

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

PRACTICE EXPENSE

without ASCO's proposed increase to offset chemotherapy reductions medicare beneficiaries will lose access to outpatient oncology care.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-2101-Attach-2.doc

CMS-1429-P-2101-Attach-1.doc

Attachment # 2101 (1 of 2)  
September 20, 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 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.

As a licensed physical therapist of 31 years and a certified and licensed athletic trainer of 19 years, I strongly believe that certified athletic trainers have the educational background and clinical skills necessary to provide quality rehabilitation services to patients of all ages. I have worked closely with, and been an instructor in both physical therapy and physical therapist assistant programs, as well as athletic training graduate and undergraduate curriculum programs and have personally witnessed athletic trainers’ skills and effectiveness in rehabilitation of the physically active. 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 pathologists 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 the United States to work with athletes to **prevent, assess, treat, and rehabilitate injuries**. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece this past summer to provide these same 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 a

personal fitness program 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 therapist assistants to provide these services.

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

Sincerely,

Wendeline K. Poppy MS, PT, ATC, LAT  
Physical Therapist, Assistant Athletic Trainer, Instructor  
Indiana University Sports Medicine Department  
1001 E. 17<sup>th</sup> St.  
Bloomington, IN 47408

Attachment # 2101 (22of 2)  
September 20, 2004

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

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Sincerely,

Wendeline K. Poppy MS, PT, ATC, LAT  
Physical Therapist, Assistant Athletic Trainer, Instructor  
Indiana University Sports Medicine Department  
1001 E. 17<sup>th</sup> St.  
Bloomington, IN 47408

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

DIAGNOSTIC PSYCHOLOGICAL TESTS

I strongly support the rule change outlined in CMS-1429-P. As a clinical neuropsychologist, my doctoral-level education, specialized knowledge, and training uniquely qualifies me amongst health care providers to effectively and appropriately direct the selection, administration, and interpretation neuropsychological testing and assessment procedures in the diagnosis and care of Medicare and Medicaid patients. However, while members of my profession are properly and exclusively charged with directing test selection and interpreting psychological and neuropsychological testing, results can be capably collected by non-doctoral personnel that assist with the technical aspects assessments (i.e., administering and scoring the tests that I indicate). At all times, I am responsible for the accuracy, validity and overall quality of all aspects of the assessment 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 patients because it results in neuropsychologists having less time for other important aspects of the assessment process, such as interviewing, interpretation, etc. It denies care to the most fragile members of our society. The proposed rule change would provide essential services in the form of access to psychological and neuropsychological assessment services, and therefore, I strongly advocate its enactment.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**IMPACT**

Comments: In Table 28 of this section there seems to be an error in explanatory comments related to J 9217 ? Leuprolide acetate suspension. In this section it states that ?\* The figures here for J9217 reflect the ASP prices submitted by the drug manufacturer. However, we assumed that Medicare carriers are applying 'least costly alternative' pricing and are using the J9202 price for J9217.?

? The reason I feel this is an error is because in Table 28, the ASP + 6% value for J9217 is listed as \$234.28 which is exactly the same as the ASP + 6% value for J9202 ? Goserelin acetate implant.

? The explanatory comments would suggest that the ASP prices submitted by the drug manufacturer for J9217 were exactly the same for J9217 and J9202. This does not seem likely. Was the wording in the explanatory comments meant to read ?\* The figures here for J9217 do not reflect the ASP prices submitted by the drug manufacturer. However, we assumed that Medicare carriers are applying 'least costly alternative' pricing and are using the J9202 price for J9217.?

? The importance of this possible error is that it makes the projections of the impact of ASP + 6% reimbursement for the two drugs J9202 and J9217 erroneous. Assuming that the ASP + 6% for J9217 is not the same as J9202, the ASP for J9217 needs to be known exactly. What if the manufacturer submitted ASP for J9217 is lower than J9202? In such a scenario, J9217 would become the ?least costly alternative?, and both J9202 and J9217 would be reimbursed at a lower amount than Table 28 indicates. Thus the impact on physicians, especially urologists, could be considerably greater than indicated in Table 26.

Suggestions: I would suggest that if the described explanatory comments in Table 28 are incorrect, they should be corrected. Better yet, it would be better to list the actual ASP prices submitted by the drug manufacturer for J9217 to show that the impact on physicians is accurate in the assumption that the ?least costly alternative? is indeed J9202 and not now J9217.

Additional Comments: An additional comment that I have about this section of the proposed rule is that under ASP + 6% reimbursement for injectable drugs, the ?least costly alternative? pricing methodology becomes very problematic.

? The best example of this is that under ?least costly alternative? pricing, the drug that is decreased in reimbursement (i.e. the more expensive drug), no longer is actually reimbursed at ASP + 6%, but rather is reimbursed theoretically to the physician at below the physician?s cost. The effect of this would be to essentially remove the option of the more expensive drug from the physician?s list of options for treating a patient, even if the patient uniquely required the drug for medically necessary reasons, since physicians can hardly be expected to provide services reimbursed below their costs to their patients. This is especially true in the case of J9202 and J9217 because of their expense, but would certainly be true also for other drugs that might be reimbursed using the ?least costly alternative? methodology.

? Theoretically, under ASP + 6% methodology, the ?least costly alternative? drug could change quarterly, from one drug to another, which would complicate claims adjudication for the Medicare contractors, as well as cause difficulties for physician?s offices trying to avoid purchase of drugs that might be reimbursed below cost.

Perhaps, under new ASP + 6% drug reimbursement, since (theoretically) financial incentives to use more expensive drugs that have the same action have been removed, the ?least costly alternative? for injectable drugs is a methodology for drug reimbursement that is no longer necessary.

Thank you for your attention to these comments.

James E. Alexander, Jr. MD

Comments are also submitted as a MS Word attachment



Attachment # 2103  
September 20, 2004

To: Centers for Medicare and Medicaid Services

From: James E. Alexander, Jr., MD, Healthcare Compliance Management, LLC  
609 Hyde Park Blvd, Cleburne, TX 76033-4541

**Subject:** Comments on file code CMS-1429-P - Medicare Program: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005

## **Section VII. IMPACT**

**Comments:** In Table 28 of this section there seems to be an error in explanatory comments related to J 9217 – Leuprolide acetate suspension. In this section it states that “\* The figures here for J9217 reflect the ASP prices submitted by the drug manufacturer. However, we assumed that Medicare carriers are applying "least costly alternative" pricing and are using the J9202 price for J9217.”

- The reason I feel this is an error is because in Table 28, the ASP + 6% value for J9217 is listed as \$234.28 which is exactly the same as the ASP + 6% value for J9202 – Goserelin acetate implant.
- The explanatory comments would suggest that the ASP prices submitted by the drug manufacturer for J9217 were exactly the same for J9217 and J9202. This does not seem likely. Was the wording in the explanatory comments meant to read “\* The figures here for J9217 **do not** reflect the ASP prices submitted by the drug manufacturer. However, we assumed that Medicare carriers are applying "least costly alternative" pricing and are using the J9202 price for J9217.” ?
- The importance of this possible error is that it makes the projections of the impact of ASP + 6% reimbursement for the two drugs J9202 and J9217 erroneous. Assuming that the ASP + 6% for J9217 is not the same as J9202, the ASP for J9217 needs to be known exactly. What if the manufacturer submitted ASP for J9217 is lower than J9202? In such a scenario, J9217 would become the “least costly alternative”, and both J9202 and J9217 would be reimbursed at a lower amount than Table 28 indicates. Thus the impact on physicians, especially urologists, could be considerably greater than indicated in Table 26.

**Suggestions:** I would suggest that if the described explanatory comments in Table 28 are incorrect, they should be corrected. Better yet, it would be better to list the actual ASP prices submitted by the drug manufacturer for J9217 to show that the impact on physicians is accurate in the assumption that the “least costly alternative” is indeed J9202 and not now J9217.

**Additional Comments:** An additional comment that I have about this section of the proposed rule is that under ASP + 6% reimbursement for injectable drugs, the “least costly alternative” pricing methodology becomes very problematic.

- The best example of this is that under “least costly alternative” pricing, the drug that is decreased in reimbursement (i.e. the more expensive drug), no longer is actually reimbursed at ASP + 6%, but rather is reimbursed theoretically to the physician at below the physician’s cost. The effect of this would be to essentially remove the option of the more expensive drug from the physician’s list of options for treating a patient, even if the patient uniquely required the drug for medically necessary reasons, since physicians can hardly be expected to provide services reimbursed below their costs to their patients. This is especially true in the case of J9202 and J9217 because of their expense, but would certainly be true also for other drugs that might be reimbursed using the “least costly alternative” methodology.
- Theoretically, under ASP + 6% methodology, the “least costly alternative” drug could change quarterly, from one drug to another, which would complicate claims adjudication for the Medicare contractors, as well as cause difficulties for physician’s offices trying to avoid purchase of drugs that might be reimbursed below cost.

Perhaps, under new ASP + 6% drug reimbursement, since (theoretically) financial incentives to use more expensive drugs that have the same action have been removed, the “least costly alternative” for injectable drugs is a methodology for drug reimbursement that is no longer necessary.

Thank you for your attention to these comments.

James E. Alexander, Jr. MD

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Our parents should be able to see an anthletic trainer or any other highly trainer medical professional that those choose. THIS SHOULD BE COVERED MY MEDICARE. THIS SHOULD BE OUR RIGHT!

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I WOULD LIKE TO COMMENT ON THE PROPOSED FEE REDUCTION FOR CPT CODE 36870 OF ALMOST 28% FOR 2005. THIS IS A PROCEDURE THAT WE PERFORM ON A FREQUENT BASIS IN OUR OUTPATIENT CLINIC. BEING AN OUTPATIENT CLINIC, THE BUDGET IS VERY TIGHT. WHEN WE CAN DO THE SAME PROCEDURE IN AN OUTPATIENT SETTING AS THE HOSPITAL CAN AND STILL ONLY GET 25% OF THE REIMBURSEMENT COMPARED TO THE HOSPITAL, YOU HAVE TO WONDER WHERE TH LOGIC IS IN DECREASING REIMBURSEMENT TO THE FACILITIES THAT ARE SAVING YOU 75%. I DON'T HAVE TO BE AN ACCOUNTANT TO KNOW THAT THIS DOES NOT MAKE ANY SENSE. PLEASE RECONSIDER THE FEE REDUCTION FOR 2005.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Basically what we are asking for is that medicare (Centers for Medicare & Medicaid Services a division of the department of Health and Human Services) CONTINUE TO NOT REGULATE (as has been the case since the inception of the Medicare program in 1965) who physicians choose to provide services for their patients. This would allow physicians to continue making the decisions about patient care, and not some guy in Washington D.C.

