Submitter : Dr. Gregory Murrey **Date & Time:** 09/08/2004 01:09:04

Organization : Minnesota Neurorehabilitation Hospital

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Please change rule to allow reimbursement for psychological testing by technician under the direction of a PhD level psychologist.

CMS-1429-P-1001

Submitter : Dr. Kyle Bonesteel **Date & Time:** 09/08/2004 02:09:10

Organization : NeuroHealth Associates/Loyola Med Center

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

This correspondence is written to communicate my support for the proposed changes to Medicare policy regarding diagnostic psych/neuropsych testing. Clinical psychologists and clinical neuropsychologists are, without question, the most rigorously trained and competent professionals in test selection, interpretation/analysis, and psychometric theory (upon which all psychological tests are based). Coursework, practicum, internship, residency/fellowships and post-lincensure supervision are all geared to develop marked expertise in psychological testing (typically totaling 7-9 years). It is refreshing to see medicare policy reflect this reality and is advantageous for the patients in need of the highest level of quality care.
Sincerely,
Dr. Kyle Bonesteel
Clinical Neuropsychologist
Director, NeuroHealth Associates
Assistant Professor, Neurology

Submitter : Dr. Richard Kaplan **Date & Time:** 09/08/2004 02:09:26

Organization : Dr. Richard Kaplan

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

As a Board-certified practicing clinical neurospychologist, with over 20 years of experience, I urge you to adopt the proposed change to the diagnostic testing rules. The supervision of technicians in administering psychological tests, by doctoral level licensed psychologists, has been a longstanding and accepted practice in clinical psychology, and neuropsychology in particular. Practice guidelines for such supervision have been published by the American Psychological Association (Division 40) and the National Academy of Clinical Neuropsychology. That physicians, who have not been trained in psychology, can supervise technicians to do psychological testing, whereas docatoral level psychologist who have received such training cannot, makes absolutely no sense. I therefore again strongly urge you to pass the changes to the diagnostic testing rule.

CMS-1429-P-1003

Submitter : **Date & Time:** 09/08/2004 02:09:03

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

As a licensed psychologist I strongly support the proposed change to allow psychologists to supervise diagnostic testing.

CMS-1429-P-1004

Submitter : Dr. Brian Dessureau **Date & Time:** 09/08/2004 03:09:47

Organization : UMass Memorial, Dept. of Neurology

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

As a licensed neuropsychologist practicing in Massachusetts, I would like to express my strong support for a revision specifying that psychologists should provide the necessary supervision for technicians giving psychological tests. The current standard indicating that physicians must provide such supervision is counterintuitive, as they have no expertise or training in the use or interpretation of these tests. Psychologists and neuropsychologists are professionals who have completed extensive graduate-level training in the theory and implementation of psychological testing, and as such would clearly be the most qualified to oversee the provision of these services. Use of technicians is a longstanding practice in psychology and is necessary to allow for training of future generations of psychologists and neuropsychologists. This change would increase access to patients who are already having to wait many months (on average 3-6 months in our clinic) for testing that should be provided immediately in order to ensure correct diagnosis and treatment. This change would also allow for services to be provided where physician oversight is not available, an increasingly common situation in today's health care marketplace. I hope that you will strongly consider implementing this change in the next Medicare Fee Schedule. Please feel free to contact me with any comments or questions.

Sincerely,

Brian K. Dessureau, Ph.D.
Clinical Neuropsychologist
Assistant Professor
UMass Memorial Health Care, University Campus

508-856-8119
dessureb@ummhc.org

Submitter : Mr. **Date & Time:** 09/08/2004 03:09:19

Organization : NAN

Category : Other Technician

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

It is essential that persons at the non-doctoral level be allowed to be supervised by psychologists. These individuals often have far more training, experience, and familiarity with the instruments and their interpretations than do physicians as indicated by the fact that most of the tests are designed by psychologists as opposed to MD. Further, it is essential that individuals who use these instruments be aware of the psychometric properties and limitations of the instruments which are not typically covered in medical and/or psychiatric programs.

Submitter : Dr. Paul Gunser **Date & Time:** 09/08/2004 03:09:35

Organization : NAN

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

It is imperative that Psychologists are able to supervise Master's Level and unlicensed doctorate level assistants for the provision of psychological testing, including but not limited to neuropsychological testing. In this way our time can be spent in the interpretation and provision of other clinical services, including supervision of technicians. In this way these students can receive clinical training to augment their book knowledge.

Submitter : Dr. Jerry Halsten **Date & Time:** 09/08/2004 03:09:06

Organization : Dean Health System

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

As a clinical neuropsychologist, I am in support of allowing psychologists to supervise technicians who administer psychological and neuropsychological tests. Neuropscyhology technicians are appropriately trained and supervised according to the standards set by National Academy of Neuropsychology. I am not aware of any such set of standards for physicians to supervise neuropsychology technicians. In fact, physicians are not typically trained to conduct any neuropsychological evaluations. The use of technicians in my practice allows me to provide standardized assessments in a time efficient manner, just as the assistance of nurse allows a doctor to practice efficiently. Thanks for your efforts on this issue.

Jerry Halsten, Ph.D.
Dean Health System
Madison, WI

CMS-1429-P-1008

Submitter : Mr. John Jury **Date & Time:** 09/08/2004 03:09:17

Organization : Physical Therapy Partners, Inc and APTA

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing in support of, and to request the support of officials at CMS to require that PT services provided to subscribers in any setting, even physician offices, be provided by personnel that meet specific professional standards. (42 CFR 484.4) As a physical therapist, I am familiar with the education required to deliver and more importantly, constantly monitor/modify treatment approaches as a patient status changes. This can sometimes occur within a single session. My concern is that this ongoing monitoring could not be provided by personnel not educated at a qualified physical therapy program. Ultimately, I feel that the quality of care being provided and paid for is at risk if this care is delivered by anyone other than a physical therapist or physical therapist assistant. Thank you for your time.

THERAPY STANDARDS AND REQUIREMENTS

I am also in support of eliminating the "in room" supervision requirement for physical therapist assitants. These professionals have received the education and training to safely deliver a PT treatment plan without needing the immediate, in room supervision of a PT. In fact, it is my impression that CMS currently allows these same practitioners much more independence in other settings. Thank you.

CMS-1429-P-1009

Submitter : Dr. Mark Prohaska **Date & Time:** 09/08/2004 03:09:41

Organization : Neuropsychology Clinic, P.C.

Category : Physician

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I strongly support allowing psychologists to supervise diagnostic psychological testing. The fact that they are not currently able to do so makes no sense, particularly considering that psychologists are the only profession trained and qualified to interpret psychological tests.

Submitter : Mr. Michael VanAmberg **Date & Time:** 09/08/2004 03:09:56

Organization : Michigan Athletic Trainers Society

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter with concerns over the recommended changes in policy.

CMS-1429-P-1010-Attach-1.doc

CMS-1429-P-1010-Attach-2.doc

Michael S. VanAmberg ATC
President
Michigan Athletic Trainers Society
1599 Tipsico Lake Road
Milford, MI 48380

Attachment to # 1010

September 3, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am a Certified Athletic Trainer and the President of a State Association that services Certified Athletic Trainers. I am writing on behalf of the Executive Board and Executive Council of the Michigan Athletic Trainers Society to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments

elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program, every professional sports team in America, the U.S. Military and many Large Manufacturing Employers to work with active people to prevent, assess, treat and rehabilitate injuries sustained during physical activity. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent, will have an adverse affect on employment, and will increase cost to the health care system.

Sincerely,

Michael S. VanAmberg ATC
President

Representing the
Michigan Athletic Trainers Society

Michael S. VanAmberg ATC
President
Michigan Athletic Trainers Society
1599 Tipsico Lake Road
Milford, MI 48380

Attachment 2 to # 1010

September 3, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am a Certified Athletic Trainer and the President of a State Association that services Certified Athletic Trainers. I am writing on behalf of the Executive Board and Executive Council of the Michigan Athletic Trainers Society to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments

elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program, every professional sports team in America, the U.S. Military and many Large Manufacturing Employers to work with active people to prevent, assess, treat and rehabilitate injuries sustained during physical activity. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent, will have an adverse affect on employment, and will increase cost to the health care system.

Sincerely,

Michael S. VanAmberg ATC
President

Representing the
Michigan Athletic Trainers Society

CMS-1429-P-1011

Submitter : Kristi Schechterly **Date & Time:** 09/08/2004 03:09:06

Organization : King's College

Category : Other

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This is a matter that needs to be abolished as a possibility. It is ridiculous that Athletic Trainers are allowed to treat athletes on all levels of activity but we are not allowed to treat the elderly in our own community.

Please see attached file.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

CMS-1429-P-1012

Submitter : **Mr. Phil Voorhis** **Date & Time:** **09/08/2004 03:09:30**

Organization : **Northern Illinois University**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

Phil Voorhis

Submitter : Dr. Don Hafer **Date & Time:** 09/08/2004 03:09:14

Organization : Presbyterian Hospital of Dallas

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

The proposed change that would allow Licensed Psychologists to supervise psychological and neuropsychological testing is very appropriate and long overdue. Psychologists are clearly regarded as the experts in selection, administration and interpretation of these tests and are the best choice for providing such supervision.

CMS-1429-P-1014

Submitter : Sean Owens **Date & Time:** 09/08/2004 03:09:39

Organization : MeritCare

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient. There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.
To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America.

CMS-1429-P-1015

Submitter : **Date & Time:** 09/08/2004 04:09:00

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

I support the requirement for licensed PT and PTA's to provide care for Medicare patients. I am employed with an ethical POPTS and am aware of the poor care adminstered by incident to practices. All POPTS and PT owned offices need to be on the same playing field.

Submitter : Dr. Martin Boone **Date & Time:** 09/08/2004 04:09:01

Organization : Wedgewood Family Practice

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Psychologists are the professionals who are most qualified to supervise and ensure the integrity and validity of psychological tests. Physicians do not have the requisite training to ensure the integrity and validity of psychological tests, and would be 'signing off' on work that they lack the backgrond to critically evaluate.

Submitter : Dr. Morris Alexander **Date & Time:** 09/08/2004 04:09:43

Organization : North Mississippi Medical Center

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support the CMS rule change regarding outpatient supervision of technicians

CMS-1429-P-1018

Submitter : Mr. Greg Bingham **Date & Time:** 09/08/2004 04:09:49

Organization : Mr. Greg Bingham

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File

CMS-1429-P-1018-Attach-1.doc

Attachment to # 1018
September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Greg Bingham

Athletic Training Student at Southwestern Oklahoma State University

Submitter : Mr. Gregory Specht **Date & Time:** 09/08/2004 04:09:00

Organization : Specht Orthopedic, Inc

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapist with 15 yrs of experience primarily treating patients in the out patient setting. I strongly beleive in providing the highest quality of care to all patients and I have always been unable to understand how a physician could think that a secretary performing PT treatment is appropriate for his or her patients.

