The American
Occupational Therapy
Association, Inc.

Occupational Therapy:
Skills for the Job of Living

STATEMENT OF THE
AMERICAN OCCUPATIONAL THERAPY ASSOCIATION
SUBMITTED TO THE SUBCOMMITTEE ON HEALTH,
U.S. HOUSE OF REPRSENTATIVES Ways and Means Committee,
FOR THE HEARING
"Payments to Certain Medicare Fee-for-Service Providers"
May 15, 2007

The American Occupational Therapy Association (AOTA) submits this statement for the record of the May 15, 2007 hearing on payments to certain Medicare fee-for-service providers. AOTA is the leading national association representing over 36,000 occupational therapists, occupational therapy assistants, and students of occupational therapy. AOTA supports the need to achieve payment accuracy for hospitals, home health agencies, and skilled nursing facilities, and appreciates the opportunity to provide comments to the Ways and Means Health Subcommittee. AOTA would also like to commend the Subcommittee for addressing payment adequacy as it will continue to be an important issue with the growing number of baby boomers retiring and impacting the settings for which they will receive their health care services.

Occupational therapy practitioners provide services in a variety of settings in Medicare including hospitals, inpatient rehabilitation facilities, skilled nursing facilities, hospice, home health agencies, and in private practice. Occupational therapy is a health, wellness, and rehabilitation profession that helps people regain, develop, and build skills that are essential for independent functioning, health, and well-being.

Occupational therapy professionals assist those with injuries, illness or disability—young and old alike—to return to active, satisfying lives by showing survivors new ways to perform activities of daily living, including how to dress, eat, bathe, cook, do laundry, drive, and work. It helps older people recover from stroke, arthritis, hip fractures and replacements, and cognitive problems like dementia. In addition, occupational therapists work with individuals with chronic disabilities including mental retardation, cerebral palsy, and mental illness to assist them to live productive lives. By providing strategies for doing work and home tasks, maintaining mobility, and continuing self-care, occupational therapy professionals can improve quality of life, speed healing, reduce the chance of further injury, and promote productivity and community participation for Medicare beneficiaries.

Occupational therapy is a covered service under Medicare. There are issues under the Medicare fee-for-service system that AOTA believes need to have legislative and regulatory payment refinements in order to achieve accurate payments for inpatient rehabilitation facilities, home health, and all settings that bill for Part B outpatient occupational therapy.

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Inpatient Rehabilitation Facilities (IRF)

Inpatient rehabilitation is often essential to individuals with disabilities and injuries who require intensive rehabilitative care to regain and/or maintain their highest level of independent function. The determination of one's rehabilitative needs is an extremely personal process involving the individual, their family, and their team of rehabilitation doctors and therapists. It is not a decision that should be dictated by a government policy based on an individual's diagnosis alone.

In order to be considered an IRF under Medicare, a facility must meet stringent criteria, including the provision of intense, comprehensive, coordinated care by a multi-disciplinary team of health care professionals who specialize in the medical, physiological, and psychosocial aspects of rehabilitative health care. IRFs require that a patient receive three hours of therapy per day, five days per week. Occupational therapists provide vital care to IRF patients, and work to ensure they receive the complex and intensive therapy needed to achieve their expected outcomes.

The Centers for Medicare and Medicaid Services (CMS) is phasing-in implementation of a rule (commonly referred to as the "75% Rule") as a means of qualifying inpatient rehabilitation hospitals and units for reimbursement purposes. The "75% Rule," is a set of criteria focused on medical necessity and functional capability that requires IRFs to have a certain percentage of their admissions fall into 13 diagnostic categories. The Deficit Reduction Act of 2005 provided a one-year extension on the phase-in of the IRF classification criteria – or "75% rule." In order to retain their qualification as an inpatient rehabilitation hospital or unit, some of these facilities are forced to manage or limit the mix of the patients they treat based on the 75% Rule rather than on the basis of clinical judgment and rehabilitation need.

Legislation has been introduced in both the House and Senate (H.R. 1459/S. 543) to freeze the rule at its current threshold of 60 percent, preventing a scheduled increase on July 1, 2007. While it is not a complete repeal of the rule, AOTA strongly supports the legislation as a temporary solution to an increasingly harmful restriction. This would allow inpatient rehabilitation hospitals and units to better assess who is admitted by placing greater emphasis on the specific medical and rehabilitation needs of each individual patient, allowing occupational therapists to apply their expertise in order for IRF patients to achieve the outcomes desired from an intense rehabilitation facility.