Submitter :

Date &amp; Time:

09/20/2004 05:09:05

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing in support of the CMS proposed requirement that physical therapists working in physicians offices be graduates of accredited professional therapist programs. That a relatively untrained individual can bill under a physician for services that should only be provided by a qualified therapist is an affront to our medical system. This is a shady way for unmoral physicians to pad their pockets at the expense of patients. This can result in a patient's insurance benefits being used up without the patient receiving the benefit intended. Then, when they go to a trained individual to finally get the treatment they need, they do not have the coverage and have to pay out of pocket. This is a travesty that needs to be corrected. Physical therapists and physical therapy assistants under the supervision of physical therapists are the only practitioners who have the necessary education and training to furnish physical therapy services. The reason we receive such extensive education and training is to become experts in our field. One would not expect to receive other services (i.e. medical, dental, chiropractic, etc.) from unqualified individuals who may have only had a crash course in treatment to work on them. Why should this be any different for physical therapy services? A financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist! This will negatively impact patient's outcomes as stated above. Without a thorough knowledge of the body, modifications to treatment programs cannot be made safely or effectively resulting in patients suffering needlessly!

Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree and the majority will offer the doctor of physical therapy (DPT) degree by 2005. Physical therapists must be licensed in the states where they practice and as such are responsible for their professional actions. Physical therapists receive extensive training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to provide comprehensive evaluations to tailor programs for their patients to obtain positive outcomes. This training is particularly important when treating Medicare beneficiaries to avoid wasted time and money.

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, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs. Why should the Medicare policy allow a different standard? Please correct this harmful practice by requiring physicians to provide the same level of care in their offices as the patient would receive by a trained therapist elsewhere if they want to receive the monetary compensation for those services!

Thank you for your time in considering my comments. I am sure you will make the right decision regarding this issue and stop this harmful practice.

Sincerely

Dale King, MPT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

My name is Bryan Ehnstrom and I am a student in the Athletic Training program at Kean University in Union, NJ. I'm writing this comment pertaining to the recent proposal to eliminate reimbursement for healthcare provided by Athletic Trainers. I just wanted to take this opportunity to voice my opinion about the proposal. I feel that the proposal would negatively effect me and everyone else in Athletic Training. I feel that Athletic Trainers are more than qualified to provide the many services a patient may need. Thank you for your time and allowing my opinion to be heard.

Submitter : Mrs. Sharon Smith Date & Time: 09/20/2004 05:09:31

Organization : Cuyahoga Community College PTA student

Category : Health Care Professional or Association

**Issue Areas/Comments**

**Issues 20-29**

IMPACT

I am a student in a Physical Therapy Assistant Program and have been working and studying very hard to finish my degree. I do not understand why a doctors office would not be reimbursed for my services and yet a rehab center would be. I have taken class upon class in an effort to be prepared for this profession and still have to take my license exam for the state of Ohio before I would be able to work. I would be under the direct supervision of a PT and feel that my schooling and clinical experience would enable me to treat a vast majority of patients. I look forward to becoming a PTA, and hope wherever my career takes me, that the facility would be reimbursed for my effort. I have taken many classes and should be a valuable asset to any type of PT setting. Thank-you.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Physical therapy sevice should be provided by licenced physical therapists in order to provide quality, knowlegeable care for all patients. By hiring unqualified personnel to perform rehabilitation needs, physicians are compromising the ethics of health care. Just because you passed an anatomy and physiology class, you are not qualified to provide rehabilitation services. This docket should pass for the continued quality of health care all americans deserve.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

PRACTICE EXPENSE

Given significantly higher expenses in 95060 (Santa Cruz, CA), they should be given equal payment with San Jose/Santa Clara M.D.'s

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please let physicians continue to make the decisions about who provides patient care.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support CMS's proposal to replace the requirement that physical therapists provide personal supervision (in the room) of physical therapist assistants in the physical therapist private practice office with a direct supervision requirement.

I previously served as the Vice President of the Federation of State Boards of Physical Therapy. While in that capacity, we developed a Model Practice Act that states utilize to standardize scope of practice and supervision requirements. The legislature in the State of Tennessee approved this language in our practice act.

The Rules Governing the Practice of Physical Therapy further define our state law. The Physical Therapist must perform the initial evaluation and develop a plan. If the PT delegates tasks to the Physical Therapist Assistant, the therapist must be no more than one hour away. The PT must perform and document re-evaluations at least every 30 days and complete the discharge evaluation when appropriate. Physical therapists cannot supervise more than three physical therapist assistants at a time.

The proposed change in the Rules for the Medicare Physician Fee Schedule for 2005 will reflect a standard of practice currently in place for all people requiring physical therapy services in our State. Thank you for the opportunity to support this change in the Rules.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I would like to comment on the decreased reimbersment for CPT 36870. See attachment.

Attachment # 2114

I would like to comment on the proposed fee REDUCTION for CPT 36870 of almost 28% for 2005. This procedure is done on chronically ill dialysis patients with multiple medical problems, and is technically very challenging and time consuming. In an era, in which Medicare is trying to reduce its overall costs, I believe looking for more efficient ways to treat patients would be encouraged. This reduction would effect OUTPATIENT clinics (who rely on the reimbursement to pay for overhead, expensive equipment, and specially trained staff, as well as ALL supplies associated with the procedure) The procedures in the outpatient setting save Medicare more than 75% of the inpatient reimbursement for the SAME procedure! I would think that CMS would encourage more procedures in the outpatient setting to help reduce the overall cost of dialysis access. I STRONGLY URGE CMS TO RECONSIDER THE REDUCTION, AND THE ADJUSTMENT OF THE RVU'S PRIOR TO THE FINAL RULE. We would be happy to provide you with more information/documentation to the more than 4000 procedures our outpatient centers have performed over the past few years (assuming a \$10,000 saving per procedure compared to the inpatient reimbursement.... that is a savings of over 150 MILLION DOLLARS TO MEDICARE.

Thank you

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

PLEASE SEE ATTACHED COMMENT IN REGARD TO cpt 36870

Attachment # 2115

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Thank you



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

PLEASE SEE ATTACHED COMMENTS ON CPT 36870

Attachment # 2116

I would like to comment on the proposed fee REDUCTION for CPT 36870 of almost 28% for 2005. This procedure is done on chronically ill dialysis patients with multiple medical problems, and is technically very challenging and time consuming. In an era, in which Medicare is trying to reduce its overall costs, I believe looking for more efficient ways to treat patients would be encouraged. This reduction would effect OUTPATIENT clinics (who rely on the reimbursement to pay for overhead, expensive equipment, and specially trained staff, as well as ALL supplies associated with the procedure) The procedures in the outpatient setting save Medicare more than 75% of the inpatient reimbursement for the SAME procedure! I would think that CMS would encourage more procedures in the outpatient setting to help reduce the overall cost of dialysis access. I STRONGLY URGE CMS TO RECONSIDER THE REDUCTION, AND THE ADJUSTMENT OF THE RVU'S PRIOR TO THE FINAL RULE. We would be happy to provide you with more information/documentation to the more than 4000 procedures our outpatient centers have performed over the past few years (assuming a \$10,000 saving per procedure compared to the inpatient reimbursement.... that is a savings of over 150 MILLION DOLLARS TO MEDICARE.

Thank you

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Before reduction in the outpatient oncology services in a physician office setting is finalized all information should be taken into account. The time & care that oncology patients and their families require to provide quality of care is enormous. It enlists the physicians and all staff members, whether clinical or administrative, in order to obtain approval, set treatment of plan, obtain drug, lab tests for proper treatment, review of ongoing tests, supplies, HIPAA and OSHA requirements, not to mention the emotional issues that arise for both the patient and their families. The training of oncology nurses is labor and time intensive. Billing for reimbursement of these services, Medicare and all payors, require more written documentation than any other specialty; thereby we must hire and train more staff for an oncology office than any other specialty.

The code up for review in Severe Reaction Management should definitely be approved and billable. Our physicians could spend in excess of one hour working to stabilize a patient who is having a severe reaction to a new medication and/or treatment plan in our office. These costs that certainly still be less if passed by CMS than what hospital charges for ER and/or admission, either in-patient or observation.

The four components that the Workgroup have made recommendations for are certainly areas that we address and services we provide to your subscribers on a daily basis that we can not even bill for currently. The total picture of services provided and the services that we are allowed to bill for is totally lopsided. 'The Profit' that you think that we make off of the drug in the past has only helped to offset all of our hidden services and costs. Now that you have removed the 'profit of the drug' from us you should pay for the services that we have provided for years without the ability to bill and be compensated for. This reimbursement of these services should be fair and balanced and not designed to force many practices in oncology care to go bankrupt, which is where we are headed. Socialized medicine and quality of care are not compatible. Why reduce the American medical system to be sub-standard and less than what we have come to accept for our loved ones with cancer?

We have the greatest delivery of care and research in the world. The cost of healthcare has escalated because the individual payors have such huge profits and the ability to increase the premiums to subscribers and employers. If you truly want to examine where the 'fat' is in the system just look at the payors whose CEOs are taking anywhere for \$10 - \$90 million out each year for themselves in salary, stock options, & benefits.....

IF YOU ARE GOING TO BE FAIR WITH THE AMERICAN CITIZEN AND THE HEALTHCARE INDUSTRY - BE SURE TO GO AFTER THE CORRECT SEGMENT OF THE HEALTHCARE INDUSTRY THAT IS ABUSING IT.....