I strongly support CMS?s proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs. Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should NOT be providing physical therapy services.

Thank you for considering my comments,

Gregory Specht, PT

Submitter : Ms. Tamerah Hunt **Date & Time:** 09/08/2004 04:09:34

Organization : University of Georgia

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

See attached

CMS-1429-P-1020-Attach-1.doc

Tamerah Hunt
300 River Road
Athens, GA 30601

Attachment to # 1020
September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Tamerah N. Hunt, MS, A.T.C, C.S.C.S

Tamerah Hunt, MS, A.T.C, C.S.C.S

Submitter : Mr. Seab Hoppe **Date & Time:** 09/08/2004 04:09:22

Organization : Loris High School

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See Attached file.

CMS-1429-P-1021-Attach-1.doc

LORIS HIGH SCHOOL
SPORTS MEDICINE

301 Loris Lions Road
Loris, South Carolina 29569
(843) 756-9765
fax – (843) 756-5331

Sean S. Hoppe, ATC, SCAT
Head Athletic Trainer

Solmaz Zarrineh, ATC, SCAT
Assistant Athletic Trainer

Attachment to # 1021
9/8/2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

LORIS HIGH SCHOOL
SPORTS MEDICINE
301 Loris Lions Road
Loris, South Carolina 29569
(843) 756-9765
fax – (843) 756-5331

Sean S. Hoppe, ATC, SCAT
Head Athletic Trainer

Solmaz Zarrineh, ATC, SCAT
Assistant Athletic Trainer

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Sean S. Hoppe

LORIS HIGH SCHOOL
SPORTS MEDICINE

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(843) 756-9765
fax – (843) 756-5331

Sean S. Hoppe, ATC, SCAT
Head Athletic Trainer

Solmaz Zarrineh, ATC, SCAT
Assistant Athletic Trainer

Submitter : Dr. Laith Farjo **Date & Time:** 09/08/2004 04:09:09

Organization : Advanced Orthopedic Specialists, P.C.

Category : Physician

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 8, 2004

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

RE: Therapy - Incident To

Dear Sirs/Madames,

I am writing to express my serious concerns about proposed changes to incident-to service rules in physician's offices for physical therapy. The proposed changes would exclude athletic trainers from providing physical therapy services in our office.

We currently utilize physical therapists and athletic trainers in our orthopedic office to provide physical therapy services to our patients. As per Medicare guidelines, all our therapy is directly supervised by both our physicians and physical therapist-manager. It has been a great service for my patients to provide these services in-house : I am able to much more closely monitor their care, they receive overall superior care than with unattached PT centers, and their satisfaction with physical therapy is much higher.

I am concerned about your willingness to exclude certified athletic trainers (ATCs) from the care of our Medicare patients. These are highly trained individuals who have 4 year degrees, and in many cases Masters degrees, in providing rehabilitative services. The only thing they cannot do for us in our office is provide new patient evaluations - this is something in which they are not trained. However, in carrying out the physical therapists' treatment plan, they are unsurpassed. Furthermore, mixing PTs and ATCs in a clinic is much more cost-effective than hiring only PTs, as ATCs are employed for about half the cost of a physical therapist. To disallow them would incur a significant increase in patient-care costs nationally.

Your proposed change would allow Physical Therapy Assistants (PTAs) to provide care, but disallow ATCs from providing the same service. In my many years of experience with therapy providers, PTAs, who do serve a useful role in therapy units but only have 2 years of training, do not perform as capably as ATCs in a similar position. In addition, it is difficult for physicians to hire PTAs, because PTA schools will not allow us to advertise to their graduates (this is for political reasons - PT schools want PTs and PTAs to work in their own practices).

I do not think that generalizing rules for home therapists to the physician office is appropriate. The difference is that incident-to services in a physician's office are much more closely monitored and supervised by the physician than therapy services provided in a patient's home.

It is clear that CMS is being unduly influenced by the extensive lobbying of the American Physical Therapy Association. Their goals are clear: they want physical therapists to practice completely independently of physicians and they want to eliminate athletic trainers from providing any type of meaningful therapy services. If either of these goals were to be achieved, it would be a disaster for patient care nationwide.

I would ask you to carefully assess the qualifications of Athletic Trainers to provide physical therapy services in physician's offices, under the guidance of a physical therapist and ultimate supervision of the physician. I think you will find that they provide quality rehabilitation services in a cost-effective manner. As Medicare's guidelines have not been completely clear on this issue, we have avoided the use of ATCs in our therapy unit for Medicare patients. I would ask that you specifically allow certified athletic trainers to provide incident-to services in physician offices.

Thank you for your kind consideration.

Sincerely Yours,

Laith Farjo, M.D.

Submitter : Ms. Linnea Comstock **Date & Time:** 09/08/2004 05:09:04

Organization : Comstock Physical Therapy

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam: It is my opinion that licensure for physical therapy, or at the very minimum, garduation from an accredited PT program, similar to what Medicare requires of Physical Therapists in Private Practice should be the floor of any requirements you would have regarding "incident to" physical therapy in physicians offices. This would also include PT Assistants being allowed to work only under the direct supervision of a PT and a graduate of an accredited PTA school.

Patients deserve the best when it comes to physical therapy. "Physical therapy" is not just the application of physical modalities in treating patients but the art of knowing how to combine different modalities and treatments customized to the patient to effect the optimal outcomes. An untrained staff member applying ultrasound to a bad back may be applying a physical modalities, but the patient is not getting "real" physical therapy--that is the specific treatment designed best for him/her. In addition, untrained personnel may not be educated on the specific contra-indications and precautions routinely taught to trained and licensed PT's and PTA's.

Sincerely, Linnea Comstock PT, MPA, MCT

Submitter : **Date & Time:** 09/08/2004 05:09:10

Organization :

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To Whom It May Concern:
I am opposed to this CMS proposal because not only is the educational preparation of an ATC rated equivalent to that of PT according to the federal government, but also it is completely within the scope of practice in athletic training to provide rehabilitative services. Athletic trainers are required to pass a national certification exam, which includes questions about rehabilitation, and have continuing education requirement where many states do not even ask this of PT?s. There are already many athletic trainers providing care in therapy services under the direction of a physician. These include, and are not limited to, athletic training rooms, sport?s medicine clinics, and physical therapy institutions. These services have benefited many clinics across the country and at times are actually a financially sound investment. To deny that athletic trainers do not provide valuable therapy to patients is not only naive, but is completely ignorant. Athletic trainers are not only qualified to work in physician?s offices and provide therapy, but should be sought out over PTA, OT, or OTA due to superior education and the high standard demanded of them by the national exam and educational course load.
Thank you for your time.
Hilary Bride
Student Athletic Trainer

CMS-1429-P-1025

Submitter : Dr. Kathleen O'Donnell **Date & Time:** 09/08/2004 05:09:00

Organization : National Association of Neuropsycology

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Please support the use of trained psychological technicians to help psychologists and neuropsychologists make diagnostic and treatment decisions.

CMS-1429-P-1026

Submitter : Mr. Thomas Colt **Date & Time:** 09/08/2004 05:09:56

Organization : Houston Texans NFL Holdings

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

. Athletic Trainers serve our communities in providing health care for active individuals, of all ages, and all populations. They are a direct extension of physicians and in are at times the direct providers of care to individuals with life threatening medical cases. They are tasked with the health care for our olympic athletes, professional athletes, and the elderly individual that is walking a 5K race. In fact independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. As a licensed physical therapist and a certified/licensed athletic trainer, I understand that it would be an injustice to our communities and diminish the available excellent health care for the lives of many individuals if physicians can not delegate procedures of health care to a certified athletic trainer.

CMS-1429-P-1027

Submitter : Ms. Robin Rivers **Date & Time:** 09/08/2004 05:09:29

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

First, limiting which professionals are allowed to provide "incident to" services limits a physician's right to choose the best and most appropriate provider and gives exclusive rights to health care dollars to a specific profession. Next, this could also impair the physician's as well as the patient's ability to obtain qualified, quality health care service in a reasonable time and travel frame. Finally, a decision to withhold a profession's ability to provide reimburseable services in a federally run program most certainly will ultimately eliminate that profession's ability to provide reimburseable services in privately run programs thus exempting that profession from ever obtaining the health care status it may deserve.

CMS-1429-P-1027-Attach-1.doc

Robin Rivers, LAT, ATC
505 N Tyler Rd, #803
Wichita, KS 67212
316.729.4011

Attachment to # 1027
September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the proposed change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly

accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and lack of local and immediate treatment.

- With this proposal, patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. ***Seventy (70) percent of all athletic trainers have a master's degree or higher.*** This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on Educational Programs in Athletic Training (JRC-AT).

- To allow only physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physician's offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health profession, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to ***prevent, assess, treat and rehabilitate*** injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- The Federal Law Enforcement Training Center employs a staff of certified athletic trainers to provide health care services for men and women training from seventy-four (74) federal law enforcement agencies, ranging from the Secret Service to the Department of Homeland Security to the U.S. Park Police. If the federal government recognizes the value and versatility of certified athletic trainers to care for their own, why then would not CMS recognize the qualification and benefits of certified athletic trainers to care for Medicare beneficiaries?

- In his speech at the Republican National Convention recently, the President of the United States of America referenced a continued interest in improving rural health care and a commitment to increasing the ability of physicians and patients, not bureaucrats in Washington, to make health care decisions. This proposed change would be in direct conflict with the goals and policies of our Commander in Chief.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Robin Rivers, LAT, ATC

Submitter : Ms. Carol Astill **Date & Time:** 09/08/2004 06:09:05

Organization : Campbell Clinic

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Carol M. Astill, ATC/L
4544 Tulip Creek Drive
Memphis, TN 38135

September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy !VIncident To

Dear Sir/ Madam:

I am writing to express my concern over the recent proposal that would limit providers of !?incident to!? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, It would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

?h !?Incident to!? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as adjunct to the physician!|s professional services. A physician has the right to delegate the care of his or her patient to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician!|s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
?h There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
?h In many cases, the change to !?incident to!? services reimbursement would render the physician unable to provide patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.
?h This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working !?incident to!? the physician, it is likely the patient will suffer delays in care, greater cost and a lack of local, immediate treatment.
?h Curtailing to whom the physician can delegate !?incident to!? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians will take away from the physician!|s ability to provide the best possible patient care.
?h To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide !?incident to!? services would improperly provide those groups exclusive rights to Medicare reimbursement.
?h CMS offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

It is not necessary or advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS

recommendation is a health care access deterrent.

