

Via email to Dorothy.Shannon@cms.hhs.gov

December 19, 2006

Dorothy Shannon, PhD
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, Maryland 21244

Re: Comments on Section 101 of the Tax Relief and Health Care Act of 2006

Dear Dr. Shannon:

The American Occupational Therapy Association (AOTA) represents more than 35,000 occupational therapy professionals, many of whom provide outpatient services to Medicare beneficiaries. We appreciate the opportunity to comment on section 101 of the Tax Relief and Health Care Act of 2006. AOTA's detailed comments follow.

I. Applicability of 2007 Physician Quality Measures to Occupational Therapy, Sec. 101 (b)(k)(2)(A)(i)

AOTA is concerned that the majority of the 2007 quality measures under the Physician Voluntary Reporting Program (as published on the Centers for Medicare and Medicaid Services (CMS) website) are inapplicable to occupational therapists. CMS' launch of the Physician Voluntary Reporting Program (PVRP) was limited to the physician community and failed to include substantive outreach to and dialogue with non-physician practitioners (including therapists). While the American Medical Association (AMA) provided feedback to CMS on the PVRP developments, the therapy community was not invited to participate in the AMA's efforts. While AOTA met several times with CMS officials about how non-physician quality issues should be addressed, those meetings did not move the issue to a solution as of yet. Consequently, the vast majority of the 2007 quality measures reflect interventions unique to physicians that are outside the scope of practice of occupational therapy.

The one PVRP Quality Measure which AOTA recommends as appropriate for occupational therapists to utilize is, "Assessment of elderly patients for falls." This measure fits squarely within the scope of practice of occupational therapy. **AOTA encourages CMS to explicitly permit occupational therapists to voluntarily report data on the quality measure "assessment of elderly patients for falls" during the period beginning July 1, 2007 and ending December 31, 2007.**

II. Consensus-Based Quality Measures, Sec. 101 (b)(k)(2)(A)(ii)

Given the paucity of 2007 physician quality measures appropriate to occupational therapists, AOTA encourages CMS to engage in a consensus-based process in January 2007 to identify additional quality measures appropriate to occupational therapy. This appears to be explicitly permitted under Section 101 (Sec. 101 (b)(k)(2)(A)(ii)). The development of consensus based quality measures should also be used for 2008.

It is crucial that CMS invite the therapy community, as represented by the respective professional associations, to a consensus based process meeting in January 2007. The establishment of quality measures is an important process that requires consideration of which data will capture interventions to improve the health and function of beneficiaries by preventing chronic disease complications, avoiding preventable hospitalizations and improving the quality of care delivered. Like the PVRP core starter set, the therapy measures should be evidence based, clinically valid measures. **Because the three rehabilitation disciplines are distinct and different, AOTA strongly recommends that quality measures targeted to each unique discipline should be developed. Consequently, this is not something to rush into without careful study and consideration.**

The statutory language broadly reads that the quality measures may be changed, “based on the results of a consensus-based process in January of 2007, if such change is published on such website by not later than April 1, 2007.” (Sec. 101 (b)(k)(2)(A)(ii)). Notably, the language does not state, “based on the results of a consensus based DECISION in January 2007” (emphasis added). **The statutory language should be read broadly to mean that the changed quality measures are the result of a process that occurs in January 2007, which does not require that the process be completed by the end of January 2007.**

AOTA encourages CMS to hold a January 2007 meeting for the therapy stakeholders to establish the ground-rules and parameters for adding quality measures appropriate for therapy in a manner that honors consensus as defined by the group and that is inclusive of the therapy community in decision making. The group should consider the following ground rules and parameters:

- 1) Each therapy discipline may establish quality measures unique to its profession;
- 2) Each therapy discipline may establish up to the same number of quality measures;
- 3) CMS would finalize the quality measures with the explicit endorsement of each professional society.

After the group reaches consensus on the established process at the January 2007 meeting, then CMS and the therapy stakeholders would work within the agreed upon process to develop additional quality measures to be published on the CMS website no later than April 1. **Given the high importance of determining the appropriate measures to gauge and reward quality, AOTA strongly urges CMS to take a broad view of the statutory language and use all the time allotted to engage in this process.**

II. Suggestions for consensus organization for 2008

The Act defines the quality measures reported in 2008 as follows:

[They] shall be measures that have been adopted or endorsed by a consensus organization (such as the National Quality Forum or AQA), that include measures that have been submitted by a physician specialty, and that the Secretary identifies as having used a consensus based process for developing such measures.

