across the board, from entry-level to executive.

Unfortunately, “medical care” for the purposes of FSAs and HSAs currently does not include important digital health tools, including software apps and platforms that collect and transfer physiologic data to monitor a variety of acute or chronic healthcare conditions. Similarly, FSA funds generally may not be spent on devices that can monitor various kinds of physiologic data (some of which are even FDA listed for this purpose), but also have non-medical purposes. As software and hardware improve in their ability to accurately track and analyze physiologic data for wellness and medical purposes, the law is falling further behind modern digital health capabilities, which we can access through smart devices and software. Minority populations, in particular, rely heavily on

connectivity through smart devices,<sup>1</sup> so clinicians are increasingly looking for ways to provide care through those connections. With this heavy reliance on digital health—coupled with the wide availability of FSAs—in mind, we should continue to reduce barriers that stand in the way of patients and consumers managing and preventing health conditions using software and devices. We therefore urge you to update the definition of “medical care” in Section 213 of the Social Security Act to include devices and software capable of collecting and transmitting clinically valuable physiologic data to a care team. These tools are vital not just in clinicians’ efforts to combat the COVID-19 pandemic, but they are also essential to modern efforts by consumers, patients, and caregivers to manage or prevent an increasingly broad set of chronic and acute conditions. Leaving them out of tax-advantaged savings accounts is an outdated approach we must correct.

We support the telehealth provisions of the proposed CARES Act, including the HSA-HDHP provisions, and we strongly urge the inclusion of a provision to modernize the definition of medical care for FSAs and HSAs to include essential digital health tools.

Sincerely,



Morgan Reed  
Executive Director  
Connected Health Initiative

*The Connected Health Initiative (CHI), an initiative of ACT | The App Association, is the leading multistakeholder spanning the connected health ecosystem seeking to effect policy changes that encourage the responsible use of digital health innovations throughout the continuum of care, supporting an environment in which patients and consumers can see improvements in their health. CHI is driven by its Steering Committee, which consists of the American Medical Association, Apple, Bose Corporation, Boston Children’s Hospital, Cambia Health Solutions, Dogtown Media, George Washington University Hospital, Intel Corporation, Kaia Health, Microsoft, Novo Nordisk, Otsuka Pharmaceutical, Podimetrics, Proteus Digital Health, Rimidi, Roche, Spekt, United Health Group, the University of California-Davis, the University of Mississippi Medical Center (UMMC) Center for Telehealth, the University of New Orleans, and the University of Virginia Center for Telehealth.*

For more information, see [www.connectedhi.com](http://www.connectedhi.com).

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<sup>1</sup> See, e.g., Andrew Perrin and Erica Turner, “Smartphones help blacks, Hispanics bridge some – but not all – digital gaps with whites,” Pew Research Center (Aug. 20, 2019), available at <https://www.pewresearch.org/fact-tank/2019/08/20/smartphones-help-blacks-hispanics-bridge-some-but-not-all-digital-gaps-with-whites/>.