Sincerely,

Carol M. Astill, ATC/L

CMS-1429-P-1029

Submitter : **Date & Time:** 09/08/2004 06:09:28

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist of 25 years,I strongly urge support for the implementation of physical therapy services to be provided by a licensed physical therapist or a licensed physical therapy assistant under the supervision of a licensed physical therapist. Therapists are professionally educated in college/university accredited programs. As such they and only they have the knowledge required to assess and treat physical therapy related issues. Allowing unlicensed people to perform such acitivities places the public at significant risk. I have seen physicians recommend and/or order treatments that upon evaluation by a physical therapist were deemed contraindicated. In each case, the therapist was able to educate the physician and save the patient undo harm. Furthermore, everytime a patient is referred for physical therapy services, the therapist completes a comprehensive evaluation. Many times, issues can be overlooked by a physician and during the PT evaluation thoses issues became more apparent. Through collaboration with the therapist and physician the patient's plan of care can best address their needs. Without the education and training of therapists to evaluate and treat patients, the patient is placed at further risk should a physician misdiagnose or overlook a problem. Having a licensed therapist evaluate and treat provides a check and balance system so that treatment can be safely, efficiently and cost effectively implemented.

Submitter : Mr. Mark Streiff **Date & Time:** 09/08/2004 06:09:38

Organization : Jefferson Community College

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Athletic Trainers are highly educated. I hae worked with the USA Track & Field teams, The USA Olympic Bobsled and Skeleton Teams, Olympic Training centers in both Colorado and Lake Placid. I find it very degrading the association does not recognise or seize to recognize the athletic trainer as a medical professional. I am currently working on my Doctorate degree to extend my education. More than 70% of athletic trainers have a masters degree. Academic programs are accredited through an independent process by the Commission on Accredidation of Allied Health Education Programs via the Joint Review Committee on educational programs in Athletic Training.

Submitter : Mr. Matt Gage **Date & Time:** 09/08/2004 06:09:33

Organization : University of Northern Iowa

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1031-Attach-1.doc

Matt Gage, MS, ATC, LAT
University of Northern Iowa
108B West Gym
Cedar Falls, IA 50614-0163

September 15, 2004

Attachment to # 1031
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

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professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

During the decision-making process, please consider the above statements. Thank you for your time and consideration.

Sincerely,

Matt Gage MS, ATC, LAT

CMS-1429-P-1032

Submitter : Mrs. Gina Abraham **Date & Time:** 09/08/2004 07:09:56

Organization : Vascular Center of Wichita Nephrology Group

Category : Nurse

Issue Areas/Comments

Issues 20-29

LOW OSMOLAR CONTRAST MEDIA

Dear CMS,

As a practicing nurse, I would like to provide my comments to you regarding the proposed rule for venous mapping. I treat numerous end stage renal patients and I am continually concerned by the poor vascular access that these patients are subjected to. I believe that the proposed change will be instrumental in ensuring more patients receive a fistula.

It is well documented and accepted that vessel mapping is critical to both optimizing the identification of patients who are candidates for an autologous arterio-venous fistula (AVF), as well as to increasing the rate and success of AVF placement.

The current draft rule limits reimbursement for this procedure to the operating surgeon. This practitioner-specific restriction should be revised to permit reimbursement for this procedure based solely on the indication and requirement that this G-code only be used for assessment for AVF placement, and not based on which specialist or facility performs the procedure. With increasing frequency, mapping is being performed well by practitioners and licensed providers other than surgeons, including: radiologists, interventional neqhrologists, diagnostic vascular laboratories, and mobile diagnostic units. Limiting reimbursement for this G-code exclusively to the surgeon would serve as a barrier to increasing the AVF rate in this country, as it would prevent the majority of incident hemodialysis patients from being evaluated for AVF placement where this service is not provided by a surgeon.

Since mapping also usually requires limited assessment of the arteries, I suggest that "vein" mapping be replaced by "vessel" mapping.

Although it may not need to be addressed in the proposed G-code language, reimbursement should not be restricted to Doppler mapping, as circumstances often require use of contrast or other mapping methods (which, incidentally, are not performed by surgeons).

Consideration should be given to replacing "graft" with "fistula" in the G-code description, as the latter would cover all autogenous procedures, wheras "graft" may confuse the issue by implying that only certain types of planned AVF procedures would qualify for reimbursement under this G-code.

I believe that these changes will result in a more proactive approach to creation fistula which will result in higher frequency of fistula, better clinical care and ultimately a lower cost to CMS. It is rare that a few simple changes will impact patient care a significantly as this rule change could. I hope that you agree with my suggestions.

Sincerely,
Gina Abraham, RN

Submitter : Mr. William Liuzzo **Date & Time:** 09/08/2004 07:09:18

Organization : Universal Therapy Dynamics

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

I am the President of a private practice Physical Therapy group. My sister was involved in a car accident and was sent to a physician by her attorney. The doctor wrote a prescription for physical therapy and sent her into the next room where the receptionist came in to do the therapy. Per the current Medicare law this is perfectly acceptable and the Doctor would be paid for providing therapy services. Luckily my sister is a nurse and would not let the receptionist treat her. My question to you is how many patients do not know better and are getting treated by un-trained staff members in a doctor's office. Patients deserve better care. Physical Therapist have a master's degree in their field and should be the only ones providing this type of care. Would you want your parent's to unknowingly be treated by a receptionist while the Doctor is seeing someone else. This is unethical and needs to be stopped.
Please recend the "incident to" practice which allows this to go on.

Sincerely,
Bill Liuzzo- President Universal Therapy Dynamics.

Submitter : Mr. Don Teahan **Date & Time:** 09/08/2004 07:09:06

Organization : NATA

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1034-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Attachment to # 1034
September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I wrote you regarding this issue last week but I wanted to reiterate my point again.
I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services.

As a licensed physical therapist I feel that certified athletic trainers have the educational background and clinical skills necessary to provide quality therapy to patients, across the age span. I have worked closely with certified athletic trainers throughout my career and have personally witnessed their skills and effectiveness. Eliminating access to these professionals would be a severe loss for Medicare patients.

Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries. In addition, dozens of athletic trainers will be

accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

I firmly believe that the physical medicine CPT codes are intended for use by qualified health care providers, and that certified athletic trainers are as qualified as physical therapists and more qualified than physical therapy assistants to provide these services.

I strongly oppose the proposed policy change and urge its withdrawal.

Sincerely,

Don Teahan, MS, ATC/L, PT

CC: Senator Bob Graham
Senator Bill Nelson
Congressman Ander Crenshaw

CMS-1429-P-1035

Submitter : Ms. Rebekah Ward **Date & Time:** 09/08/2004 07:09:30

Organization : SWOSU ATEP

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter : Mrs. Claire Kristl **Date & Time:** 09/08/2004 07:09:11

Organization : Phelps and Kristl Physical Therapy

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I fully support the proposed revision of payment for physical therapy services rendered incident to a physician visit. Physical Therapy is a stringent medical education that allows a practioner to provide skilled care to a patient with the goal of returning them to function or returning them to a the highest level of activity available. We have developed strict criteria and standards to ensure the highest level of education and thus application of skills to our clients. It is detriemental to this profession and the patient/client to receive care and be billed for such care when it is not provided by a professional who is licensed and meets the criteria established by the APTA and medical licensing board. Services provided by a non-licensed professional may be inappropriate and/or detrimental. I strongly urge you to pass this policy to ensure that all care provided and billed for is provided by a licensed physical therapist or physical therapist assistant who is under the direct supervision of a licensed physical therapist.

Submitter : Mr. Lonnie Lyon **Date & Time:** 09/08/2004 07:09:34

Organization : Western Washington University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Lonnie Lyon MST, ATC
Head Athletic Trainer
Western Washington University
516 High Street
Bellingham, WA 98225

September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

? ?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY ?incident to? service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

? Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.

? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a ma

CMS-1429-P-1037-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Attachment to # 1037
Lonnie Lyon MST, ATC
Head Athletic Trainer
Western Washington University
516 High Street
Bellingham, WA 98225

September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Lonnie Lyon MST, ATC

Submitter : Mr. Chris Dollar **Date & Time:** 09/08/2004 08:09:57

Organization : Mr. Chris Dollar

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

CARE PLAN OVERSIGHT

Licensed physical therapists are professionals with Masters or Doctoral degree preparation. Physical therapists should NOT be required to have a physician, nurse practitioner or physician assistant sign off on plans of care. Please remove the physician supervision of physical therapy care requirement from the regulations.

THERAPY - INCIDENT TO

I am a licensed physical therapist and I wish to express my support for the implementation of rules restricting provision of therapy services to only licensed physical therapists or licensed physical therapist assistants. Nurses, physician assistants or chiropractors are NOT qualified to provide physical therapy services. That is why we license therapists differently than other professionals. Physical therapists alone are qualified to provide physical therapy. Otherwise, will CMS allow PT's to provide chiropractic services and bill for them? Thank you for listening to my comments.

THERAPY STANDARDS AND REQUIREMENTS

Only licensed physical therapists should be allowed to provide and bill for physical therapy services.

Submitter : Mr. Aaron Terranova **Date & Time:** 09/08/2004 08:09:52

Organization : United States Merchant Marine Academy

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam,

I am writing to express my concern with the proposal limiting providers of "incident to" services in physician offices and clinics. During the decision-making process, please consider the following:

To allow only physical therapists, OTs, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. Such an action would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe, and appropiate to provide health care services.

Athletic trainers are employed by almost every US post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat, and rehabilitate injuries sustained during competition. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local road race and goes under local physician for treatment of that injury is a slap in our profesisonal face. To downplay the knowledge and skill of athletic trainers by allowing CMS to pass judgement is a grave injustice.
Remember that ALL athletic trainers MUST HAVE a bachelor's or master's degree from an accrediated college or university. Besides the wide variety of courses taken, the certification exam is a independant testing agency. The wealth of knowledge learned during the program coupled with the difficult and stringent continuing education requirements make athletic trainers a highly disciplined and well educated professional medical worker.
Finally, please take into account the basic notion that the CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. When you think about it, this action by CMS could be construed as an unprecedented attempt to seek exclusivity as a provider of therapy services.