Submitter : THOMAS LOWERY Date & Time: 09/20/2004 06:09:50

Organization : TNA

Category : Physician

Issue Areas/Comments

**GENERAL**

GENERAL

PLEASE SEE ATTACHEMENT FOR CPT 36870

Attachment # 2118

I would like to comment on the proposed fee REDUCTION for CPT 36870 of almost 28% for 2005. This procedure is done on chronically ill dialysis patients with multiple medical problems, and is technically very challenging and time consuming. In an era, in which Medicare is trying to reduce its overall costs, I believe looking for more efficient ways to treat patients would be encouraged. This reduction would effect OUTPATIENT clinics (who rely on the reimbursement to pay for overhead, expensive equipment, and specially trained staff, as well as ALL supplies associated with the procedure) The procedures in the outpatient setting save Medicare more than 75% of the inpatient reimbursement for the SAME procedure! I would think that CMS would encourage more procedures in the outpatient setting to help reduce the overall cost of dialysis access. I STRONGLY URGE CMS TO RECONSIDER THE REDUCTION, AND THE ADJUSTMENT OF THE RVU'S PRIOR TO THE FINAL RULE. We would be happy to provide you with more information/documentation to the more than 4000 procedures our outpatient centers have performed over the past few years (assuming a \$10,000 saving per procedure compared to the inpatient reimbursement.... that is a savings of over 150 MILLION DOLLARS TO MEDICARE.

Thank you

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

PLEASE SEE ATTACHED FOR CPT 36870

Attachment # 2119

I would like to comment on the proposed fee REDUCTION for CPT 36870 of almost 28% for 2005. This procedure is done on chronically ill dialysis patients with multiple medical problems, and is technically very challenging and time consuming. In an era, in which Medicare is trying to reduce its overall costs, I believe looking for more efficient ways to treat patients would be encouraged. This reduction would effect OUTPATIENT clinics (who rely on the reimbursement to pay for overhead, expensive equipment, and specially trained staff, as well as ALL supplies associated with the procedure) The procedures in the outpatient setting save Medicare more than 75% of the inpatient reimbursement for the SAME procedure! I would think that CMS would encourage more procedures in the outpatient setting to help reduce the overall cost of dialysis access. I STRONGLY URGE CMS TO RECONSIDER THE REDUCTION, AND THE ADJUSTMENT OF THE RVU'S PRIOR TO THE FINAL RULE. We would be happy to provide you with more information/documentation to the more than 4000 procedures our outpatient centers have performed over the past few years (assuming a \$10,000 saving per procedure compared to the inpatient reimbursement.... that is a savings of over 150 MILLION DOLLARS TO MEDICARE.

Thank you

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Christopher Stuart  
University of Michigan MedSport  
8001 Challis Rd.  
Brighton, MI 48116

September 20, 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:

? 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.

? 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.

? 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.

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,

Christopher Stuart, ATC, CSCS  
MedSport Athletic Trainer

Attachment #2120

Christopher Stuart  
University of Michigan MedSport  
8001 Challis Rd.  
Brighton, MI 48116

September 20, 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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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.

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Sincerely,

Christopher Stuart, ATC, CSCS  
MedSport Athletic Trainer

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

SEE ATTACHEMENT IN REGARD TO CPT 36870

Attachment # 2121

I would like to comment on the proposed fee REDUCTION for CPT 36870 of almost 28% for 2005. This procedure is done on chronically ill dialysis patients with multiple medical problems, and is technically very challenging and time consuming. In an era, in which Medicare is trying to reduce its overall costs, I believe looking for more efficient ways to treat patients would be encouraged. This reduction would effect OUTPATIENT clinics (who rely on the reimbursement to pay for overhead, expensive equipment, and specially trained staff, as well as ALL supplies associated with the procedure) The procedures in the outpatient setting save Medicare more than 75% of the inpatient reimbursement for the SAME procedure! I would think that CMS would encourage more procedures in the outpatient setting to help reduce the overall cost of dialysis access. I STRONGLY URGE CMS TO RECONSIDER THE REDUCTION, AND THE ADJUSTMENT OF THE RVU'S PRIOR TO THE FINAL RULE. We would be happy to provide you with more information/documentation to the more than 4000 procedures our outpatient centers have performed over the past few years (assuming a \$10,000 saving per procedure compared to the inpatient reimbursement.... that is a savings of over 150 MILLION DOLLARS TO MEDICARE.

Thank you

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

Attachment # 2122

September 18, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
PO 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. Consumers deserve a choice to whom is providing their health care. Physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves “equal footing” in terms of reimbursement for the rehabilitation codes. In today’s world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important “incident-to” services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is **IMPERATIVE** that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY “incident-to” service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of “UNQUALIFIED PERSONNAL” to provide services described and billed as physical therapy services. These individuals will speak of the “negative impact” that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician’s

offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

- All certified or licensed athletic trainers **MUST** have a bachelor's or master's degree from an accredited college or university.
- Core coursework for an ATC includes:  
Human physiology and anatomy  
Kinesiology/biomechanics  
Nutrition  
Acute care of injury and illness  
Exercise physiology  
Stats and research design
- 70% of all ATCs have a master's degree or higher.
- The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.
- **A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?**

Allowing only PT,OT, speech therapist to provide “incident-to” outpatient therapy services would improperly provide these groups **EXCLUSIVE** rights to Medicare reimbursement and **DENY** the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS 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.

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

David W. Ohl, ATC  
Penn Manor School District  
PO Box 1001  
Millersville, PA 17551



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Mary Delzer  
University of Michigan MedSport  
8001 Challis Rd.  
Brighton, MI 48116

September 20, 2004

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

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In summary, it is not necessary or advantageous for CMS to institute the changes proposed.

Sincerely,

Mary Delzer, PT



Submitter : Mrs. Betty Lou Covington Date & Time: 09/20/2004 06:09:34

Organization : LouC's Boutique

Category : Health Care Professional or Association

Issue Areas/Comments

**GENERAL**

GENERAL

Docket: CMS-1429-P-Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.

A mascetomy patient has enough to deal with. Unless they had gained or lost weight there is no need for a doctor to have to be face to face for a prescription. As a matter of fact a certified fitter should do all of the measuring to assure this person is getting the proper fit. Once you have lost a breast to caner, it pretty much speaks for itself. And filled within 30 days? This is very cruel and so unnecessary. Please consider how much time and money will be waisted on this.

Sincerely,  
Lou Covington  
LouC's Boutique  
256/216-9100

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

As an athletic trainer working in a private practice orthopaedic clinic, this proposed legislation would limit my ability to assist the physician with basic services as a part of patient visits.

With the continued emphasis on physical activity, our practices has many seniors who are actively participating in physical activity and sport. With this proposed legislation, I would be unable to provide services incident to the physician visit such as brace fitting and basic rehabilitative exercises.

This service is very important in that we serve a rural population. The ability to provide this service allows us to return our patients to active lifestyles in a much improved manner.

Athletic trainers are licensed within our state, and our legislation allows us to provide rehabilitation services under the advice and consent of licensed physicians. This proposed regulation would limit our opportunity to work with this population and would not improve healthcare. As an athletic trainer, I have a master's degree in education, a bachelor's degeree in athletic training and have been trusted to work with professional athletes as well as recreational athletes competing at every level therefore, I believe that I am qualified to provide care for our Medicare beneficiary that is trying to return to tennis or walking.

Submitter : Mrs. Grace Stewart Date & Time: 09/20/2004 06:09:59

Organization : Mrs. Grace Stewart

Category : Individual

**Issue Areas/Comments**

**GENERAL**

GENERAL

This change would be a imposition to myself and other like me. My doctor is over a hour away, and in the winter I go to Florida to my winter home and my doctor is in New Hampshire. I don't think it would be right to tie up a doctors appointment that could be given to someone else and the extra charges for a office visit.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I urge that the designation of Locality 99 as "rural" be changed for purposes of establishing reimbursement rates. Many medicare services, especially mental health services, are simply unavailable to residents of this area because private practitioners cannot afford to provide them. I am a retired psychologist. For 1 1/2 years I "volunteered" my services part time in a local agency that provides services to individuals with disabilities, because these individuals were unable to receive services from local providers. I was able to do this because I receive a retirement pension from the University where I worked. No psychiatrist was willing to accept a referral from this agency. Only the local county MH agency was willing to see them. Santa Cruz is consistently rated as one of the top 10 most expensive areas in which to live in California. Clearly, its current designation as "rural" is not consistent with this fact. Please change it.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Re: Therapy-Incident To  
September 20, 2004

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

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. Consumers deserve a choice to whom is providing their health care. Physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves 'equal footing' in terms of reimbursement for the rehabilitation codes. In today's world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important 'incident-to' services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is IMPERATIVE that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY 'incident-to' service.

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What those individuals will not tell CMS is this:

' All certified or licensed athletic trainers MUST have a bachelor's or master's degree from an accredited college or university.

' Core coursework for an ATC includes:

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Kinesiology/biomechanics

Nutrition

Acute care of injury and illness

Exercise physiology

Stats and research design

' 70% of all ATCs have a master's degree or higher.

' The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.

' A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?

Allowing only PT,OT, speech therapist to provide ?incident-to? outpatient therapy services would improperly provide these groups EXCLUSIVE rights to Medicare reimbursement and DENY the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS 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.

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

Daniel J. Quigley MSED ATC  
Certified Athletic Trainer  
Manheim Township High School  
Lancaster, PA 17606



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

I am a practicing physical therapist in both Pennsylvania and New Jersey. I am celebrating 30 years of practice, 20 years in private practice. The proposed changes in the "incident to" regulations will have significant impact for my patients as well as my business. When a physician has "unqualified personnel" performing care in the guise of physical therapy, they are providing a disservice to their patient and are unfairly competing with me. CMS proposes that qualifications of individuals providing physical therapy services "incident to" a physician should meet personnel qualifications for physical therapy in 42 CFR 484.4, with the exception of licensure. This means that individuals providing physical therapy must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. I strongly emphasize that 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.

The following points are paramount to this issue, quality of care: 1) Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005.

? 2) Physical therapists must be licensed in the states where they practice. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions.

? 3) Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries. ? 4) 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, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

I thank you for the opportunity to describe and discuss my concerns in this most serious matter.

Philip M. Allen, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

9/20/04

To whom it may concern,

I have recently been informed that you the Center of Medicare and Medicaid Services are recommending a change to Medicare regulations that would no longer allow physicians to be reimbursed for therapy services administered by a certified athletic trainer in a physician's office. I feel strongly that you are making the wrong decision and I have information to back that up.

A certified athletic trainer is a unique health care provider who specializes in the prevention, assessment, treatment and rehabilitation of injuries and illnesses that occur to athletes and the physical active. Athletic trainers work in Schools, clinics, offices, and factories. ATC's already provide therapy under the direction of a physician in athletic training rooms, sports medicine clinics, and other venues so why should we change things now.