Home Health

AOTA would like to address home health policy that we believe will help the Subcommittee make needed adjustments to the benefit in order for agencies to exercise their best judgment to achieve high quality, efficient health care for their patients. This area includes the qualifying service criteria for Medicare Part B Home Health services.

Currently occupational therapy is not a qualifying service for home health care coverage under Medicare and can only be provided in the home health setting if the patient requires

another qualifying service like skilled nursing, physical therapy and speech-language pathology services as well. However, occupational therapy can continue to provide services after the other qualifying services have stopped.

In every other post-acute setting, occupational therapy is an equal and distinct service that can be provided independently. Legislation has been introduced in the past that would provide for this equity in the home health benefit as well. This is important for occupational therapists and occupational therapy assistants but also crucial to the efficiency of home health agencies and Medicare home health recipients.

Allowing occupational therapy to be a qualifying service is long overdue. Occupational therapists are the most qualified discipline for assessing a patient's activities of daily living and instrumental activities of daily living needs, risk of falls and evaluating the patient's home to determine what adaptive equipment or changes might be needed.

Placing occupational therapy on an equal footing with other qualifying services provides home health agencies and Medicare beneficiaries with a choice of the most appropriate service to meet their needs. This would improve efficiency and effectiveness of home health for Medicare beneficiaries.

MedPAC recently reported that the current typical home health episode includes fewer visits and a higher proportion of therapy than it did when the system was created. AOTA believes that the increase in therapy has contributed to the decrease in visits, thereby saving Medicare money. Occupational therapy is taking on more of a role in home health agencies. Agencies are seeing more patients improve in function and independence than in previous years. Many agencies are seeing an increase in age and frailty of patients with numerous comorbidities that contribute to the more intense services provided by occupational therapists.

Allowing access to occupational therapy as a qualifying service could save the Medicare system money in rural areas as well. Allowing occupational therapists to perform the initial assessments makes more sense in rural areas where access to one of the other qualifying services might be costly. Providing timely care to home health patients decreases the likelihood of admissions to more costly settings such as hospitals.

Occupational therapists provide high quality, efficient care under the home health benefit by improving upper body dressing, bathing, stabilization, toileting, transfers, and managing pain for home health beneficiaries. Occupational therapy can teach strategies for patients to regain the ability to retrieve clothing and dress themselves, teach caregivers to give just the right amount of assistance, and train patients in the use of adaptive techniques and assistive devices. It is proven that elderly individuals benefit from occupational therapy services *[Journal of the American Medical Association (JAMA) "Occupational therapy for independent-living older adults: A randomized controlled trail." JAMA, Vol. 278, No. 16, p. 1321-1326. 1997]*. A report shows that 4% more patients who received occupational therapy in home improved than those who did not receive occupational therapy (*Home Health Line Special Report, 8/15/03, p.3*)

Therapy caps

AOTA is appreciative of the overwhelming support demonstrated by Congress' cosponsorship of the Medicare Access to Rehabilitation Act of 2007, which would repeal the therapy caps. Occupational therapists, therapy assistants, and beneficiaries face uncertainty every year that the financial limitations on therapy imposed by Congress in the Balanced Budget Act of 1997 remain in place. The legislation imposed a $1500 annual cap on Medicare Part B outpatient occupational therapy alone and physical therapy and speech-language pathology combined.

A 1-year extension of the exceptions process was included in the Tax Relief and Health Care Act of 2006 [P.L. 109-432], however, that will expire on December 31, 2007 unless Congress takes action this year. AOTA supports passage of legislation that would repeal the caps, and is dedicated to working with CMS, Congress, and other provider and consumer groups to find an appropriate long-term solution.

AOTA is currently working on the development of a suitable long-term solution to the therapy caps that ensure appropriate therapy services to Medicare patients. Financial limitations to proper therapy services impede the therapists' ability to care for their patients appropriately and use professional judgment effectively, and ultimately hinder the ability of a therapist to provide high- quality, efficient care to Medicare beneficiaries.

AOTA looks forward to working with the Health Subcommittee in addressing the aforementioned issues impacting occupational therapy and the Medicare beneficiaries they serve.

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