It is not advantagous or necessary for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Aaron Terranova, MEd, ATC

CMS-1429-P-1040

Submitter : Dr. Gayle Hostetter **Date & Time:** 09/08/2004 09:09:11

Organization : The Queen's Medical Center

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am a board-certifed clinical neuropsychologist who would like to express strong support for CMS-1429-P that addresses the supervision of neuropsychological and psychological testing by doctoral level psychologists. As a clinical neuropsychologist I have advanced education and training in the science of brain-behavior relationships. My doctoral-level academic preparation has given me specialized knowledge of psychological and neuropsychological measurement, psychometric, theory, assessment techniques, and statistics, as well as neuroanatomy, neurophysiology, and neuroimaging. My specialization and board certification in neuropsychology attests to my additional competence in neuropsychological assessment and interpretation. My education and training uniquely qualify me to direct neuropsychological and psychological test selection and to interpret the testing results that are collected by non-doctoral personnel who assist with the technical aspects of assessment by administering and scoring the tests that I have chosen. I carry the responsibility for accuracy, validity, and overall quality of all aspects of the assessments that the non-doctoral personnel perform under my superivsion. The current CMS requirement that neuropsychologists personally administer tests to Medicare abnd Medicaid patients adversely affects the population of Medicare and Medicaid patients. It results in less time by neuropsychologists for interviewing, interpretation of tests, and coordination of patient care. It also reduces the number of patients that each neuropsychologist can serve, thereby resulting in fewer Medicare and Medicaid patients who can access neuropsychological and psychological services. For these reasons I strongly endorse the proposed rule change which will benefit Medicare and Medicaid patients by improving their access and quality of psychological and neuropsychological assessment services. Thank you for the opportunity to comment on this very important matter.

CMS-1429-P-1041

Submitter : Mr. Jeff Roberts **Date & Time:** 09/08/2004 09:09:25

Organization : Mr. Jeff Roberts

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1041-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Attachment to # 1041

September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be

forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and

rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jeff Roberts, MS, ATC
Clinical Coordinator of Athletic Training
Department of Human Performance
San Jose State University
1 Washington Square
San Jose, CA 95192-0054
408/924-3035 – office
408/924-3053 – fax
jroberts@hup.sjsu.edu

CMS-1429-P-1042

Submitter : Mrs. Amy Melton **Date & Time:** 09/08/2004 09:09:43

Organization : TOP Rehab Sservices, Inc

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I am writting this comment on behalf of the five practicing therapists, Lisa Hatfield, Rada Chapman, Dana Quick, Andrea Turner, and myself, Amy Melton, of TOP Rehab Services. We strongly support the CMS proposal that those furnishing outpatient physical therapy services must be of an accredited physical therapy program. Physical therapists and physical therapy assistants undergo anywhere from 2-3 years of intensive course work and hands on clinical experience in order to obtain the knowledge required to provide patient's with the best possible care. During this training process, therapists and assistants not only learn the physiologica, anatomical, and biomechanical principles of the human body, but they also receive education allowing one to formualte a differential diagnosis and recognize 'red flag' symptoms of a possible diagnosis outside the scope of practice. This assists a therapist in directing patients to a practicioner who would be able to provide the appropriate care. This is an area not covered in many other programs, such as those for athletic trainers and exercise physiologists. Neither of these occupations meet the qualifying criteria for a physical therapist and they should not be allowed to render services which would be billed to Medicare as outpatient physical therapy services. My colleagues and I would like to thank you for your time and consideration given to this important issue.

CMS-1429-P-1043

Submitter : Elisa Camillone **Date & Time:** 09/08/2004 09:09:43

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

Why should there be a limit or restriction placed on a board certified Physician's professional judgement. The physician is going to do what is in the best interest to the patient and reccommend a qualified professional (certified athletic trainer) to provide their particular service. In many states an athletic trainer is a licensed health care professional. This is an asset to the allied health and other health care organizations not because there are shortages in certain areas of health care, but because they are well educated, experienced men and women. Please consider the educational background and professional preperation required of an athletic trainer before dismissing their value in making health care more available for all.

CMS-1429-P-1044

Submitter : Ms. edith paetow **Date & Time:** 09/08/2004 09:09:26

Organization : Ms. edith paetow

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a practicing physical therapist for over forty years, I have seen many patients after a sereis of treatments at their physician' office. The treatment provided was ALWAYS passive in nature as the care was provided by an unlicensed employee. The patient would be far better served if a licensed physical therapist would provide care as we could evaluate the patient and customize the treatment to address the deficits found in our eval. I know physicians would be opposed to this as it would affect their bottom line. Obviously a professional with at masters degree would be more expensive than a person hired off the street.

CMS-1429-P-1045

Submitter : Miss. Amanda Youse, ATC **Date & Time:** 09/08/2004 10:09:34

Organization : National Athletic Trainer's Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

please see attached file

CMS-1429-P-1045-Attach-1.doc

Attachment to # 1045

September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will

suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Miss Amanda P. Youse, ATC

200 North Reading Avenue

Boyertown, PA 19512

Submitter : Dr. Barbara Malamut **Date & Time:** 09/08/2004 10:09:56

Organization : NAN

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Technicians should by allowed to administer neuropsychological tests under the director supervisor of a licensed psychologist. The psychologist interviews the patient, reviews the test results and writes the report. This is no different than a radiologist who reads an xray and reads the report. This is also critical to the training of new neuropsychologists. At this time, students an postdoctoral fellows can not get the experience they need in geriatric psychology.

CMS-1429-P-1047

Submitter : Dr. Daniel Spilman **Date & Time:** 09/08/2004 11:09:21

Organization : Santa Cruz Ear, Nose and Throat

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

I live in Santa Cruz County and I have been a faithful provider of services to Medicare Patients. The persistent designation of my community as Area 99 has now become ridiculous. We have the third highest real estate prices in the country. I began practising Otolaryngology here in 1997 and since that time the number of doctors in my field has gone from 8 to 5. I believe that the continued disparity will eventually reduce this number to 2 or 3. I doubt that Medicare patients will have a specialist to see at that time. It is prime time to correct this inequality.
Dr. Daniel Spilman

CMS-1429-P-1048

Submitter : Mrs. H Romero **Date & Time:** 09/08/2004 11:09:39

Organization : Mrs. H Romero

Category : Academic

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support this revision

CMS-1429-P-1049

Submitter : Dr. Margaret Primeau **Date & Time:** 09/08/2004 11:09:13

Organization : Loyola University Medical Center

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Dear CMS colleagues:

I am a clinical neuropsychologist. The purpose of this letter is to express my very strong support for rule change CMS-1429-P regarding supervision of psychological and neuropsychological testing by doctoral-level psychologists.

As a clinical neuropsychologist I have completed advanced education and training in the science of brain-behavior relationships. I specialize in the application of assessment and intervention principles based on the scientific study of human behavior across the lifespan as it relates to both normal and abnormal functioning of the central nervous system. By virtue of my doctoral-level academic preparation and training, I possess specialized knowledge of psychological and neuropsychological test measurement and development, psychometric theory, specialized neuropsychological assessment techniques, statistics, and the neuropsychology of behavior (among others). Other health care providers (e.g., psychiatrists, neurologists) address these same patients' medical problems. However, our medical colleagues have not had the specialized knowledge and training (enumerated above) that is needed to safely direct the selection, administration, and interpretation of psychological and neuropsychological testing and assessment procedures in the diagnosis and care of Medicare and Medicaid patients.

My education and training uniquely qualifies me to direct test selection and to perform the interpretation of psychological and neuropsychological testing results that have been collected by non-doctoral personnel who assist with the technical aspects of psychological and neuropsychological assessments (i.e., administering and scoring the tests that I indicate). I am at all times responsible for the accuracy, validity and overall quality of all aspects of the psychological and neuropsychological assessments services that non-doctoral personnel provide under my supervision.

If neuropsychologists are permitted to personally administer tests, but not to supervise their administration by nondoctoral personnel, it adversely affects the overall population of Medicare and Medicaid patients because it results in neuropsychologists having less time for interviewing, test interpretation and the coordination of care. The existing requirement reduces the number of patients that each neuropsychologist can serve and results in fewer Medicare and Medicaid recipients being able to access psychological and neuropsychological services. Limited access to necessary care is already a concern in many rural and metropolitan areas. For these reasons, I strongly endorse this rule change because it will clearly benefit Medicare and Medicaid patients by improving their access to psychological and neuropsychological assessment services. These patients are also entitled to the quality of care and expertise of a neuropsychologist as the authority in the design and interpretation of their neuropsychological diagnostic evaluation.

Thank you for the opportunity to comment on this very important matter.

Sincerely,

Margaret Primeau, PhD
Loyola University Medical Center
Maywood, IL 60153

CMS-1429-P-1050

Submitter : Miss. Tiffany Jordan **Date & Time:** 09/09/2004 12:09:59

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

In am writing in regards to the jeopardy of the Athletic Training profession is currently under with Medicare. I feel that athletic trainers play an imperative role in the rehabilitation of patients that are covered under Medicare. Athletic Trainers are just as, if not more, competent than a physical therapist is in the profession. I am fortunate to hold a title as both athletic trainer and physical therapist. I feel that the professions overlap and skills are more based on experience rather than the postition held. I have met many athletic trainers that were more capable of managing Medicare patients, than were the physical therapists that worked at the same clinic.
It is a disgrace to the Athletic Training profession that we are put under the portrayal as inadequate supervisors of Medicare patients. It is with greatest regard to emphasize the importance of Athletic Trainers in the health profession. I am asking that Athletic Trainers be allowed to continue to practicing in a physician extender setting and billing incident to physician services for outpatient pay. Athletic Trainers are both academically and clinically qualified to provide these services, it is both false and insulting to assume otherwise.
This proposed CMS action is cleary driven by the financial interest of other groups, to the detriment of patients and the Athletic Training profession. Furthermore, the proposed action would reduce patient asses to future care.
Please consider this and all other statements in regards to the issue. Thank you for taking time to read this statement.

CMS-1429-P-1051

Submitter : Miss. Lynn Ousley **Date & Time:** 09/09/2004 12:09:40

Organization : SWOSU Athletic Training

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1051-Attach-1.txt

Attachment #1051

September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and

my right as a future health care practitioner.

Sincerely,

Lynn D. Ousley
Athletic Training Student at Southwestern Oklahoma State University

CMS-1429-P-1052

Submitter : Miss. Antoinette Michel **Date & Time:** 09/09/2004 12:09:09

Organization : King's College

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Hello,
I am currently an Athletic Training student and recently I was surprised by the act trying to be passed that would limit the amount of care that athletic trainers could provide to those they are supposed to be taken care of. As a future professional it this proposed act confuses me because aren't athletic trainers supposed to give their full care to athletes. If we can administer therapeutic modalities and exercises to athletes why should physicians try to limit our practice. Shouldn't we all be concerned about the welfare of the patient and if this is the case then why would anyone try to limit the care that they receive. This proposed act may seem like nothing now but in time everything grows and this little act now can mean a whole world of new acts to follow. Therefore I am against this proposed act and think that athletic trainers should be left alone to care for their patients.