All certified athletic trainers are highly educated and all so often the athletic training student sits side by side with the physical therapy student taking the same classes. There is a required minimum of two years of academic clinical education for all of the students. There are also continuing education requirements. Lastly there is a board of certification examination that all student athletic trainers have to pass, in the state they plan to work in, in order to become certified. According to the federal government, the preparation of an athletic trainer is rated as equivalent to a physical therapist (onetcenter.org).

I hope you put into consideration the facts that I have given you today. I know that if your CMS proposal goes through it will cause a lot of rescheduling, reorganizing and rehiring for the schools, clinics, offices and factories that use athletic trainers and it will cause a lot of headache and confusion for athletes and the physically active. What's more is certified athletic trainers are just as qualified. I strongly urge you to rethink your proposal. Thank you for your time.

Sincerely,

Sharla Hamilton  
(Student athletic trainer)

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

To Whom It May Concern:

It has come to my attention that there has been a proposal to limit the Certified Athletic Trainer's (ATC) scope of practice in providing "incident to" services in physician offices and clinics. As a student in the Athletic Training Program at George Mason University, I hold a strong opinion. Athletic Training has evolved into a solid profession of concrete certainty. The job of the ATC is demanding and deserves complete recognition without any limitations. It is strictly unfair to down grade the status so many have worked to achieve. It is obvious that Athletic Training has become much larger than ever before. ATC's work under the supervision of physicians of various specialties. Many ATC's also get certification as strength and conditioning specialists (CSCS), as well as EMT/Paramedic, NSCA-CPT, and other various health and fitness related certifications that add to their quality of care.

It is to the Allied Health Professional's and Center for Medicare and Medicaid Services' best interest that we work with other professionals to combine our knowledge to provide the best possible care. I like to think of it as a community or partnership, not a competition.

The education and scope of practice of an ATC should not be undermined. ATC's spend long hours in clinics, Athletic Training rooms, and on the field. In order for a graduate to become certified, they must pass a challenging exam that proves their knowledge and skills. The ATC's that work with the PT's in the clinics are not a threat, but there to help. They only bring more knowledge, not less money.

It is pertinent that we must remember who the key factor in all of this is. It is not the Athletic Trainers, Physical Therapists, Orthopedists, or other specialty physicians, it is the patient. Whether the patient is an athlete or a senior citizen, they deserve the best possible care. Together we can all make that happen.

Sincerely,

Kristi M. Batdorf

Submitter : Mrs. Mary Marxsen Date & Time: 09/20/2004 06:09:54

Organization : Dialysis Access Center of Tyler

Category : Nurse

**Issue Areas/Comments**

**GENERAL**

GENERAL

My comments concern decreased RVU for CPT CODE 36870. This procedure performed in a dedicated outpatient setting has SAVED Medicare MILLIONS of dollars over the last several years as opposed to the same procedure performed in the hospital. Not to mention the advantage to the chronically ill dialysis patient of being able to have efficient care with often no missed dialysis treatment. I strongly urge CMS to review this before final ruling.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

see attachment

**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
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 :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Keith Krings MHS, PT, OCS  
University of Michigan MedSport  
8001 Challis Rd.  
Brighton, MI 48116

September 20, 2004

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

Keith Krings MHS, PT, OCS  
Physical Therapist



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Sirs,

A 90 day Global period has been added to CPT code 77427. Please issue a clarification that the intent of this is to exclude billing any follow ups (9921x) within 90 days and that it is permissible to bill the other Radiation Oncology codes including 77427 within that time frame. I am concerned that some payors will misinterpret the intent and deny additional claims for Radiation treatment once a 77427 is billed.

Thanks,

John Holladay

UWMC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

As a senior living in Santa Cruz for thirty years, I have seen property values and the cost of living here sky rocket. We are becoming one of the least affordable places to live in the United States. Because of this, Santa Cruz should be redesignated from rural to urban. The difficulty of locating HMO's and doctors to accept low fees from medicare is creating a scarcity of health care for local citizens and seniors such as myself being retired and living on fixed incomes. It is of great importance that Santa Cruz county be classified as an urban community so that our health care does not decline below the rest of the United States.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

?Please see attached file?

Attachment # 2137

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

Michael Higgins  
56 Hunt Valley Dr  
Elkton, Md 21921

September 18, 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,

Michael Higgins PhD, ATC/PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

MY COMMENTS CONCERN DECREASED RVU FOR cpt code 36870. THIS PROCEDURE PERFORMED IN A DEDICATED OUTPATIENT SETTING HAS SAVED MEDICARE MILLIONS OF DOLLARS OVER THE LAST SEVERAL YEARS AS OPPOSED TO THE SAME PROCEDURE PERFORMED IN THE HOSPITAL. NOT TO MENTION THE ADVANTAGE TO THE ADVANTAGE TO THE CHRONICALLY ILL DIALYSIS PATIENT OF BEING ABLE TO HAVE EFFICIENT CARE WITH OFTEN NO MISSED DIALYSIS TREATMENT. I 'STRONGLY' URGE CMS TO REVIEW THIS BEFORE FINAL RULING.

Submitter : Mrs. DANETTE SUBLETTE Date & Time: 09/20/2004 07:09:19

Organization : DIALYSIS ACESS CENTER TYLER

Category : Ambulatory Surgical Center

Issue Areas/Comments

**GENERAL**

GENERAL

I AM WRITING IN REGARD TO THE RECENT PROPOSED COST REDUCTION FOR THE CPT 36870. THE PROPOSED CHANGE WOULD DECREASE THE FEE WE RECIEVE BY 28%, I DO NOT UNDERSTAND THIS BECAUSE AN OUTPATIENT CENTER ALREADY SAVES MEDICARE 75% COMPARED TO OUR HOSPITAL CONTERPART FOR THE SAME PROCEDURE. IF ANY COSTS SHOULD BE CUT I BELIEVE THAT IT SHOULD COME FROM THE HOSPITAL BECAUSE THAT IS WHERE THE MAJOR COST IS COMING FROM. AS A PURCHASING PERSON IN AN OUTPATIENT CENTER I JUST WANTED TO BRING UP THE FACT THAT WE CANNOT CHARGE PER LINE ITEM LIKE THE HOSPITAL SO WE STRIVE TO KEEP OUR COSTS TO A MINIMUM USING THE MOST COST EFFICIENT SUPPLIES AS WELL AS KEEPING OUR COSTS TO A MINIMUM IN ALL OTHER AREAS OF A PROCEDURE. I HOPE YOU RECONSIDER YOUR FEE REDUCTION AS IT WOULD SAVE YOU MORE MONEY IN THE LONG RUN.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

In a recent discussion with a preson under my care, she explained to me the "physical therapy" she recieved at her physicaian's office. She was given a list of exercises to do for her low back pain. They were given to her by a non-professional aid and were COMPLETELY UNSPECIFIC TO HER PERSONAL NEEDS. The list was a generic protocol that sounded like it was given to all low back patients. She stated that the explanations were vague and she did not continue with them after a short while. No follow up on the behalf of the physician's office was attempted regarding the exercises. Again, this was the "physical therapy" she recieved and was probably billed as such. This probably happens quite a bit in physicians' offices since it is quick and billable. The example given above undermines the profession of Physical Therapy, is expensive, and provides no benefit to the patient. MPT, Ohio

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

The ignorance behind this issue is appalling. Please do not allow money-hungry practitioners and professionals to increase the cost of health care by discontinuing the use of athletic trainers. Athletic trainers are highly educated health care professionals with proven success in both function and physical outcomes. Please see attached documentation.

Anna August, MS, ATC, CSCS  
One University Drive  
Orange, CA 92866

Attachment #2141

1/27/2005

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

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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.
- 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](http://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). **See Table 1**

Table 1. Occupational Characteristics of Health Care Providers According to the US Department of Labor.

<b>Professional</b>	<b>Level of Education</b>	<b>SVP (Specific Vocational Preparation)</b>	<b>Job Zone</b>	<b>Job Zone Examples</b>
Athletic Trainer	A bachelor's degree is the minimum formal education required for these occupations. However, many also require graduate school. For example, they may require a master's degree, and some require a Ph.D., M.D., or J.D. (law degree).	> 8.0	Job Zone Five: Extensive Preparation Needed	These occupations often involve coordinating, training, supervising, or managing the activities of others to accomplish goals. Very advanced communication and organizational skills are required. Examples include athletic trainers, lawyers, managing editors, physicists, social psychologists, and surgeons.
Physical Therapist (PT)	A bachelor's degree is the minimum formal education required for these occupations. However, many also require graduate school. For example, they may require a master's degree, and some require a Ph.D., M.D., or J.D. (law degree).	> 8.0	Job Zone Five: Extensive Preparation Needed	These occupations often involve coordinating, training, supervising, or managing the activities of others to accomplish goals. Very advanced communication and organizational skills are required. Examples include athletic trainers, lawyers, managing editors, physicists, social psychologists, and surgeons.
Occupational Therapist	Most of these occupations require a four - year bachelor's degree, but some do not	7.0 to < 8.0	Job Zone Four: Considerable Preparation Needed	A minimum of two to four years of work-related skill, knowledge, or experience is needed for these occupations. For example, an accountant must complete four years of college and work for several years in accounting to be considered qualified.
PT Assistant/Aide	These occupations usually require a high school diploma and may require some vocational training or job-related course work. In some cases, an associate's or bachelor's degree could be needed	4.0 to < 6.0	Job Zone Two: Some Preparation Needed	Some previous work-related skill, knowledge, or experience may be helpful in these occupations, but usually is not needed. For example, a drywall installer might benefit from experience installing drywall, but an inexperienced person could still learn to be an installer with little difficulty

Data from The Occupational Information Network (O\*NET), <http://online.onetcenter.org/> and developed for the US Department of Labor by the National O\*NET Consortium.

- 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.
- Athletic trainers already provide therapy under the direction of a physician in athletic training rooms, sports medicine clinics, and other venues
- 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.
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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,

Anna August, MS, ATC, CSCS

Assistant Athletic Trainer/ATEP Instructor

Chapman University

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

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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, working to become the sole providers of these therapies.

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.

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,  
Aimee M. Smith, ATC

Submitter : Mrs. Elouise Koudsi Date & Time: 09/20/2004 08:09:02

Organization : Mrs. Elouise Koudsi

Category : Individual

**Issue Areas/Comments**

**GENERAL**

GENERAL

The requirement that I visit my physician to obtain a prescription for mastectomy products make no sense. My mastectomy situation is not going to change, ever. The face-to-face visit will be an imposition on me and unnecessarily burden my physician. It is very difficult to get an appointment and this requirement will exacerbate the situation. I would like to see this benefit excluded from the face-to-face prescription requirements.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Edwin Whitaker  
 1120 NNW Loop 323  
 Tyler, TX 75702  
 9/20/04  
 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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? CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see Attached file.  
Thank you for your consideration!

