

July 26, 2006

Dear Members:

As part of the Deficit Reduction Act of 2005, Congress mandated the Centers for Medicare and Medicaid Services (CMS) to implement an exceptions process by which beneficiaries could receive medically-necessary Medicare Part B rehabilitation services even if those services exceed the therapy cap amount. In March 2006, CMS provided specific details on the implementation of this process. The American Occupational Therapy Association (AOTA), American Physical Therapy Association (APTA), and American Speech-Language-Hearing Association (ASHA) were instrumental in working with both Congress and CMS in the development of the exceptions process. This joint letter is meant to emphasize how important it is for clinicians to exercise the highest standards of judgment and ethical reasoning in using the exceptions process.

Although not a perfect solution to the therapy caps, the exceptions process reinforces existing coverage criteria and recognizes the role of the clinician's judgment as well as the individual beneficiary's needs as components in the determination of the need for therapy under Medicare. The exceptions process emphasizes that the clinician is in charge of determining the duration and intensity of services that the patient needs. By highlighting the responsibility that the individual clinician has to attest that the services meet Medicare coverage criteria, CMS has expressed faith in speech-language pathologists, physical therapists and occupational therapists to effectively and appropriately manage patient care and provide only those services which, in their professional judgment, are deemed reasonable and necessary.

CMS' emphasis on the clinician's attestation process signals that the clinician must take the determination of need seriously and that documentation is appropriate to justify additional treatment. However, with this responsibility to determine when a patient is in need of services, clinicians must also make responsible, and at times, difficult decisions about when services are no longer needed. CMS has stated that they do not believe a large number of services should exceed the cap. Studies conducted of past years' services indicate that somewhere between 14% and 20% of patients will exceed the cap, with variations for setting and other variables. But once the clinical evaluation and the review of the Medicare coverage criteria (e.g., need for skilled services, potential for improvement, etc.) are done by the clinicians, CMS' process gives full faith and credit to the clinician's determination. If post-payment reviews are conducted, appropriate documentation is critical in proving that services—below or above the cap--are reasonable and necessary.

Our Associations are aware that both CMS and Congress are closely monitoring the effectiveness of the exceptions process and whether or not it can be part of a viable therapy cap alternative. Because of the importance of a positive implementation of the exceptions process, AOTA, APTA and ASHA strongly encourage our respective members to use sound clinical judgment and ensure proper documentation of services. Specifically, we urge members to:

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- Understand and abide by current Medicare coverage guidelines.
- Assure patients receive the care they are entitled to under Medicare.
- Thoroughly understand the exceptions process and its requirements, including recent changes to documentation requirements to ensure appropriate reporting of services.

 Review and abide by their respective codes of ethics and related documents in providing only those services which will benefit their patients; and,
- Recognize when care is no longer covered by Medicare.

Physical therapists, occupational therapists and speech-language pathologists are highly trained, qualified professionals, who must use the highest level of skill and competence to wisely, efficiently and effectively manage patients and make appropriate decisions regarding their care.

Sincerely,

M. Carolyn Baum

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