



***FEDERAL LEGISLATIVE ISSUES***

***2007***

***FEDERAL AFFAIRS DEPARTMENT  
AOTA, 4720 MONTGOMERY LANE, BETHESDA, MD 20824-1220  
301-652-2682 ☎ 1-800-SAY-AOTA ☎ WWW.AOTA.ORG  
E-MAIL: FAD@AOTA.ORG***

## Federal Legislative Issues— 2007

**THE AMERICAN OCCUPATIONAL THERAPY ASSOCIATION (AOTA)** is the nationally recognized professional association of over 36,000 occupational therapists, occupational therapy assistants, and students of occupational therapy.

Occupational therapy is a health, wellness, and rehabilitation profession working with people experiencing stroke, spinal cord injuries, cancer, congenital conditions, developmental delay, mental illness, and other conditions. Occupational therapy helps people regain, develop, and build skills that are essential for independent functioning, health, and well-being.

Occupational therapy is provided in a wide range of settings including day care, schools, hospitals, skilled nursing facilities, home health, outpatient rehabilitation clinics, psychiatric facilities, and community programs.

Occupational therapists and occupational therapy assistants focus on helping children thrive in the “occupations” of childhood—learning, playing, and growing. Occupational therapists help students develop the skills and confidence needed to succeed and be independent despite learning or developmental disabilities or behavioral problems.

Occupational therapy practitioners assist those with traumatic injuries—young and old alike—to return to active, satisfying lives by showing survivors new ways perform activities of daily living, including how to dress, eat, bathe, cook, do laundry, drive, and work.

Occupational therapists help older people with common problems like stroke, arthritis, hip fractures and replacements, and cognitive problems like dementia. By providing strategies for doing work and home tasks, maintaining mobility, and continuing self-care, occupational therapy practitioners can improve quality of life, speed healing, and reduce the chance of further injury.

Occupational therapists are trained in ergonomics, body mechanics, and analyzing work activities to help keep workers healthy and productive.

Occupational therapy began in America’s mental health hospitals nearly 100 years ago. Today, mental health care remains an important part of the profession. Occupational therapy helps people challenged by psychiatric problems live independently through interventions such as setting goals, improving routines for medication and self-care, and addressing interpersonal and social skills.

Occupational therapy is a critical service supported by many federal programs. AOTA works to assure that the interests of occupational therapy practitioners and their clients are addressed in federal law and policy.

## **THERAPY CAPS ON MEDICARE PART B OUTPATIENT OCCUPATIONAL THERAPY**

The therapy cap on Medicare Part B Outpatient Rehabilitation Services, including occupational therapy, enacted by the Balanced Budget Act of 1997 [Public Law 105-33], has been consistently opposed by the American Occupational Therapy Association. On February 1, 2006, Congress passed the Deficit Reduction Act of 2005 [Public Law 109-171], which includes a 1-year solution to the cap on Medicare Part B outpatient occupational therapy services. On December 20, 2006, the President signed into law The Tax Relief and Health Care Act of 2006 [109-432], which extended for 1 year the therapy cap exceptions process that was in place for 2006. AOTA is continuing to work with the other provider and consumer groups, the Centers for Medicare & Medicaid Services (CMS), and members of Congress on efforts to identify ways to assure appropriate therapy is available while still preventing overspending. AOTA supports the Medicare Access to Rehabilitation Services Act of 2007 (S. 450/H.R. 748), to repeal the caps on Medicare Part B Outpatient Rehabilitation Services, and is working to obtain cosponsors and support.

## **INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) AND NO CHILD LEFT BEHIND (NCLB)**

IDEA provides the underpinnings for the role of occupational therapy in early intervention and school programs for children with disabilities. The 2004 reauthorization of IDEA (IDEA '04, Pub. L. 108-446) and the Part B regulation released in August of 2006 affirm the importance of occupational therapy in helping children with disabilities participate and progress in the general education curriculum. In addition to maintaining the rights of children and their families, the law will work in concert with the No Child Left Behind Act (NCLB '01, Pub. L. 107-110) that will likely be re-authorized in the 110<sup>th</sup> Congress to improve the academic achievement of students with disabilities. AOTA will work with Congress and federal and state education officials to identify ways occupational therapy can help schools meet the needs of all students. Of particular interest during 2007 is establishing opportunities for occupational therapy to be fully utilized as an early intervening service and to be fully integrated into Response to Intervention (RtI) and Positive Behavior Supports (PSB) initiatives.