Dan Smith MA, ATC, ARTC, CSTS  
USA Luge



Attachment #2145

Daniel Smith MA, ATC, CSTS, ARTC  
57 Church St.  
Lake Placid, NY 12946

September 20, 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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Sincerely,

Daniel Smith MA, ATC, ARTC, CSTS  
Head ATC / Strength & Conditioning Coach  
United States Luge Assn.  
57 Church St.  
Lake Placid. NY 12946

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Ngan Morris  
 217 Amanda CT  
 Whitehouse, TX 75791  
 9/20/04  
 Centers for Medicare & Medicaid Services  
 Department of Health and Human Services  
 Attention: CMS-1429-P  
 P.O. Box 8012  
 Baltimore, MD 21244-8012  
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Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am a Northeastern University Physical Therapy student, by allowing physicians to provide physical therapy interventions without a physical therapy degree or licensure, discredits our degrees, licensure and profession. Allowing such atrocities to occur will result in inappropriate patient care and multiple malpractice suits. A Masters in Physical Therapy allows a therapist to evaluate and prescribe appropriate interventions and to medically manage a patient's rehabilitation. If a physician were to treat a patient in the realm of physical therapy without appropriate schooling and licensure is misrepresentation of therapy and rehabilitation services, and should be illegal. A physician providing therapy services will not provide adequate care, interventions or progression. I believe that such methods will result in patients not reaching functional goals; this will result in poor outcomes and will exhaust Medicare and Medicaid funding.

Physicians acting as physical therapists will reflect poorly on therapy services, patient care and will result in poor medical management, and fraudulent billing practices.

Allowing physicians to continue such practices will give a negative connotation to our field of study, because they will be practicing physical therapy without appropriate credentials. Their specific area of study is not rehabilitation therefore they should not be applying physical therapy interventions in their practice. Licensed physical therapists and physical therapy assistants are the only skilled professionals that should be allowed to manage care for patients in need of structured rehabilitation, because they have had appropriate schooling and relevant clinical experience. This poor misrepresentation will ultimately be the end of physical therapy practice, resulting in catastrophic injuries to patients. Without the specialization and distinction of physical therapists' evaluation techniques and treatments, care will be rushed and poorly performed. Rehabilitation will become futile and irrelevant. Therefore, treatment of patients for physical therapy services and interventions should only be a right of a licensed physical therapist or physical therapy assistant, not a physician.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

APC 0355 New proposal is payment of \$18.07 for dialysis patients. Dialysis Hepatitis B vaccine cost hospital \$91/ per dose of vaccine  
APC 0356 adult dose of hepatitis B vaccine proposal is \$37.02 cost for an adult dose \$31  
The dialysis patients needs a significant higher dose than a normal adult dose. The payment schedules do not seem appropriate.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Certified Athletic Trainers are highly qualified medical professionals that provide state-of the art treatment to olympic and professional level athletes for an array of orthopedic injuries. To consider our skills and knowledge to provide care to active retirees seeking high level care from their physicians practice is offensive and inappropriate. Physicians should be able to seek the most cost effective and efficient treatment for their patients. By restricting access of incident-to therapeutic service to a single profession when others are highly qualified to provide this service is wrong and not in the best interest of the patient or thier billed insurance. Services provided at the MD's clinic are convenient and cost effective for the elderly population, please do not remove this form of care from this vulnerable population.

Cordially, Maria Duthie, ATC

Submitter : Mrs. Heidi Frey Date & Time: 09/20/2004 09:09:26

Organization : certified athletic trainer

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

It is important to allow the physician to choose where a patient is referred for rehabilitation therapy services.

Since the beginning of Medicare 1965, physicians have had the right to delegate the care of their patients to individuals trained to meet the individualized needs of the patients. There have never been any restrictions placed upon the physician in terms of whom he or she can use to provide 'incident to' services. Because physicians accept legal responsibility for the individuals under their supervision, Medicare and private payers have always relied upon their professional judgment to be able to determine who is, or is not, qualified to provide a particular service.

ATCs are highly-skilled health care professionals trained to prevent, evaluate, manage and rehabilitate injuries sustained by athletes and active individuals of all ages. More adults 65 and older are physically active than ever before, many physicians have been recruiting ATCs to provide injury assessment and rehabilitation to their patients. ATCs have a bachelors degree and over 70% hold a masters degree. In order to be eligible to practice as an ATC, one must pass a certification exam as well. In the current wording of your proposal, ATCs, nurse practitioners, and kinesiologists are not included as options for the physician's referral choice.

If you limit the providers for rehabilitation therapy services you will be eliminating a significant amount of your current therapy providers. This new Medicare proposal comes at a time when Congress is working to provide seniors with more, not fewer choices. Please use your expertise to evaluate the potential supply vs demand. High demand for therapy services in a low supply market. Is this the best we can provide for those on medicare and is this the best economical situation for the cost of medical services?

If you leave the 'incident to' wording as is, this measure will greatly reduce the quality of health care for Medicare patients; increase the costs associated with 'incident to' services; and place an undue burden on the health care system. It will also restrict access to necessary therapy services for many patients. Thank you for your consideration of these comments.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P

Re: Therapy ? Incident To

To Whom It May Concern:

Please accept this letter as a statement of support to allow healthcare personnel, namely certified athletic trainers (ATC), to provide ?incident to? services to affected public. In turn I must assert that I vehemently object to any decision that would take away that individuals? right to solicit care and the physician?s ability to prescribe that care to properly educated clinicians.

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 illnesses, statistics and research design, and exercise physiology. Seventy 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.

As a student currently working in a Division I college in the Big XII conference I have the ability to work with 573 athletes in 19 sports, many of whom were conference champions as well as national champions in their respective sports this past year. We have sent many athletes to the professional ranks over the past years including 131 to the NFL, 15 to the NBA, and 31 to the MLB. All of these athletes have been in the care of certified athletic trainers for the years that they attended college. I have worked side by side with members of all aspects of the health field including physicians, physician?s assistants, nurses, orthopedic surgeons, and laboratory techs as a member of the sports medicine team. Without certified athletic trainers to oversee the rehab process, the logical progression from injured to return to play would lack the functional and sports-specific rehabilitation that is essential.

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.

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,

Audra Magee, ATS  
Oklahoma State University ? Stillwater  
Athletic Training Student

Submitter :

Date &amp; Time:

09/20/2004 09:09:34

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am currently a physical therapy student at Northeastern University, in my fifth year of a Masters program. I would like to comment on the "Therapy-Incident To" issue. I was personally shocked when I was made aware that it was even possible for a physician to bill Medicare for physical therapy services not provided by a licensed physical therapist. As a student, it is infuriating to learn that the hard work and dedication needed to earn a degree in physical therapy can be so easily undermined. Physical therapists are educated in accredited programs by the Commission on Accreditation of Physical Therapy and the field of physical therapy is making a move for all programs to offer the doctor of physical therapy degree by 2005. Our education gives us specific training in anatomy and physiology, a basic knowledge of the entire body and its functions, and specific training in patient care and rehabilitation. We are experts in the field of rehabilitation. As a student at Northeastern University, I have had the opportunity to work in various physical therapy clinics, both inpatient and outpatient through the co-operative education program. I have been able to work closely with highly experienced therapists and feel that their skills and educational backgrounds are imperative in proper rehabilitation of patients with disabilities and other pathologies requiring treatment. As a student, I work hard to meet the standards that our program sets forth and the professional requirements that the American Physical Therapy Association (APTA) sets forth. Therefore, I believe that it is important for all other health care professionals to be made aware of our area of expertise in the health care system and to understand how our unique body of knowledge benefits the care of all patients. Physical therapy services provided to patients by unqualified personnel can be harmful to the patient and jeopardize the patients' quality of care. Therefore, I support the proposed rule by the CMS to require all physical therapy services to be performed by licensed individuals who are graduates of accredited professional physical therapy education programs. Thank you.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

As a senior citizen residing in the County of Santa Cruz, CA; I would urge CMS to take a close look at the inequities of Medicare/Medicaid payments to physicians in this county as compared to our neighbor, Santa Clara County. Santa Cruz County is losing physicians who find it almost impossible to make a living here (median house price in the 600K range)with the county designated as an urban area. Some seniors are finding it very hard to get a doctor to see them. Please take a long hard look at this situation; it is getting very difficult. Thank you.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please accept my comments that it is imperative you prevent MDs from billing for 'physical therapy services performed by personnel other than Registered physical therapists. I do understand PA, CNS, NP will be allowed to perform these incident to therapy services, as allowed by each States practice act. I am not in favor of this, but feel this allowance is minimally acceptable. Personnell, such as ancillary staff, secretaries, RN(general) will accelerate the already easy opportunity MD.'s have to captialize( more times unscrupulously) from an arena they have no skill, or knowledge base, in patient care. Your investigations have shown frequent, modality based applications provide no outcome based efficacy, and simply cost the system additonal dollars, as many times the patients fail, only then being referred for 'true, skilled care.' Thank you..John Sargeant, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Support of the provisions in the proposed physician fee schedule rule.

Attachment # 2155

September 20, 2004

CENTERS FOR MEDICARE AND MEDICAID SERVICES

To Whom It May Concern:

I am currently enrolled in an entry level Doctor of Physical Therapy (DPT) program at the University of Medicine and Dentistry of New Jersey in Newark, New Jersey. It is through this association with faculty at UMDNJ that I have learned of the Centers for Medicare and Medicaid Services proposal that physical therapy services provided in a physician's office incident to physician's services be provided by a physical therapist.

I commend the CMS on the recognition that physical therapy services provided by qualified physical therapists is in the best interest of the patient. At the time of an office visit to a physician, patients may be in a more vulnerable state than the normal and therefore may not question whether the services provided incident to physician services are not provided by qualified personnel.

With each intervention that is taught in physical therapy school, the indications for use and precautions or contraindications are also taught. Although physical therapy interventions are not invasive procedures, it is possible to cause harm or to increase the patient's symptoms with a wrong choice of intervention, or through the incorrect application of a technique. As with all health care providers, safety is of primary importance in physical therapy practice and prohibition of services by unqualified personnel is essential to maintain this goal.

