
Enabling More of the Physical and Occupational Workforce to Engage in Rehabilitation (EMPOWER) Act (H.R.4878/ S. 2459)

The EMPOWER Act, introduced by Senators Barrasso (R-WY) and Carper (D-DE) and Representatives Lesko (R-AZ) and Kuster (D-NH) would change the Medicare supervision requirement for occupational therapy assistants (OTAs) and physical therapist assistants (PTAs) in private practice, from “direct” supervision to instead match state standards, which require only “general” supervision of OTAs by OTs in forty-nine states.

BACKGROUND

Occupational and physical therapy services are essential to helping people regain or maintain function that might otherwise be lost because of illness or injury. These services enable Medicare beneficiaries to maximize their independence and stay out of the hospital. On January 1, 2022, Medicare outpatient services provided by occupational therapy assistants (OTAs) and physical therapist assistants (PTAs) began receiving a 15% reduction in payment. This cut was separate from, and in addition to, other cuts to therapy payments under the Medicare Physician Fee Schedule over the last three years.

OTAs and PTAs complete a two-year associate degree or a bachelor’s degree and are licensed in all 50 States, the District of Columbia, and Puerto Rico. The standardization of Medicare supervision requirements to match state regulation is a cost-effective way to reduce administrative burden for private practice while recognizing the expertise and value of occupational therapy assistants, helping to increase access to services.

The EMPOWER Act would change the Medicare supervision requirement for OTAs and PTAs in private practice so that it cannot exceed the requirements under State law. It would also require the GAO to study the impact of the 15% payment reduction on access to therapy services in rural and underserved areas.

Medicare allows for “general supervision” of physical therapist assistants and occupational therapy assistants in all settings — except for private practice, which requires “direct supervision.” Therapy providers must already comply with their state practice act if state or local practice requirements are more stringent than Medicare’s. Currently 48 states require general supervision of physical therapist assistants, and 49 states require general supervision of occupational therapy assistants, making this Medicare regulation, that only applies to private practices, more burdensome than most state requirements.

The inconsistency of these supervision policies between settings jeopardizes employment opportunities for OTAs and PTAs as well as the needs of Medicare beneficiaries in rural and underserved communities that rely so heavily on their services. Standardizing the supervision requirement from “direct” to “general” for private practices will help ensure continued patient access to needed therapy services and give private practices more flexibility in meeting the needs of beneficiaries.

Additionally, the bill requires the Government Accountability Office (GAO) to examine the impact of the 15% payment cut to OTAs and PTAs, on access to services in rural and medically underserved areas. In these areas the proportion of services provided by OTAs and PTAs is 50% higher than in other geographic areas.

A mock CBO score generated by Dobson DeVanzo & Associates predicted that this legislation could save up to \$242 million over 10 years as more services are provided by OTAs and PTAs in private practice settings.

Please cosponsor the EMPOWER Act (H.R.4878/ S. 2459). Support access to occupational therapy services!