## **HOME HEALTH QUALIFYING SERVICE**

Occupational therapy is not fully recognized or used as a primary home health service under Medicare because of outdated limitations in Medicare laws. Under current law, a patient must need and receive skilled nursing services, physical therapy, or speech-language pathology services before being allowed access to occupational therapy. This limits access to occupational therapy, as well as restrains home health agencies from fully using occupational therapists' skills. The Medicare Occupational Therapy Coverage Eligibility Act will be introduced in both the House and Senate during 2007, and AOTA will be working with Members of Congress and the Committees of Jurisdiction to make progress on this issue important to quality and efficiency for home health beneficiaries and agencies, as well as to the professional integrity of occupational therapy. The bill will make occupational therapy a qualifying service for home health services under Medicare. AOTA is currently working to introduce a bill in both the House and Senate similar to H.R. 3022 introduced in the House during the 109<sup>th</sup> Congress by Rep. Robert Andrews (D-NJ).

## **QUALITY REPORTING**

The Tax Relief and Health Care Act (TRHCA) of 2006 included a provision that directed the Secretary of Health to implement a system for the reporting by "eligible professionals" of data on quality measures. CMS has recognized occupational therapists as professionals eligible to participate in the system, and AOTA is working diligently to address new quality and payment options for Medicare Part B outpatient

therapy, which take effect July 1, 2007. AOTA has also been a participant in deliberations of the Ambulatory Care Quality Alliance (AQA), a broad-based coalition of health care providers, consumers, purchasers, health insurance plans, and others working to effectively and efficiently improve performance measurement, data aggregation, and reporting in the ambulatory care setting. The AQA is one of three consensus organizations recognized by Congress in the TRHCA informing the Special Program Office of Value Based Purchasing at CMS.

### **TRAINING AND RESEARCH**

AOTA is working to assure that key federal programs recognize and support occupational therapy. AOTA collaborates with universities, colleges, and researchers to support important research opportunities with the National Institutes of Health (NIH), the Centers for Disease Control and Prevention, the Institute of Educational Science, and the National Institute of Disability and Rehabilitation Research (NIDRR) among other leading research institutes. AOTA also works with the Health Professionals and Nursing Education Coalition (HPNEC) to secure funding for Title VII Programs under the Health Resources and Services Administration at NIH. Title VII of the Public Health Service Act authorizes a variety of grants for students, programs, and institutions to improve the racial and ethnic diversity, geographic distribution, and quality of the health care workforce. With the first wave of baby boomers entering retirement, there will be an overwhelming need to ensure we have a strong health care workforce.

### **MENTAL HEALTH PARITY**

AOTA will remain active on legislation regarding mental health, particularly the Senator Paul Wellstone Mental Health Equitable Treatment Act. Mental health is a bipartisan issue that affects millions of Americans; the bill would require equal coverage and payment for mental health and physical health services by insurance companies. AOTA staff is a strong participant in the Mental Health Liaison Group, which also works closely with the Mental Health Caucus on Capitol Hill. AOTA is also engaging in advocacy to educate Members of Congress and Federal Agency staff about the role of occupational therapy in mental health practice. AOTA will also be working with the Substance Abuse and Mental Health Service Administration (SAMHSA) and provider organizations to expand the utilization of occupational therapy in providing mental health, particularly in schools and community settings.

### **DIRECT ACCESS LEGISLATION**

Under current Medicare law, a physician's referral is necessary for payment for physical and occupational therapy and for speech-language pathology services. Members of Congress have introduced legislation in past sessions that would amend the Social Security Act to authorize a physical therapist to evaluate and treat Medicare beneficiaries without a requirement for a physician referral. AOTA's position is that all skilled therapies should continue to receive equal treatment under Medicare, and is working with Congress to assure an appropriate and current definition of occupational therapy is included in Medicare.

### **RESOURCES AND CONTACT LIST FOR THE FEDERAL AFFAIRS DEPARTMENT**

Please call or e-mail any AOTA staff member with questions. Also, refer to AOTA's Legislative Action Center for more information at <http://capwiz.com/aota/home/>

Christina A. Metzler, Chief Public Affairs Officer  
Reed Franklin, Director, Federal and Reimbursement Policy  
Dan Jones, Legislative Representative  
Tim Nanof, Legislative Representative  
Darlene C. Dennis, Political Action Administrator  
Michelle Glaser, Administrative Assistant

E-mail: [FAD@aota.org](mailto:FAD@aota.org) Phone: 301-652-6611 Fax: 301-652-7711