Again, I applaud the CMS for the recommended regulation of physical therapy services provided incident to physician services and believe that this proposition goes a long way to promote patient safety.

Sincerely,

Michelle Dominy, SPT

MICHELLE DOMINY  
29 NEW ENGLAND DRIVE  
LAKE HIAWATHA, NJ 07034

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

The key issue in my view to this proposal is the lack of understanding about who athletic trainers are and what they do in practice. Therefore I submit this paragraph of explanation from the National Athletic Trainers Association.

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).

Submitter :  Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO



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

Sam Johnson  
Department of Exercise and Sport Science  
Oregon State University  
Corvallis, OR 97331

September 20, 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 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.
- 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,

Sam Johnson

Submitter : Mrs. Sandra McCuen

Date & Time: 09/20/2004 10:09:48

Organization : Pennsylvania Physical Therapy Association

Category : Health Care Professional or Association

Issue Areas/Comments

**GENERAL**

GENERAL

September 20, 2004

Re: Medicare Programs; Revision to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005; Proposed Rule

On behalf of the Pennsylvania Physical Therapy Association (PPTA), I would like to thank you for the opportunity to comment on the CMS proposed rule for the 2004 Medicare physician fee schedule. More specifically, I am commenting on the portion of the proposed rule addressing "incident to" services.

The PPTA represents the professional interests of its membership, which currently includes 3,600 physical therapists, physical therapist assistants, and students of physical therapy. All physical therapists are licensed and physical therapist assistants are registered to practice in the Commonwealth of Pennsylvania or its border states. Their licensure or registration is granted after graduation from an educational program accredited by the Commission of Accreditation in Physical Therapy Education (CAPTE) and passage of a national licensure or registration examination.

In the proposed physician fee schedule rule, CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physician's offices. CMS proposes that qualifications of individuals providing physical therapy "incident to" a physician should meet the personnel qualifications for physical therapy in 42 CFR section 484.4, with the exception of licensure. This means that individuals providing physical therapy in physician's offices must be a graduate of a physical therapy program approved by CAPTE or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. CAPTE program graduates are currently all receiving a master degree level education and many programs are at a doctoral level.

In developing this proposed language related to "incident to" physical therapy services, CMS has recognized the need for Medicare patients to be treated by qualified personnel. This requirement of graduation from a CAPTE approved college and university educational program will help to insure that "incident to" physical therapy services provided to the Medicare beneficiary are of high quality and afford the same degree of safety and professional responsibility that is found in non "incident-to" services. It recognizes that physical therapy is a defined medical discipline rather than the technical application of modalities. As the dollars available for the Medicare physical therapy services become more constrained, payment for technical application of modalities by a non-professionally trained individual is an irresponsible care delivery design for the Medicare beneficiary.

The PPTA urges CMS to include the "graduated from CAPTE approved college and university educational programs" as a requirement for "incident to" physical therapy services provided in a physician's office.

Thank you for your serious consideration of these comments.

Sincerely,

Sandra K. McCuen, PT  
Reimbursement Specialist  
Pennsylvania Physical Therapy Association

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

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 will 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, increase the costs associated with this service and place an undue burden on the health care system.

Submitter : Ms. Rachael Maiocco Date & Time: 09/20/2004 10:09:47

Organization : Northeastern University

Category : Academic

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Subject: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005

Dear Dr. McClellan,

My name is Rachael Maiocco and I am in my fifth year of Physical Therapy school at Northeastern University. I am writing to support the Proposed Personnel Standards For Medicare "Incident To" Physical Therapy Services. I strongly believe physical therapy services should only be delivered by a licensed physical therapist who has graduated from an accredited physical therapy program. Through the course work and clinical experiences, an individual who successfully completes a physical therapy program has acquired the important training required to safely offer physical therapy services. There is a reason why a physical therapy program is so long and demanding. They are structured this way in order to prepare a physical therapist for their role and ensure safety for the patient. To open the ability of services distributed to those who have not be educated or trained creates an extreme liability that may ultimately cause more damage and increased costs.

Thank you for considering my comments.

Sincerely,

Rachael Maiocco

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is imperative that you redraw the map for Santa Cruz county to accurately reflect its urban health-care community. Not doing so puts this area at risk of loosing well-qualified physicians to provide health care to our community. Thank you for considering this much needed change.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

It really seems silly to force mastectomy and ostomy patients to see their physicians face-to-face each time they ask for products! These conditions are permanent and their physicians are well aware of the results of the surgeries and the products they require. It would be a complete waste of time for both the recipient and the physician to require this. Just think of the waste of money Medicare would pay for these visits. Ostomates who purchase monthly supplies would have to see their physician each month? Ridiculous!



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing to indicate my strong support of the proposed "Therapy Incident To" changes proposed on August 5. I am a licensed Physical Therapist. I believe that patient safety may be compromised by having persons other than a licensed Physical Therapist or Physical Therapist Assistant provide these services to the public. Therapists are professionally educated at the college or university level and are held accountable for their actions in the state in which they practice. Therapists have education that allows for the most cost effective treatment of patients with disabilities other conditions requiring rehabilitation. Of particular concern is the scheduled therapy cap that should become effective on January 1, 2006. Without this new "Incident To" rule in place, it would be entirely possible for a patient to exceed their therapy cap without ever having seen a Physical Therapist. This would in effect deny patients access to Physical Therapy services and the benefit that it offers. It is also possible that without this rule, patients may initially encounter "Physical Therapy" provided by a non-therapist, and become dis-satisfied with their results. This may lead the patient to believe that Physical Therapy has no value for them and not continue to participate in rehabilitative treatment. The benefits of patients receiving Physical Therapy from a licensed Physical Therapist are well documented and shown to be very cost effective in terms of maintaining level of independence.

I believe that the proposed rule change should go into effect because it would help to ensure patients the right to see a Physical Therapist early on in their course of treatment. If treatment is provided by qualified personal in a timely manner, it will expedite the recovery and shorten the overall course of treatment.

I thank you for your attention to this manner.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I would like to address the issue of ATC treating medicare patients. I do not feel this is appropriate because of the ATC basic training. If you look at thier training it is acute care on the field training. They have a great weakness in addressing the needs of geriatric and disabled individuals. I have worked for years with ATC's and have seen first hand there approach and at times the aggressiveness they use could be harmful to the patients. Attending the NATA national conference in 1999 and it was addressed to young healthy individuals who can heal quicker and are more active. The older generation usually can not tolerate the "sports medicine model" that the ATC advocate in their treatment plans.

My final comment is Do Not allow ATC to bill for medicare, the harm that they will do in the end will be more costly to the whole system. Thank you for your attention and prompt action against the measure.

Russ Nieland, L/PT, CHT, CEO

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

Attachment # 2165

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

September 1, 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, as primary care, sports and occupational medicine physician, to express my concern over the recent proposal that would limit providers of “incident to” services in my office and clinics. If adopted, this would eliminate the ability of qualified health care professionals who provide these vital services (with much success) in the past. In turn, it would reduce the quality of health care for Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Furthermore, I strongly urge you to consider the following points as you proceed in the decision-making process:

- “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. I have the right to delegate the care of my patients to trained individuals (including certified athletic trainers) whom I deem knowledgeable and trained in the protocols to be administered. My 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 me in terms of who I can utilize to provide ANY “incident to” service. Because I accept legal responsibility for the individual under my 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 I and all other 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

and insurer.

- 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.
- I know 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, every professional sports team in America and many corporations, including mine, to work with athletes and physically active people to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition and the physical activity of daily life. In addition, dozens of athletic trainers have 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 or injured on the job 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,

Wm. F. Feldner, DO, FAOASM  
Sports Medicine  
Family Practice  
Institute For Family Medicine  
4590 S. Lindbergh Blvd.  
St. Louis, MO 63127

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

As a student going into the athletic training field I feel this proposal is not fair to those in our profession or the general public. Our schooling provides us with the education and background to ensure that we are able to be expert providers of services. Some of the services we do on a daily basis include, preventative procedures, immediate treatments of injuries, and outpatient therapy services and rehabilitation. We do this on a daily basis if not hourly. For non healthcare providers to determine that an Athletic Trainer cannot provide these services in physicians office rather than a training room is not fair to either the Athletic Trainer nor the patient. The treatment that you would do for that particular patient and one of your athletes is the same. Just because your patient might be a little older, or they did not receive this injury while in a hurdle race, does not mean that the Athletic Trainer is going to treat them any differently. We are trained to be professionals in every sense of the matter and we should be allowed to prove that on the sporting fields, athletic training rooms, outpatient therapy centers, or physicians offices.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

see attached file



## Attachment #2167

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 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 will 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, 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, been utilized by physicians to allow others, under the physicians supervision, 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.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician 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 their 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, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- 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.
- 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 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.

- 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 this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured 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 recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I have been working in out patient rehabilitation for almost 20 years without incident. recently it has become more difficult to make a living due to additional restrictions placed on me as a result of what medicare is doing. I have a formal education, master's degree and 20 years of experience. If I can no longer receive reimbursement for my services what are my options? It seems to be a high priority for physical therapists to support this position of restricting athletic trainers and reimbursement. It allows them to hold the upper hand and prevent athletic trainers from owning their own clinics. There is no need to restrict reimbursement. I would recommend a strong oversight to eliminate all people who manipulate the system and overcharge customers and programs. To my knowledge there has never been an athletic trainer charged with medicare fraud. But I know of many instances where physical therapy organizations have overbilled the government and or other insurance companies. Why should an organization who has demonstrated dishonesty in the past be allowed or restrict athletic trainers from making a living.

Athletic trainers have worked years in high profile jobs with high profile clients. It doesn't make sense to let me work with professional athletes who make millions of dollars, but keep me from working with a retired custodian.

Healthcare in general will benefit from including athletic trainers in the reimbursement group. Please make the right decision.

**CMS-1429-P-2169**

**Submitter :**  **Date & Time:**

**Organization :**

**Category :**

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File

CMS-1429-P-2169-Attach-2.doc

CMS-1429-P-2169-Attach-1.doc

Attachment #2169 (1 of 2)

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 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 will 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, 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 they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician 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 their 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, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- 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.
- 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 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.

- 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 this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured 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 recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Attachment #2169 (2 of 2)

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 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 will 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, 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, been utilized by physicians to allow others, under the physicians supervision, 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.
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- 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 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.