CMS-1429-P-1053

Submitter : **Date & Time:** 09/09/2004 12:09:25

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing this letter to oppose the CMS proposal to no longer allow physicians to be reimbursed for therapy services administered by a certified athletic trainer. I believe that athletic trainers are equally or more qualified than PTs, PTAs, OTs, and OTAs.

1. Classes for athletic training students and physical therapy students are not only equivalent but in many occasions are the same.

2. Athletic trainers are required to pass a national exam before being certified.

3. Continuing education is required for ATCs while it is not required in many states for PTs

4. Athletic trainers currently work, providing therapy under the direction of physicians in physician offices, athletic training rooms, sports medicine clinics, high schools, colleges and universities and other professional settings.

5. Athletic trainers are capable of treating a patient from the initial acute injury situation, taking them through therapy whether, that is modalities, manual therapy or therapeutic exercises, and hopefully returning them to a quality of life and function that is the same as before their injury occurred.

Thank you

CMS-1429-P-1054

Submitter : Mr. John Ostrowski **Date & Time:** 09/09/2004 12:09:57

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1054-Attach-1.doc

September 6, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To Athletic Training Profession

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. This proposal should not be adopted because qualified health care professionals would no longer be able to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- According to the federal government, the preparation of an athletic trainer is rated as equivalent to a PT's, and it is more significant than that of an OT, OTA or PTA. O*NET OnLine is a Web site (the web address is onetcenter.org) developed for and funded by the U.S. Department of Labor. It rates jobs according to level of education, preparation required, and duties. Athletic trainers (ATCs are code 29-9091.00) have a Specific Vocational Preparation (SVP) rating of 8+, versus a 7 to <8 for occupational therapists (code 29-1122.00), and a 4 for occupational therapy assistants (code 31-2011.00) and physical therapy assistants (code 31-2021.00).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- As a graduate student Athletic Training student in a College of Health Sciences in an Academic Medical Center at a Division I university, I am disappointed that CMS has taken such a myopic view of allied health professionals. I am confident and have data to support that students like myself and other credentialed professionals in my field are competent allied health professionals who are experts in treatment and rehabilitation of the physically active. I am confident that your exclusion of athletic trainers as currently written in the proposal was an oversight. I am sure our legislative representative in Kentucky, particularly, Senator Jim Bunning would disagree with your stance. Senator Bunning was a professional athlete who was privy to the advantages and academic preparation and skills of a certified athletic trainer.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

John A. Ostrowski, ATC
Graduate Assistant Athletic Trainer
University of Kentucky Swimming & Diving
Nutter Training facility
136 Jerry Claiborne Way
Lexington KY 40506-0277
---
*Office: (859) 257-6521
*Fax: (859) 257-8953
*E-Mail: John.Ostrowski@uky.edu

Submitter : Dr. Hays **Date & Time:** 09/09/2004 12:09:36

Organization : Dr. Hays

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am in support of this change, and I feel it would provide better services to patients and to the patient's family.

CMS-1429-P-1056

Submitter : Dr. Robert Eckert **Date & Time:** 09/09/2004 01:09:42

Organization : The Psychological

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am writing in support of the recommended changes which would allow general supervision by a licensed psychologist to be sufficient for (psychologist-trained) technicians to administer and score psychological tests. This modus operandi has existed in the field of neuropsychology for decades, in this country as well as elsewhere (Canada, Great Britian, Russia to name a few).

The field of psychology has as its roots the development and utilizaion of increasingly psychometrically sophisticated instruments. Indeed, at one time psychotherapy was not the province of psychology, but testing was the 'bread and butter' of the field, i.e., a referral to a psychologist meant an evaluation was needed.

American Psychological Association (APA) - Accredited doctoral training programs in clnical psychology require the successful completion of several courses devoted exclusively to psychometrics, including personality, projective, and psychopathology testing, intellectual testing, and the related domains of research design and advanced statistics. Ethics surrounding psychological evaluation issues is also taught at all levels of our training curriculum (coursework, supervised clinical experiences, and the carrying out of research using psychological testing). Collectively, these requirements and training experiences not only substantially exceed those of medical school training programs with regard to psychometrics under typical circumstances (based on conversations with medical doctors with regard to this issue), but also support the proposed changes for doctoral level psychologists and the quality of supervision and training they can provide to their technicians.

Thank you in advance for making this important, necessary change.

Submitter : Dr. Lawrence Eskew **Date & Time:** 09/09/2004 01:09:37

Organization : Piedmont Urological Associates

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

The August 5 proposed rule lists estimated 2005 payments for only three urology drugs. Although these drugs represent 94 percent of 2003 drug payments for urology, there are still important drugs for which we have no information. For example, bladder cancer drugs, which in some cases are already reimbursed less than they cost, are not on the list. Also, actual 2005 payments will be based on third quarter 2004 data, which won't be available until after October 30. How can I assess the impact of payment changes on my practice and my patients when I don't even have a complete list of estimated 2005 payments? It is unfair to expect anyone to operate a business under such uncertain conditions, especially when that business is caring for cancer patients. Therefore, CMS should release a complete list of estimated ASPs to physicians for review and comment as soon as possible. And, if there are problems validating ASP data, CMS should seriously consider delaying implementation of the ASP payments. At the very least, if CMS does go ahead with January 1 implementation of ASP payments, the payments should be considered interim so that they could be further refined as more data is gathered on the payment changes.

I have grave concerns about the impacts the drug payment changes will have on urology patients-particularly cancer patients. According to the proposed rule published on August 5, urologists receive 37 percent of their total Medicare revenue from drugs and their Medicare drug revenue will decrease by 36 percent between 2004 and 2005. Such a short transition time for these massive payment reductions has the potential to greatly disrupt or hinder treatment for urology patients who currently receive drug therapy in the office for prostate cancer, bladder cancer, interstitial cystitis and other urological diseases.

I will not be able to continue to provide drugs to patients in my office if the payments are lower than my cost of buying and administering a drug. This is especially true for Medicare patients who do not have Medigap policies. With a 6 percent markup, I can not afford to order, stock and cover the bad debt associated with it for patients that do not have supplemental Medicare coverage. Many of my Medicare patients are poor and will not be able to pay the co-pay up front, meaning that they may choose to forego the proper care. Another option would be for me to write a prescription for my patients to have filled and then bring to the office. However, I'm not sure if the Medicare rules will allow me to do that.

As a small business owner, it is difficult to adapt so quickly to such large payment cuts, and I will have to make drastic changes in my practice when payments are based on average sales price (ASP) in 2005. These changes include closing satellite offices, laying off employees, discontinuing or limiting the types of treatment I am able to offer to Medicare patients, or sending patients to the hospital for drug administration (where they will pay a higher co-pay).

These cuts are coming on top of cuts that already went into place in January 2004, and I have only had one year to reevaluate and restructure my business plan, budget and patient care plans in light of these drastic payment changes. I can't recall any other major change in the Medicare program that was implemented in such a short time without some sort of transition time built in to mitigate impacts.

CMS-1429-P-1058

Submitter : Ms. James Doeberling **Date & Time:** 09/09/2004 01:09:28

Organization : Doeberling-Muccio physical Therapy

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I have had patients come to Physical Therapy after being mistreated by a massage therapist in a Physician office who have become dramatically worse. what started as a low back pain was transcended into a neurologically involved herniated disc because the exercises given (flexion) pushed the disc posteriorly against the nerve. The comment to the patient "I fixed your back now find a specialist to take care of your leg".Office personnel are not trained to administer PT in a proper and safe manner. I am appalled that anyone other than a PT can administer rehab for a Stroke, amputee, cerebral palsy,paralyzed or musculoskeletal patient.then can administer general modalities but not in a safe, effective and warrented manner.

physician

CMS-1429-P-1059

Submitter : Dr. CHARLES STEIGER **Date & Time:** 09/09/2004 01:09:21

Organization : Dr. CHARLES STEIGER

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

As the only practicing urologist in this area of Ohio I am quite concerned about the cuts in medical reimbursements that are being proposed for 2005.

These changes, dated August 5, lists estimated 2005 payments for only three urology drugs. Although these drugs represent 94 percent of 2003 drug payments for urology, there are still important drugs for which we have no information. For example, bladder cancer drugs, which in some cases are already reimbursed less than they cost, are not on the list. Also, actual 2005 payments will be based on third quarter 2004 data, which won't be available until after October 30. How can I assess the impact of payment changes on my practice and my patients when I don't even have a complete list of estimated 2005 payments? It is unfair to expect anyone to operate a business under such uncertain conditions, especially when that business is caring for cancer patients. Therefore, CMS should release a complete list of estimated ASPs to physicians for review and comment as soon as possible. And, if there are problems validating ASP data, CMS should seriously consider delaying implementation of the ASP payments. At the very least, if CMS does go ahead with January 1 implementation of ASP payments, the payments should be considered interim so that they could be further refined as more data is gathered on the payment changes.

I have grave concerns about the impacts the drug payment changes will have on urology patients-particularly cancer patients. According to the proposed rule published on August 5, urologists receive 37 percent of their total Medicare revenue from drugs and their Medicare drug revenue will decrease by 36 percent between 2004 and 2005. Such a short transition time for these massive payment reductions has the potential to greatly disrupt or hinder treatment for urology patients who currently receive drug therapy in the office for prostate cancer, bladder cancer, interstitial cystitis and other urological diseases.

I will not be able to continue to provide drugs to patients in my office if the payments are lower than my cost of buying and administering a drug. This is especially true for Medicare patients who do not have Medigap policies. With a 6 percent markup, I can not afford to order, stock and cover the bad debt associated with it for patients that do not have supplemental Medicare coverage. Many of my Medicare patients are poor and will not be able to pay the co-pay up front, meaning that they may choose to forego the proper care. Another option would be for me to write a prescription for my patients to have filled and then bring to the office. However, I'm not sure if the Medicare rules will allow me to do that.

As a small business owner, it is difficult to adapt so quickly to such large payment cuts, and I will have to make drastic changes in my practice when payments are based on average sales price (ASP) in 2005. These changes include discontinuing or limiting the types of treatment I am able to offer to Medicare patients, or sending patients to the hospital for drug administration (where they will pay a higher co-pay).

These cuts are coming on top of cuts that already went into place in January 2004, and I have only had one year to reevaluate and restructure my business plan, budget and patient care plans in light of these drastic payment changes. I can't recall any other major change in the Medicare program that was implemented in such a short time without some sort of transition time built in to mitigate impacts.

I would appreciate that these factors be taken into consideration prior to the implementation of said policy changes.