Sec. 101(b)(k)(2)(B)(i)

The plain language of the statute appears unclear. It can be argued that Congress envisioned a two step process for adding quality measures appropriate for therapy to the "list." First, CMS should engage in a consensus based process with the professional therapy associations to determine appropriate quality measures to add to the "list" by April 1, 2007. This first step would be based upon the submission of quality measures from the therapy associations. The first step would result in a list of quality measures to be implemented for 2007. Second, CMS would submit the list to a consensus organization to adopt or endorse for a 2008 implementation. This strategy would result in the quality measures for 2008 to meet the statutory requirements noted above (endorsed by a consensus organization, submitted by a specialty organization, and having used a consensus based process).

Finally, AOTA is aware that the physicians organizations have used a single consensus organization to seek public comment on and endorsement of quality measures. As we have noted, this is not true for the non-physician community, which has not been involved. AOTA suggests that a similar process be undertaken for the therapy community and that adequate resources be allocated for such an effort. Through such a process, an organization such as NPF should be used to assist with finalizing the measurers.

The AOTA requests that due consideration be given to these comments and especially to the need for time for appropriate deliberation. Thank you, again, for the opportunity to comment on Section 101 of the Tax Relief and Health Care Act of 2006. We look forward to a continuing dialogue with CMS on these issues as they apply to occupational therapy.

Sincerely,

Frederick P. Somers
Executive Director

Attachment

cc: Terry Kay
Deputy Director, Hospital and & Ambulatory Policy Group

Herb Kuhn
Director of Medicare Management

AOTA COMMENTS			
Physician Payment & Quality Improvement, PT, OT, SLP			
TRHCA07 (B(II)(101))			
Contact Name Business Address Phone e-mail	Page and line(s) on which you are commenting Pages are 120 through 133	Comment	Questions relative to the comment
Reed Franklin AOTA 4720 Montgomery Lane Bethesda, MD 301-652-6611, ext. 2023 rfranklin@aota.org	Sec. 101(b)(k)(2)(A)(i) (Applicability of 2007 Physician Quality Measures to Occupational Therapy)	AOTA encourages CMS to explicitly permit occupational therapists to voluntarily report data on the quality measure “assessment of elderly patients for falls” during the period beginning July 1, 2007 and ending December 31, 2007.	
	p. 129, line 14-17 (Consensus- Based Quality Measures)	Because the three rehabilitation disciplines are distinct and different, AOTA strongly recommends that quality measures targeted to each unique discipline should be developed.	
	Sec. 101 (b)(k)(2)(A)(ii)	This is not something to rush into without careful study and consideration.	
	Sec. 101 (b)(k)(2)(A)(ii)	The statutory language should be read broadly to mean that the changed quality measures are the result of a process that occurs in January 2007, and that the language does not require that the process be completed by the end of January	

		2007.	
	Sec. 101 (b)(k)(2)(A)(ii)	AOTA encourages CMS to hold a January 2007 meeting for the therapy stakeholders to establish the ground-rules and parameters for adding quality measures appropriate for therapy in a manner that honors consensus as defined by the group and that is inclusive of the therapy community in decision making.	
	Sec. 101 (b)(k)(2)(A)(ii)	Given the high importance of determining the appropriate measures to gauge and reward quality, AOTA strongly urges CMS to take a broad view of the statutory language and use all the time allotted to engage in this process.	
	Sec. 101 (b)(k)(2)(B)(i) (consensus organization)	Congress envisioned a two step process for adding quality measures appropriate for therapy to the “list.” First, CMS should engage in a consensus based process with the professional therapy associations to determine appropriate quality measures to add to the “list” by April 1, 2007. This first step would be based upon the submission of quality measures from the therapy	

		associations. The first step would result in a list of quality measures to be implemented for 2007. Second, CMS would submit the list to a consensus organization such as NPF to adopt or endorse for a 2008 implementation.	