- 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 this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured 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 recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

To whom it may concern:

In reference to the proposed 2005 Medicare physician fee schedule, I would like to comment that I support the requirement of all those who bill for physical therapy services provided must be graduates of an accredited physical therapist education program as well as be licensed as a physical therapist in the state that they are practicing. For any physical therapist assistant providing physical therapy services in a physician's office, that they also are a graduate from an accredited physical therapist assistant program, are under the supervision of a physical therapist that meets the standards listed above, and are also licensed as a physical therapist assistant in the state he/she is practicing.

As a physical therapist assistant myself, I find it imperative that physical therapy should be practiced only by individuals who meet these requirements, not only for the preservation of physical therapy itself, but also for the safety of the patients. To otherwise allow physical therapy services to be billed by individuals not within these parameters could hamper further progress by the patients as well as skew the effectiveness in the patient's eyes if not performed in a legal, safe, or correct fashion.

Some arguments may arise that some individuals may be being supervised by physician's within the office. While this may be a safe practice for some, to open the possibility for billing to any type of physician is very unsafe as many do not know the full scope of physical therapy. With a scheduled financial limitation on the provision of therapy services becoming effective January 1, 2006, we could possibly have Medicare patients meeting their cap on therapy without ever seeing a physical therapist if the current Medicare policy stands.

I support only allowing physical therapy billing to be allowed by those who are licensed in this area. Those licensed are held to a standard in their state of practice to be fully accountable for their actions. We want the best for our patients, and know that qualified individuals should only be those who are billing for these physical therapy services.

Thank you.

Sincerely,  
Tessa Wildman, PTA

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am writing to express my concerns about the proposed change you are considering. Your proposed change would greatly reduce the number of qualified personnel that currently provide doctor prescribed therapy. I have recieved therpy from certified athletic trainers and was very pleased with results. Your proposed change would exclude these qualified individuals, making it much more difficult to recieve thes services in future and also greatly increasing the costs for nobenefits. I am recently retired and as I look to future, medical costs, medical insurance and medicines are a great wory to me. next year over half my pention will be required for these services. Your actions will only make this condition worres for not only me but millions of other "baby boomers" that will be of increasing need of these services.

thank you for considering my opinion

sheldon Toepke  
5980 N Boothe Ln  
Rocheport Mo. 65279

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
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 :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File



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

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Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I beg of you to please reconsider Revisions to Payment Policies for Santa Cruz area. Anyone can see this is not a rural area anymore, and good doctors are needed to live here. So many seniors have been denied care because these doctors do not accept Medicare anymore. Please help us.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

WHAT IS AND WHAT IS NOT RURAL

Prior to any changes or admendments, a complete overhaul of the current map, which was designated in 1967(!!!), needs to be undertaken.

Many of the 35,000+ members of the Surfrider Foundation were born and raised in coastal zones. Coastal communitis were once low cost areas where middle and low income familes were able to raise families. Now our coastlines have become high income areas where the middle income families can barrely make a living.

As an example, in Santa Cruz County, California, the medain price for a modest home just past \$700,000.00 but your map lists us as 'rural'. Next door is the Silicone Valley/Santa Clara Valley. The same High Tech Boom that raised that county's income also spilled over into Santa Cruz County.

Because of Santa Cruz County's high cost of living and Medicare's "Rural" designation, we are seeing physicians fleeing Santa Cruz due to an inability of a doctor to be compensated at a level where a they can purchase a home for his/her family!

Please help us. Santa Cruz County is not "Rural" by any standard.  
Demographic figures and other census tools ( such as realtor records) can spell it out in black and white.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached letter

Attachment #2176

Merl Miller, M.S., ATC/L  
2454 E. Glencove Street  
Mesa, AZ 85213

September 20, 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,

Merl Miller, M.S. ATC/L

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

please see attached.

## Attachment # 2177

Bernard Bach Jr.  
Director-Division of Sports Medicine  
Rush University Medical Center  
1725 W. Harrison Suite 1063  
Chicago, IL 60612

September 20, 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 physician writing to express my concern 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 to provide these important services. 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, 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 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 patients with comprehensive health care. The patient would be forced to see the physician and separately seek therapy, causing significant inconvenience and additional expense.
- 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.
- 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 cost time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which 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 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.

- 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.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. This action could be construed as an unprecedented attempt by CMS 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.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

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,

Bernard Bach, Jr. MD  
Professor of Orthopedic Surgery

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments****Issues 20-29**

## THERAPY - INCIDENT TO

Let me begin by saying that a physician has the right to delegate the care of their patients to trained individuals (this includes certified athletic trainers) whom the physician deems knowledgeable and properly trained to provide these services. Medicare has always relied upon the professional judgement of the physician to be able to determine who is or is not qualified to provide a particular service. Certified athletic trainers are more than qualified to provide these types of services. Certified athletic trainers are highly educated and competently trained individuals. All certified athletic trainers must have a bachelor's or master's degree from an accredited college or university. Required course includes but is not limited to: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, exercise physiology, comprehensive training in modality application. Seventy percent of all certified 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).

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. It's just wrong to remove the states' right to license and regulate those allied health care professionals deemed qualified, safe and appropriate to provide health care services. In case you don't know, certified athletic trainers are allied health care professionals.

Certified 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 certified athletic trainers are not qualified 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. This proposal smells more and more like a totally politically motivated maneuver which is exactly why it makes absolutely no sense whatsoever.



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I strongly support the provision that physical therapy billed as incident to be provided by only qualified physical therapy personnel; that is physical therapists or physical therapy assistants. When provided by other personnel they do not meet the standards of physical therapy and is a misrepresentation to the public

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Mastectomy products should be excluded from the face-to-face prescription requirements. The effects of a mastectomy are permanent. Based on that fact, mastectomy products are necessary throughout the life of the recipient. Medicare already has parameters in place for the dispensation of these items. These parameters should be sufficient. The face-to-face prescription requirement would place an undue burden on all affected Medicare beneficiaries, physicians, suppliers & Medicare as well. The face-to-face prescription requirement will require the recipient the inconvenience of a visit to the physician, the physician's time for the visit and Medicare's payment for the visit. Thank you.

Submitter : Mrs. Doreen Pearl Date & Time: 09/21/2004 01:09:30

Organization : Doreen Pearl, LMT

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please do not pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a doctor's prescription.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I would like to comment that I strongly believe Certified Athletic Trainers should be able to practice outpatient therapy services. The education and experiences that are needed to become an ATC qualify these professionals to administer therapy and rehabilitation. ATC's are well trained and highly knowledgeable in the area of therapy and rehabilitation for many injuries. The NATA places high standards for it's professionals and the schooling required to become a Certified Athletic Trainer qualify such individuals to practice therapy and rehabilitation learned within the curriculum. It would be wrong to remove the physician's ability to decide what type of health care professional is best equipped to provide outpatient therapy services.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached file.

## Attachment #2183

Sue Stanley-Green  
Athletic Training Program Director  
Florida Southern College  
Lakeland, FL 33801

September 19, 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 will 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, 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, been utilized by physicians to allow others, under the physicians supervision, 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.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician 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 their 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, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- 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.
- 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 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.

- 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 this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured 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 recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 15, 2004

500 W. Rosedale Ave.  
Apt. B-12 Selwyn  
West Chester, PA 19382

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), I wanted to write this letter in opposition to proposal CMS-1429-P. I am worried because under this proposal, there would be restrictions placed on physicians as to who they can use to provide any ?incident to? service, therefore affecting ATCs in clinics and physician?s offices. Physicians would have to send their patients elsewhere for therapy which would cause inconvenience and more expenses for the patient. If physicians can?t work along with ATCs or other health care professionals, the patient will have a lack of immediate treatment, delays in health care, and greater cost. Ultimately, delays in health care would lead to an increase in recovery time which would cause Medicare to have greater medical expenditures.

The field of athletic training deals with the prevention, recognition, evaluation, immediate care, rehabilitation, and reconditioning of injuries to not only athletes but other physically active individuals. The ATC is a highly educated(through accredited athletic training programs and a national certification exam) and skilled professional specializing in athletic health care. The ATC cooperates with physicians and other people as a member of an athletic health care team in high school, colleges, clinics, and other health care settings. Many ATCs work under the supervision of a physician in a clinic or office, so this proposal would threaten their employment. ATCs work hard to get where they are and this proposal would prevent them from doing what they love. The proposal would also increase the costs of health care and reduce the quality of health care for everyone in this country.

I believe that the CMS-1429-P proposal should in fact be rejected. It will prevent patients from receiving a high quality of health care and give them many unwanted expenses and inconveniences. It may also affect me in the future as I begin to establish my career as a health care professional.

Sincerely,  
Erica Smrzley  
Athletic Training Student, West Chester University



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached file



**DEPARTMENT OF HEALTH AND HUMAN SERVICES  
CENTERS FOR MEDICARE AND MEDICAID SERVICES  
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 :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing in support of the incident to proposal that therapy services provided incident to a physician's service be provided by therapists who meet professional qualifications.

I have had patients come to my clinic with reports of having had physical therapy in the past and then go on to describe modality services provided by non-physical therapist or physical therapist assistant office help. The patients generally report a poor outcome and a poor expectation of future physical therapy. They are surprised at the quality of care and success they have once they are treated by a trained physical therapist.

I believe that physical therapy provided by others than physical therapists reflects poorly on our profession and has poor outcomes resulting in spending dollars that do not positively affect the patient's health.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

THERAPY ASSISTANTS IN PRIVATE PRACTICE

This is a long needed revision that will allow qualified physical therapists in a private office setting to be given parity with hospitals, home health agencies, and other therapy providers.

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing in support of proposed rules changes in the 2005 Physician's Fee Schedule. Specifically, the requirement that persons providing therapy services 'incident-to' in a physician's office must follow the same qualification guidelines as in a physical therapy office.

I am a physical therapist and owner of a Medicare Certified Rehab Agency. My education and training is unique in the healthcare industry. Neither physicians, physician's assistants, nurse practitioners, clinical nurse specialists, kinesiologists, athletic trainers, nor exercise physiologists have such training. They are no more qualified to perform the function of a physical therapist than I am to perform their function.