Sincerely yours

Charles A. Steiger, M.D.
Marietta, OH 45750

CMS-1429-P-1060

Submitter : Mr. Sean Ahonen **Date & Time:** 09/09/2004 01:09:58

Organization : National Athletic Trainers' Association

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy - Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:
There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Sean Ahonen

CMS-1429-P-1061

Submitter : Dr. Jeffrey Kixmiller **Date & Time:** 09/09/2004 02:09:08

Organization : Private Practice

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Please consider this request from a dedicated, experienced psychologist to support our ability (Psychologists) to supervise technicians. Our education is highly geared to such endeavors and it is a core skill in our training, unlike most other professions, including health care. Thank you for considering one individual's opinion.

CMS-1429-P-1062

Submitter : Ms. Florence Price **Date & Time:** 09/09/2004 02:09:42

Organization : National Athletic Trainers' Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

"Please see attached file"

CMS-1429-P-1062-Attach-1.doc

Florence Price A.T.,C.
814 Anchor Drive
Forked River, N.J. 08731

Attachment to # 1062
September 8, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I feel that the recent proposal that you developed would limit the providers of " incident to" services in clinics and in physician offices. The quality of the health care for the Medicare patients would be reduced and the cost associated with the service would increase. This proposal needs to be rethought so that the health care system functions properly with qualified health care professionals (including Certified Athletic Trainers) providing these important services.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the

Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but also, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Florence Price A.T.,C.

Submitter : Dr. Kenneth Rider **Date & Time:** 09/09/2004 03:09:52

Organization : Dr. Kenneth Rider

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

In this era of rising health care costs, it is obvious that the use of professional assistants in psychological diagnostic testing, under appropriate supervision, should be encouraged. It is beyond my comprehension that any responsible person could think that a medical doctor, but not a psychologist, would provide appropriate supervision for psychological testing.

CMS-1429-P-1064

Submitter : Dr. William Blaylock **Date & Time:** 09/09/2004 03:09:37

Organization : Mobile Urology Group

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

The August 5 proposed rule lists estimated 2005 payments for only three urology drugs. Although these drugs represent 94 percent of 2003 drug payments for urology, there are still important drugs for which we have no information. For example, bladder cancer drugs, which in some cases are already reimbursed less than they cost, are not on the list. Also, actual 2005 payments will be based on third quarter 2004 data, which won't be available until after October 30. How can I assess the impact of payment changes on my practice and my patients when I don't even have a complete list of estimated 2005 payments? It is unfair to expect anyone to operate a business under such uncertain conditions, especially when that business is caring for cancer patients. Therefore, CMS should release a complete list of estimated ASPs to physicians for review and comment as soon as possible. And, if there are problems validating ASP data, CMS should seriously consider delaying implementation of the ASP payments. At the very least, if CMS does go ahead with January 1 implementation of ASP payments, the payments should be considered interim so that they could be further refined as more data is gathered on the payment changes.

I have grave concerns about the impacts the drug payment changes will have on urology patients-particularly cancer patients. According to the proposed rule published on August 5, urologists receive 37 percent of their total Medicare revenue from drugs and their Medicare drug revenue will decrease by 36 percent between 2004 and 2005. Such a short transition time for these massive payment reductions has the potential to greatly disrupt or hinder treatment for urology patients who currently receive drug therapy in the office for prostate cancer, bladder cancer, interstitial cystitis and other urological diseases.

I will not be able to continue to provide drugs to patients in my office if the payments are lower than my cost of buying and administering a drug. This is especially true for Medicare patients who do not have Medigap policies. With a 6 percent markup, I can not afford to order, stock and cover the bad debt associated with it for patients that do not have supplemental Medicare coverage. Many of my Medicare patients are poor and will not be able to pay the co-pay up front, meaning that they may choose to forego the proper care. Another option would be for me to write a prescription for my patients to have filled and then bring to the office. However, I'm not sure if the Medicare rules will allow me to do that.

As a small business owner, it is difficult to adapt so quickly to such large payment cuts, and I will have to make drastic changes in my practice when payments are based on average sales price (ASP) in 2005. These changes include closing satellite offices, laying off employees, discontinuing or limiting the types of treatment I am able to offer to Medicare patients, or sending patients to the hospital for drug administration (where they will pay a higher co-pay).

These cuts are coming on top of cuts that already went into place in January 2004, and I have only had one year to reevaluate and restructure my business plan, budget and patient care plans in light of these drastic payment changes. I can't recall any other major change in the Medicare program that was implemented in such a short time without some sort of transition time built in to mitigate impacts.

CMS-1429-P-1065

Submitter : Mr. Joel Saulsberry **Date & Time:** 09/09/2004 03:09:54

Organization : Mr. Joel Saulsberry

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

attached

CMS-1429-P-1065-Attach-1.doc

Attachment to # 1065
September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Joel Saulsberry
Athletic Training Student at Southwestern Oklahoma State University

Submitter : Dr. Timothy Shaver **Date & Time:** 09/09/2004 03:09:03

Organization : Arthritis and Rheumatology Clinics of Kansas

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

To Whom it May Concern:

I am writing you regarding Medicare's final 2005 Physician Fee Schedule as it relates to CMS implementation of the Medicare Modernization Act of 2003. As the president of a group of physicians in a single-specialty Rheumatology group practice, we are becoming increasingly involved in the administration of complex biololgic intravenous infusions. These infusions substantially affect the health of our patients and are a tremendous asset in the management of chronic debilitating illnesses such as rheumatoid arthritis, psoriatic arthritis, and ankylosing spondylitis, to name a few. We anticipate that the use of such infusions will substantially increase in the future as more agents are becoming available. At the present time, Infliximab (Remicade) is our main agent, but we anticipate adding other similar therapies as they are approved for the treatment of the illnesses we see, such as Rituximab (Rituxan) and a new agent that is under development known as Abatacept, as well as many other potential infusion therapies. In our office, we are remodeling and including an infusion center that will be dedicated to the administration of such agents in a comfortable, cost-effective outpatient setting. These infusions require a significant amount of nursing supervision and training, and there is an occasional infusion reaction requiring which has to be dealt with by the administration of intravenous "push" medications such as diphenhydramine (Benadryl).

Given the above level of complexity and supervision that is required to administer such medications, I and my colleagues are quite concerned about some of the policies mentioned above. First of all, the Medicare Modernization Act does change the way physicians will be reimbursed by Medicare for administering such office-based therapies. Not only would this affect oncologists, but it would significantly affect rheumatologists and gastroenterologists who administer some of the above medications. The ASP plus 6 for drug reimbursement would decrease by 20-25% the amount we would collect and would lead to a loss of revenue for drug acquisition alone. Considering this fact, we will be restricted to what medications we can provide in the office setting and will be forced to send patients to the hospital to receive these infusions, which will substantially increase costs in the long run. I am concerned that this will affect my ability to provide quality care for Medicare patients.

We do strongly support the concept of a patient management code to capture costs incurred in managing a difficult or chronic situation and hope that this will help offset some of the costs involved. We also would strongly support a "level playing field" between our specialty and oncology, where similar outpatient therapies are commonly administered. We feel that our reimbursement levels should be consistent, given the fact that the medications we administer require a high level of supervision, a similar degree which is required in an outpatient oncology setting.

I and the physicians in my practice appreciate your time and attention to this matter and trust that you will make the right decision regarding these above issues to impact the overall health of Medicare patients and cost-effectiveness of the delivery of this care. Please contact us if you have any further questions or concerns.

Sincerely,

Timothy S. Shaver, M.D., F.A.C.P.

CMS-1429-P-1067

Submitter : Dr. Wayne General **Date & Time:** 09/09/2004 03:09:43

Organization : National Academy of Neuropsychologists

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support the CMS rule change regarding outpatient supervision of technicans.

CMS-1429-P-1068

Submitter : Mr. Michael Rosenberg **Date & Time:** 09/09/2004 12:09:49

Organization : Presbyterian Rehabilitation Center

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

CARE PLAN OVERSIGHT

Please remove the physician supervision of physical therapy care requirment from the regulations. Licensed physical therapists have the training and national board examination requirments to provide physical therapy services without being required to have a physician, nurse practitioner or physician assistant sign off on the plan of care.

THERAPY - INCIDENT TO

As a licensed Physical Therapist, I support the implementation of rules restricting provision of therapy services to only licensed Physical Therapists of Physical Therapy Assistants. Nurses, Physician Assistants, Nurse Practioners and Chiropractors are not educated in the implementation of physical therapy services. Allowing these disciplines to provide and bill for Physical Therapy would be fraudulant, unethical and potentially harmful to the patient. If these disciplines are allowed to provide services and bill for physical therapy, will PT's be allowed to treat and bill services as Chiropractic, write prescriptions under the guidelines as a NP, or PA can??? I have had the opportunity to evaluate and treat patients after they had recieved overutilization of services from chiropractors of which no improvement in function or pain was seen. This extends to the patient having palliative care for their injury in a physicians office while having "treatment" by a technician. This type of service only aids in the excessive costs being spent for healthcare, of which studies have shown that chiropractic care is not the most cost effective form of treament when compared to other disciplines.

THERAPY STANDARDS AND REQUIREMENTS

ONLY LICENSED PHYSICAL THERAPISTS AND PHYSICAL THERAPY ASSISTANTS SHOULD BE ALLOWED TO BILL AND PROVIDE PHYSICAL THERAPY SERVICES!!!!
As a licensed physical therapist, I surely would not provide and bill chiropractic or surgical services.

CMS-1429-P-1069

Submitter : Miss. Jennifer LaFalce **Date & Time:** 09/09/2004 12:09:47

Organization : Miss. Jennifer LaFalce

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

PLEASE SEE THE ATTACHED FILE

CMS-1429-P-1069-Attach-1.doc

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1420-P
P.O. Box 8012
Baltimore, MD 21244-8012

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To Athletic Training Profession

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. This proposal should not be adopted because qualified health care professionals would no longer be able to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens,

Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- As a certified athletic trainer and graduate student of athletic training in a College of Health Sciences in an Academic Medical Center, my fellow students and I are disappointed that CMS has taken such a myopic view of allied health professionals. I am confident and have data to support that my fellow students and I are competent allied health professionals who are experts in treatment and rehabilitation of the physically active. I am confident that your exclusion of athletic trainers as currently written in the proposal was an oversight. I am sure our legislative representative in Kentucky, particularly, Senator Jim Bunning would disagree with your stance. Senator Bunning was a professional athlete who was privy to the advantages and academic preparation and skills of a certified athletic trainer.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Jennifer M. LaFalce, ATC-L
Division of Athletic Training
Graduate Assistant
University of Kentucky
---
*Office: (859) 257-6521
*Fax: (859) 323-8953
*E-Mail: jmlafa2@uky.edu

Submitter : Ms. Michelle Thibeault **Date & Time:** 09/09/2004 12:09:09

Organization : Ms. Michelle Thibeault

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

This letter is in support of the CMS decision to only allow trained and licensed physical therapists to recieve payment for billed physical therapy codes in a physicians office. Physical therapists are regulated through state license and education. Allowing untrained persons to provide therapeutic interventions is irresponsible and dangerous to patients.

CMS-1429-P-1071

Submitter : Mrs. kristy finley **Date & Time:** 09/09/2004 12:09:34

Organization : south western oklahoma state university /student

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

attached

CMS-1429-P-1071-Attach-1.wpd

September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Kristy Finley

Athletic Training Student at Southwestern Oklahoma State University

Submitter : Mr. Larry Ayers **Date & Time:** 09/09/2004 02:09:59

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Larry Ayers
22310 N. 700th Rd.
Table Grove, IL 61482
09-09-2004
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy ? Incident To
Dear Sir/Madam:
I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.
During the decision-making process, please consider the following:
 Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
 There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
 In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
 To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
 Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
 These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.
In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.
Sincerely,
Larry Ayers
22310 N. 700th Rd.
Table Grove, IL 61482

CMS-1429-P-1073

Submitter : Dr. Joesph Vargas, III **Date & Time:** 09/09/2004 03:09:38

Organization : Vermont Orthopeadic Clinic

Category : Physician

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1073-Attach-1.doc

September 8, 2004

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1476-P
P.O. Box 8013
Baltimore, MD 21244-8013

Dear Sir/Madam:

We are writing to express our concern over recent discussions about limiting providers of "incident to" services in physician offices. If adopted, this proposal would eliminate the ability of a qualified allied medical professional to provide these important services. We currently utilize the services of a certified athletic trainer to provide in-office therapeutic exercise programs at the time of a patient visit. This has resulted in an increase in the quality of care that is delivered to our patients. If this proposal were adopted, it would eliminate the ability of qualified health care professionals to provide these important services, which will ultimately increase costs and place an undue hardship on the Medicare/Medicaid system.

Please consider the following during the decision making process:

- As physicians, we feel we have the right to delegate the care of our patients to trained individuals whom the physician deem knowledgeable and trained in the protocols to be administered. This includes certified athletic trainers who are licensed in the State of Vermont.

- In most cases, the change to "incident to" services reimbursement would severely limit our ability to provide patients with comprehensive, quickly accessible therapeutic services. In a busy orthopaedic practice, the physician, in many cases does not have the time to provide his or her patients with therapeutic exercise instruction. We would then be forced to send our patients to more costly physical therapy services, which would result in an undue hardship on the patient and drive up costs to the system as a whole.

- We practice in a very rural area. If we are no longer allowed to utilize a certified athletic trainer working as an "incident to" the physician, it is very likely that our patients will suffer delays in receiving therapeutic treatment because they will be forced to travel unnecessarily for treatment which could have been received here in our office at the time of their visit. This will result in an unnecessary hardship for patients especially during the winter months.

- Patients who would be denied access at our facility would be referred to an outside facility where access is typically delayed, especially in a rural area such as Vermont. This will cost the patient time and travel expense, and delays will hinder the patient's recovery time, which will ultimately add to the medical expenditures of Medicare.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. As mentioned previously, certified athletic trainers are licensed allied medical professionals in the state of Vermont.

- The list of providers being recommended for this Medicare reimbursement is arbitrary. Any number of providers who can administer therapy services in a physician's office have education and credentials that exceed those held by PTAs and OTAs- such as certified athletic trainers, nurse practitioners and physician assistants. This is not to suggest that PTAs and OTAs are not qualified, but simply that other practitioners are at least as qualified.

The physician signs off on an "incident to" bill. This is a sufficient stamp of quality assurance for those procedures and no other means is needed. It would be highly counterproductive and unethical for a physician to designate unqualified providers to administer in-office therapeutic services to our patients. It is imperative that physicians continue to make decisions in the best interests of our patients.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Joseph H. Vargas III, MD, CEO
David Bahnson, MD
Melbourne Boynton, MD
Edgar Holmes III, MD
Ann Stein, MD
David Keller, MD

CMS-1429-P-1074

Submitter : Mr. Mark Altland **Date & Time:** 09/09/2004 03:09:46

Organization : Mr. Mark Altland

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Attach

CMS-1429-P-1074-Attach-1.doc

September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Mark Altland

Athletic Training Student at Southwestern Oklahoma State University

CMS-1429-P-1075

Submitter : Ms. Jean Fruh **Date & Time:** 09/09/2004 03:09:15

Organization : Ms. Jean Fruh

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly oppose this proposal as it is based on inadequate information, missing information, and misinformation. Professional athletic trainers are highly educated individuals who must meet high standards for professional certification and licensure. As an emerging field in health care we are frequently under-appreciated for the skills and level of health care we are trained to provide. To say that a physical therapy assistant with far less education and experience is more qualified to provide rehabilitation services is a judgment based on an inaccurate perception of the athletic training profession. As an educator and athletic trainer with over twenty years of experience I am fully aware of the rigorous academic and practical experiences that are necessary to prepare future professionals in my field. As such, I write to you today to express my strong opposition against this proposal. Thank you.

CMS-1429-P-1076

Submitter : Ms. aimee skillern **Date & Time:** 09/09/2004 03:09:43

Organization : southwestern oklahoma state

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

please see attached file

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: The attachment cited in this document is not included for one of the following reasons:

1. Improper format.
2. The submitter did not follow through when attaching the document.
3. The submitter had intended to attach more than one, but not all attachments were received.
4. The type of document provided was a password-protected file. CMS was given read-only access to the document.

We cannot provide this electronic attachment to you at this time, but you would like to view any of those that are not posted on this web site, you may call CMS and schedule an appointment at **1-800-743-3951**. Those comments along with its attachment(s), that could not be posted, will be available for your viewing at that time.

Submitter : Mr. Jeffery Willson **Date & Time:** 09/09/2004 03:09:34

Organization : K Valley Orthopedics P. C.

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I'm an Athletic Trainer ATC, that has worked in an orthopedic sports medicine clinic for the past 20 years in Michigan. To change the medicare law in reguards to 3rd party payment for the services given to patients here in our clinic by ATC's, would be very unfavorable,and a disservice to our patients. This will cost jobs to many ATC's to include myself. If PT's are driving this move they must not have any experience working side by side with ATC's. I have worked along side PT's for the past 20 years and we have great respect for each other and the care we both provide to our patients. Please take another look at changing this law and not making a change. Jeff Willson ATC.

CMS-1429-P-1078

Submitter : Dr. Stephen Guice **Date & Time:** 09/09/2004 03:09:19

Organization : S. Lee Guice, III, MD, PLLC

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

I am a 58-year-old Board Certified Urologist in solo practice. Approximately half of my patient population are Medicare recipients. The cuts that have been proposed to the reimbursement for many of the drugs which I provide to my cancer patients will prove deleterious to their health care. Specifically, the reimbursement that has been proposed for such medications as Zoladex, Lupron, and BCG is such that, as a solo practitioner with the inability to access volume discounts,it will cause me to either make the patients purchased their own medications and bring them to my office or to send those patients to another facility. This type of change will clearly be disruptiveto this patient group and, with them being on fixed incomes, will probably lead to less than optimal care for their cancers in that they do not have the financial wherewithal to pay for these drugs out-of-pocket and then to seek reimbursement from Medicare.
Please understand that what Medicare reimburses the physician frequently drives what other payers reimburse, in that they pay a percentage of the Medicare reimbursement. Consequently, the Medicare reimbursement drives the total reimbursement picture. My office staff of six employees has gone without an increase in compensation for the past 18 months. All of my expenses continue to go up including rent, utilities, insurance, office supplies, medical supplies, and others. Further reductions which will cause an even greater loss in the profit of this practice will result in a reduction of services to the patients and to a cut in the number of people employed in this practice.

CMS-1429-P-1079

Submitter : Mr. Kevin Gerlach **Date & Time:** 09/09/2004 03:09:20

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attachment

CMS-1429-P-1079-Attach-1.doc

Kevin Gerlach
646 Bedford Drive
Crystal Lake, IL 60014

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that

physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kevin Gerlach
646 Bedford Drive
Crystal Lake, IL 60014

CMS-1429-P-1080

Submitter : Mr. kevin vandenakker` **Date & Time:** 09/09/2004 03:09:05

Organization : huntington college

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As I understand the issues, the adoption of the change would severly impair the right to practice athletic training. Athletic training is a profession dedicated to the health and welfare of patients in need of therapy, rehabilitaiton and other components for which the athletic trainer has been educated. Those of us that have been licensed and certified to practice athletic training have gone through rigorous education in the allied health fields in order to meed, assist, rehabilitate, and return the injured party to activities of daily living as well as increased physical fitness and sport. (depending on the patient) Limiting the physician by excluding athletic trainer's will not help the patients; in many cases the view is that of "cornering" the market (by physical therapists) by excluding the athletic trainer's right to practice that which they are fully qualified for. The education of athleitc trainer's should not be in question. There are rigorous academic and board standards each must obtain before receiving the license or certification (state dependant). Many athletic trainers work as extensions of a physician's practice-necessary daily endeavours that the physician has full confidence in the athletic trainer providing as an expert in the assigned field. Let the physician make the choice of the direction he chooses for his patients, not that mandated by a billing code for which he can/cannot be reimbursed - Please

Submitter : Dr. Timothy Taft **Date & Time:** 09/09/2004 03:09:56

Organization : University of North Carolina

Category : Physician

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Name: Timothy N. Taft, MD
Organization: University of North Carolina
Address: CB 7055 UNC
City, State: Chapel Hill, NC 27599

September 9, 2004
Re: Therapy ? Incident To
It is neither necessary nor advantageous for CMS to institute the changes proposed, and I request that the change not be implemented. This CMS recommendation is a health care access deterrent.
As a physician active daily in the practice of Orthopaedic Sports Medicine I am concerned over the recent proposal that would limit providers of ?Therapy-incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals such as Athletic Trainers to provide these important services. This policy change would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this necessary service and place an undue burden on the health care system.
Show me (yes I am originally from Missouri) the evidence that there is a problem that needs fixing.
Limiting ?incident to? services to physical therapists, PT assistants, occupational therapists, OT assistants, and speech and language pathologists limits our ability as physicians to provide optimal care for our patients.
It is likely that adoption of this policy will lead more physicians to eliminate or severely limiting the number of Medicare patients they accept.
In many cases, the proposed change to ?incident to? services reimbursement would make it difficult for the physician to provide patients with important health care. The proposed changes will force the patient to see the physician and therapist separately, causing significant inconvenience and additional expense. Access to services would be delayed and rural patients in particular will incur increased costs of both time and travel expense. Treatment delays would hinder the patient?s recovery and/or increase recovery time, thus adding to the medical expenditures of Medicare.
It is imperative that physicians continue to make decisions in the best interests of their patients. This proposed change prevents that from happening and the care of our patients will suffer.
It is neither necessary nor advantageous for CMS to institute the changes proposed.
Sincerely, TNTaft

Submitter : Mr. Cris Stickley **Date & Time:** 09/09/2004 03:09:44

Organization : Mr. Cris Stickley

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File

CMS-1429-P-1082-Attach-1.doc

Cris Stickley
4426 Festive Ct.
Cincinnati, Ohio 45245

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments

elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are

unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- According to the federal government, the preparation of an athletic trainer is rated as equivalent to a PT's, and it is more significant than that of an OT, OTA or PTA. O*NET OnLine is a Web site (the web address is onetcenter.org) developed for and funded by the U.S. Department of Labor. It rates jobs according to level of education, preparation required, and duties. Athletic trainers (ATCs are code 29-9091.00) have a Specific Vocational Preparation (SVP) rating of 8+, versus a 7 to <8 for occupational therapists (code 29-1122.00), and a 4 for occupational therapy assistants (code 31-2011.00) and physical therapy assistants (code 31-2021.00).
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Cris Stickley

4426 Festive Ct

Cincinnati, Ohio 45245

CMS-1429-P-1083

Submitter : Mrs. Janet Sullivan **Date & Time:** 09/09/2004 03:09:36

Organization : NATA

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient. There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.
I personally feel that a certified athletic trainer can provide care for an athlete just as well as a physical therapist or a physical therapist assistant who hasn't had as much training as a certified athletic trainer has.