Earlier this year, I treated a patient who had been in 'therapy' three times a week for two months in a physician's office. The 'therapy' was provided by a non-physical therapist. I believe the provider was a kinesiologist. The patient reported he was given an exercise routine on a stationary bike, treadmill, and weight machines and then simply showed up and went through the program with little or no supervision. He quit after repeatedly telling the 'therapist' he was getting worse - not better. He then sought out our facility on the recommendation of a friend. He was referred by his primary care physician (not the initial 'therapy' provider) and was assessed and treated appropriately with complete resolution of symptoms in three weeks. The patient had a cervical radiculopathy which was only being made worse by the exercises he was given. I estimate Medicare spent around \$2400.00 for ineffective treatment rendered by an unqualified provider. I was reimbursed around \$500.00.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am an individual who is not old enough to have Medicare coverage yet. However, if my county (Santa Cruz, CA) does not change away from a rural designation and get provider reimbursement rates up to a reasonable level, there will be significant negative affects on availability of medical care for residents of all ages, because providers are already leaving, and potential providers are staying away. We have some of the highest housing costs in the nation, so putting our area in a rural designation is invalid, and should be changed immediately.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File in first box

CMS-1429-P-2189-Attach-2.doc

CMS-1429-P-2189-Attach-1.doc

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

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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 :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file



Attachment # 2190

As a student pursuing a career in athletic training it is offensive to me to learn of proposed regulations that would prohibit me from working with all of the populations I am being trained to work with. Even as a student I have already worked with many fine tuned athletes at my own institution. Additionally I have worked with the Kansas City Chiefs Professional Football Team of the NFL. To say that I as a future certified athletic trainer do not have the qualifications to work those receiving the benefits of Medicare and Medicaid is ridiculous. Why would the billionaire owners of the NFL, NHL, MLB, and NBA hire ATC's if they didn't feel they were not only qualified but also the best people for the job that needs to be performed?

A second degrading experience follows: I worked as an intern with the Institute of Athletic Medicine of the Fairview Health System in Minneapolis, MN this past summer. I was supervised by an ATC in one of their physical therapy clinics. In general she was respected by her co-workers, which ranged from PT's, and PTA's to chiropractics. However, according to the laws and regulations she was required to follow, she was only permitted to work with extremity patients. I know that as an ATC she was more than qualified to work with patients who were receiving treatment for back and neck injuries. Also, she was required to perform all her work out in the "gym" area of the clinic. This meant that should a patient ever be uncomfortable with the open setting of the gym, my supervisor was unable to work with that patient in the privacy of a closed room because she had to stay in the "gym". In addition, she was not permitted to perform evaluations in the clinic. Evaluations are something is trained and qualified to do and does do at the local high school she worked at during the afternoons. One other thing (among many) that she was prohibited from doing was signing the progress note at the end of a patient's therapy session. The supervising PT was required to sign the progress note when the vast majority of the time the PT was in another room with another patient, and never even saw the patient my supervisor and I were working with. In contrast, according to the current laws and regulations, a physical therapy assistant is permitted to sign the progress note at the end of a therapy session as long as the supervising PT co-signs. The point of this last restriction is the fact that an ATC has received, at a minimum, a 4-year bachelors degree. It is possible to become a PTA with a 2-year associates degree. I see no justifiable logic behind the restrictions and limitations placed upon her and the profession of A.T. as a whole. Despite the restrictions put on her, my supervisor was an excellent professional and held herself and the work she did both in the clinic and at the local high school to a standard above and beyond that required of her and her profession.

In general the profession of athletic training is under-recognized, under-appreciated and many times disrespected. This MUST cease. An ATC is a highly educated individual that is more than capable of caring for ALL of our nations populations. To say they are unqualified is appalling. Finally, with the increasing need for health care professionals in our nation today, to eliminate ATC's and other health care professions from treating those with Medicare and Medicaid benefits will only DECREASE the quality of care that those individuals receive. I strongly urge those involved in the ratification of future laws and guidelines to take the time to truly understand and appreciate the profession of athletic

training. ATC's are more than capable of treating any population, and should be given the opportunities and respect they deserve.

Submitter : Mrs. Carol Mauro Date & Time: 09/21/2004 02:09:29

Organization : Florida State Massage Therapy Association

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

PLEASE do NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physician's prescription or under their supervision.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

This is a comment regarding the 2005 Physician Fee Schedule Proposed Rule

September 20, 2004

To Whom It May Concern:

I just wanted to express my support to the Centers for Medicare and Medicaid Services for the proposed law on the 2005 Physician Fee Schedule Proposed Rule which would state that only licensed physical therapists are eligible to practice physical therapy services. I believe that this is a great idea being that in the Physical Therapy Practice Act it states that physical therapist "means a person who is licensed to practice physical therapy pursuant to the provisions of this act." (<http://www.state.nj.us/lps/ca/pt/pt.htm#pt.htm3>). This means that when physicians provide services and bill them as physical therapy services without having a licensed physical therapist performing them, they are allowing possible unqualified individuals to usurp our title and perform services that could at the end hurt our profession as well as the public. As a physical therapy student, who will soon be practicing, I appreciate your efforts to protect our profession and the public.

Sincerely,

Annyeni Santana



Submitter : Mrs. Laura Henn Date & Time: 09/21/2004 02:09:26

Organization : Performance Plus

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Attachment #2193

Laura Henn ATC/R, PTA  
Performance Plus  
2603 6<sup>th</sup> Ave. East  
North St.Paul, MN 55109

September 20, 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 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,

Laura Henn ATC/R, CSCS, PTA



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

As a licensed Physical Therapist and graduate of an accredited physical therapy school, I am concerned that a physician may bill for physical therapy services that are not performed by a qualified physical therapist, or can bill for a physical therapy assistant who is not supervised by a qualified physical therapist. For concern over public safety, I hope you will only allow qualified physical therapists to practice and bill for physical therapy services. Thank you.

Submitter : Mr. Zachary Oliphant

Date &amp; Time: 09/21/2004 02:09:12

Organization : Mr. Zachary Oliphant

Category : Individual

**Issue Areas/Comments****Issues 20-29**

THERAPY - INCIDENT TO

Zachary Oliphant  
323 Putnam Hall  
Eau Claire, WI 54701

September 20, 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.

? 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.

? 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,  
Zachary Oliphant

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I feel that it is imperative that contract billing companies should be required to provide physicians with a summary of charges billed in their names. If the physician is liable for billing errors we should have copies of the information.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

James E. Riley, MD  
13350 Big Basin Way  
Boulder Creek, CA 95006

September 20, 2004

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

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

I object to the Proposed Geographic Practice Cost Indices for 2005 because they fail to correct proven inadequacies in reimbursements to localities currently categorized as "Locality 99" that exceed the 5 percent threshold (the "105% rule") over the national 1.000 average. Specifically, the new GPCIs exacerbate reimbursement deficiencies for the California counties of Santa Cruz, Sonoma, Monterey, San Diego, Sacramento, Santa Barbara and El Dorado.

In particular, the county of Santa Cruz, when broken out from Locality 99, would otherwise reflect a 1.125 percent GAF - higher than the California Localities 17 (Ventura), 18 (Los Angeles) and 26 (Orange). The boundary payment difference between Santa Cruz County and its neighboring county of Santa Clara (Locality 9) is a whopping 25.1 percent. Such statistics demonstrate the fallacy of the GPCI formula and demand CMS develop either exceptions to the current rules that would correct for the Santa Cruz situation or refine the formula to more accurately reflect the true cost of medical practitioners. Not to do so perpetuates an inherently unfair and discriminatory formula.

In its August 5 notice, CMS states that on the issue of payment localities "[a]ny policy that we would propose would have to apply to all States and payment localities." Such an effort is commendable and bespeaks a desire to be fair to all physicians across the nation. However, the reality is that the governing statute does not prohibit individual State fixes or individual county or locality fixes. The CMS is not constrained by law from developing a strategy - with or without the concurrence of the state medical association - to correct the discrepancies in the reimbursement levels to California counties and I request that it do so as part of this rulemaking process.

CMS cannot postpone a solution this year as it did last year. Failure to address the GPCI/locality issue in California only grows the problems and will make fixing it all the more difficult in the future. Further, it threatens to undermine medical care to Medicare beneficiaries. Evidence from the local medical society shows an increasing trend toward doctors refusing to accept new Medicare patients. Many doctors are simply leaving the county to practice elsewhere, depleting the county of its medical resources. To implement the August 5 proposed rules would be counterproductive to CMS' mission to make Medicare benefits affordable and accessible to America's seniors.

I object to the Proposed Geographic Practice Cost Indices for 2005 as printed in the Federal Register of August 5, 2004. I request that CMS define a method in which it can revise the GPCIs for those California counties - especially Santa Cruz - that exceed 5 percent of the national average and begin reimbursing doctors in those counties more appropriate to their true costs.

Sincerely,

James E. Riley, MD

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

DIAGNOSTIC PSYCHOLOGICAL TESTS

I agree with the changes in these rules because it allows licensed doctoral psychologists, the professionals most highly trained and experienced in testing theory, construction, and interpretation, to be free to oversee the process of psychometric testing. It allows the use of well trained technician "extenders," which will make testing more cost effective and more readily available, since the psychologist will not have to be physically present for all of the testing, nor will s/he have to do all of the testing themselves.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

September 21, 2004

Mark B. McClellan, MD, PhD  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
Attention: CMS-1429-P  
P.O. Box 8012  
Baltimore, MD 21244-8012

Dear Sir

RE: Medicare Program; Revisions to Payment Policies Under the Physician Fee  
Schedule for Calendar Year 2005

I have been a physical therapist for 16 years and I wish to comment on the August 5 proposed rule mentioned above. I strongly support CMS's proposed requirement that physical therapists providing therapy incident to a physician be graduates of accredited professional physical therapist programs. The consumer is protected when the level of care is regulated via licensing of the provider. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions.

In my personal experience, an "on-the-job" personnel may be familiar with the routine procedures carried out by a physical therapist on the surface. However, without a thorough understanding of the underlying pathology, physiology and anatomy, the routine becomes ineffective and limiting. My patients frequently commend, and tell me how much they appreciate the time that I take to help them understand the mechanics of their problem and educate them on how to achieve their rehabilitation goals. This education and training is particularly important when treating Medicare beneficiaries.

There is also the negative impact of allowing unqualified individuals to provide services that are billed as physical therapy services in physicians' offices. A financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. This will negatively impact patient's outcomes and essentially short-changed the patient who thinks he/she is getting "professional" services.

Thank you for your kind attention and above consideration.

Sincerely  
Mayron Yip  
1615 F Deergreen Lane  
Charlotte, NC 28262