Sincerely,
Janet Sullivan

CMS-1429-P-1084

Submitter : Mr. craig carnell **Date & Time:** 09/09/2004 03:09:05

Organization : national athletic trainer association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

IMPACT

IF cms 1429-p is passed you will cause athletic trainers to suffer without jobs and put extra work loads on physical therapist in the clinical setting. Athletic trainers in a clinical setting can add a sport minded rehab program for athletes that maybe in the clinic. This issue really should not pass. The whole system will be turned up side down.

Submitter : Dr. Timothy Henry **Date & Time:** 09/09/2004 03:09:56

Organization : SUNY Brockport

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attached file

CMS-1429-P-1085-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Timothy J. Henry, PhD, ATC

Director, Athletic Training Program

SUNY College at Brockport

350 New Campus Drive

Brockport, NY 14420

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

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- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Timothy J. Henry

Submitter : Mr. Bill Krauss **Date & Time:** 09/09/2004 04:09:20

Organization : St. James High School

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Attached file

CMS-1429-P-1086-Attach-1.doc

Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Bill Krauss M.Ed. ATC/ SCAT
St. James High School
10800 Highway 707>
Murrells Inlet, SC 29576

Attachment to # 1086

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
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- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Bill Krauss

CMS-1429-P-1087

Submitter : Dr. Sidney Binks **Date & Time:** 09/09/2004 04:09:42

Organization : Neuropsychologist in Private Practice

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am in support of the CMS rule change regarding outpatient supervision of technicians. This has become a critical issue in the capacity to successfully run a private practice in neuropsychological assessment. We must be reimbursed appropriately for our services and we must be able to perform/supervise them in a way that is efficient - especially in this health care industry envrionment where efficiency seems to be valued more than patient care.

Submitter : Ms. Jennifer Bodensteiner **Date & Time:** 09/09/2004 04:09:01

Organization : National Athletic Trainer's Accociation

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I am writing in opposition of passing this program. It will severly limit the availablity of professionals to perform therapy on patients and thus decrease the level of care they receive. By doing so you are also saying that a certain number of professional are not qualified to provide a high quality of care and thus insulting those professional and their profession.

Submitter : Scott Gravatt **Date & Time:** 09/09/2004 04:09:16

Organization : NATA

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

Please note: The attachment cited in this document is not included for one of the following reasons:

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CMS-1429-P-1090

Submitter : Mr. Eric Schwartz **Date & Time:** 09/09/2004 04:09:38

Organization : NATA

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File!

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

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CMS-1429-P-1091

Submitter : Dr. Stephen Schmitz **Date & Time:** 09/09/2004 04:09:12

Organization : Dr. Stephen Schmitz

Category : Physician

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am a clinical neuropsychologist. The purpose of this letter is to express my very strong support for the Centers for Medicare and Medicaid Services' proposed rule change (as outlined in CMS-1429-P) that addresses the supervision of psychological and neuropsychological testing by doctoral-level psychologists.

As a clinical neuropsychologist I have completed advanced education and training in the science of brain-behavior relationships. I specialize in the application of assessment and intervention principles based on the scientific study of human behavior across the lifespan as it relates to both normal and abnormal functioning of the central nervous system. By virtue of my doctoral-level academic preparation and training, I possess specialized knowledge of psychological and neuropsychological test measurement and development, psychometric theory, specialized neuropsychological assessment techniques, statistics, and the neuropsychology of behavior (among others). Other health care providers (e.g., psychiatrists, neurologists) address these same patients' medical problems. However, our medical colleagues have not had the specialized knowledge and training (enumerated above) that is needed to safely direct the selection, administration, and interpretation of psychological and neuropsychological testing and assessment procedures in the diagnosis and care of Medicare and Medicaid patients.

My education and training uniquely qualifies me to direct test selection and to perform the interpretation of psychological and neuropsychological testing results that have been collected by non-doctoral personnel that assist with the technical aspects of psychological and neuropsychological assessments (i.e., administering and scoring the tests that I indicate). I am at all times responsible for the accuracy, validity and overall quality of all aspects of the psychological and neuropsychological assessments services that non-doctoral personnel provide under my supervision.

The current CMS requirement that neuropsychologists personally administer tests to Medicare and Medicaid patients adversely affects the overall population of Medicare and Medicaid patients because it results in neuropsychologists having less time for interviewing, test interpretation and the coordination of care. The existing requirement reduces the number of patients that each neuropsychologist can serve and results in fewer Medicare and Medicaid recipients being able to access psychological and neuropsychological services. Limited access to necessary care is already a concern in many rural and metropolitan areas. For these reasons, I strongly endorse this rule change because it will clearly benefit Medicare and Medicaid patients' by improving their access to psychological and neuropsychological assessment services.

CMS-1429-P-1092

Submitter : Mrs. Cheryl Ellis **Date & Time:** 09/09/2004 04:09:16

Organization : Doctors Hospital Sports Medicine

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

CMS-1429-P-1092-Attach-1.doc

CMS-1429-P-1092-Attach-2.doc

Doctors Hospital Medical Building II
3624 J. Dewey Gray Circle
Suite 302
Augusta, GA 30909

Phone: (706) 651-2270
FAX: (706) 651-2271

DOCTORS HOSPITAL
Rehab Health Center Central

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise

physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Cheryl Ellis, ATC/L

Doctors Hospital Medical Building II
3624 J. Dewey Gray Circle
Suite 302
Augusta, GA 30909

Phone: (706) 651-2270
FAX: (706) 651-2271

DOCTORS HOSPITAL
Rehab Health Center Central

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

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- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise

physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Cheryl Ellis, ATC/L

CMS-1429-P-1093

Submitter : Mr. Nicholas KIlpatrick **Date & Time:** 09/09/2004 04:09:31

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services is outrageous and unjustified

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Nicholas Kilpatrick, MS, ATC
103 New St.
Muncy, PA 17756

Submitter : Ms. Renee Connely **Date & Time:** 09/09/2004 04:09:27

Organization : Ms. Renee Connely

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

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CMS-1429-P-1095

Submitter : Miss. Lynn Ousley **Date & Time:** 09/09/2004 04:09:53

Organization : SWOSU Athletic Training Assoc.

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attachment

CMS-1429-P-1095-Attach-1.txt

Attachment #1095

September 8, 2004

School of Allied Health Sciences
Athletic Training Education Program
Southwestern Oklahoma State University
100 Campus Drive
Weatherford, OK 73096

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and

my right as a future health care practitioner.

Sincerely,

Lynn D. Ousley
Athletic Training Student at Southwestern Oklahoma State University

Submitter : Mr. Scott Rose **Date & Time:** 09/09/2004 05:09:09

Organization : PRORehab

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to strongly support the proposed personnel standards being considered to have the CMS only pay for physical therapy services when they are provided by a qualified individual, that being a physical therapist or a physical therapist assistant working under the supervision of a physical therapist. It makes no sense whatsoever that the CMS would even consider paying for PT services not performed by a PT or PTA. The only way to hold the provider of a service accountable for their actions is to have that provider meet standards of education deemed necessary to provide those services. PT's are licensed in the state that they practice in and are fully accountable for their actions both in an ethical and legal sense. PTs that work in a physician should be just that, PTs rather than some lesser trained individual. PT programs around the country are going to the doctorate level of education, so it would be impossible for a lesser trained individual that has not graduated from an accredited PT program to be taught the profession inside of a physician office. This truly should be a "no-brainer" in terms of legislation to pass this requirement and protect the innocent public at large from having unqualified individuals providing services that they are in no way able to carry out, or more importantly, determine when interventions aren't going as expected or need to be changed.

Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, these services must be performed by qualified graduates of an accredited professional therapy education program as is required in the outpatient setting.

Thank you for your consideration,

Scott Rose, PT

Submitter : Mr. Randy Biggerstaff **Date & Time:** 09/09/2004 05:09:41

Organization : Lindenwood University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Please see attached file.

CMS-1429-P-1097-Attach-1.doc

CMS-1429-P-1097-Attach-2.doc

LINDENWOOD
LINDENWOOD UNIVERSITY ST. CHARLES, MISSOURI

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but

also, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Randy L. Biggerstaff, MS, ATC, ATL

209 S. Kingshighway • St. Charles, MO 63301-1695 • Phone: (636) 949-2000 • Fax: (636) 949-4910
www.lindenwood.edu

LINDENWOOD
LINDENWOOD UNIVERSITY ST. CHARLES, MISSOURI

September 9, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

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also, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Randy L. Biggerstaff, MS, ATC, ATL

209 S. Kingshighway • St. Charles, MO 63301-1695 • Phone: (636) 949-2000 • Fax: (636) 949-4910
www.lindenwood.edu

Submitter : Dr. Carolyn Jimenez **Date & Time:** 09/09/2004 05:09:01

Organization : West Chester Unversity

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1098-Attach-1.doc

Carolyn C. Jimenez, PhD, ATC
122 Wallingford Ave
Wallingford, PA 19086

January 14, 2005

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Carolyn C. Jimenez, PhD, ATC
122 Wallingford Ave
Wallingford, PA 19086

Submitter : Dr. Chad Starkey **Date & Time:** 09/09/2004 05:09:08

Organization : NATA Education Council/Northeastern University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attached text.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE AND MEDICAID SERIVICES
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS

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