CMS-1429-P-1600

Submitter : Mr. Irv Cohen **Date & Time:** 09/15/2004 06:09:15

Organization : Fulbright

Category : Attorney/Law Firm

Issue Areas/Comments

Issues 10-19

SECTION 302

Please see the attached comments submitted on behalf of the Diabetic Product Suppliers Coalition. Thank you.

CMS-1429-P-1600-Attach-1.doc

CMS-1429-P-1600-Attach-2.doc

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September 15, 2004

Attachment to #1600
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Comments on Proposed Rule, Revision to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005, Section 302

Dear Gentlemen:

Pursuant to your notice of August 5, 2004, the following comments are being submitted on behalf of the Diabetic Product Suppliers coalition (the "Coalition"). The Coalition is comprised of Medicare-participating, direct-to-consumer suppliers of diabetic products. Combined, the Coalition members represent the major source to Medicare beneficiaries of Part B-covered diabetic products and file an enormous number of claims annually with the four Medicare Durable Medical Equipment Regional Carriers (the "DMERCs"). Accordingly, the Coalition is very interested in the issues relating to the Clinical Conditions for Coverage of Durable Medical Equipment discussed in the preamble to the proposed regulations and set forth in the proposed section 410.36.

Proposed section 410.36(b)(2)(ii) specifically addresses the requirements for a face-to-face physician examination of a patient prior to the dispensing of covered items of continued need. This section specifically mentions glucose testing supplies and apparently would apply this newly proposed face-to-face examination rule to the provision of diabetic testing supplies. We note, however, that the Centers for Medicare and Medicaid Services ("CMS") and the DMERCs have already developed and implemented effective policies regarding the appropriate timing of face-to-face examination with regard to the ordering of diabetic supplies. These conditions, which are set forth in the DMERC Manuals, have been developed through consultation with both the medical and supplier communities. They address the same concerns that likely resulted in CMS proposing section 410.36(b), but are significantly more practical because they recognized that: (1) diabetic Medicare beneficiaries will need blood glucose testing supplies for the rest of their lives; (2) diabetes rarely improves, which means that supply orders rarely (if ever) become outdated, and (3) diabetics should not be deprived of the testing supplies that they require to keep their glucose levels in check merely because a physician does not have

an availability for a face-to-face appointment. Thus, for diabetic supplies, we strongly urge that the conditions already promulgated by the DMERCs be retained.

Accordingly, the proposed regulations should be modified for blood glucose testing supplies as follows:

1. The requirement that the physician order be dated and signed within thirty days after the face-to-face examination should be changed to "the treating physician has seen the patient and has evaluated their [sic] diabetes control within six months prior to ordering quantities of strips and lancets or lens shield cartridge that exceed the utilization guidelines." For glucose testing supplies that do not exceed the CMS guidelines for diabetic testing, the condition is and should remain only that the ordering physician is "the physician who is treating the patient's diabetes."

Although the American Diabetes Association recommends that diabetic patients see their physicians at least twice per year, most see the particular physician treating their diabetes to review their diabetes control about once per year.

We discussed the timing of the physician examination *ad nauseum* with CMS and the DMERC medical directors during discussions about the appropriateness of the DMERC medical review policies. It was finally agreed that requiring the Medicare diabetic patient to have seen their treating physician immediately prior to a new or renewed physician order would likely result in a great portion of all diabetic beneficiaries losing their blood glucose testing supply benefit. Numerous studies have shown that without a proper testing protocol, the incidence of diabetic complications and hospitalization drastically increases. While we favor more frequent physician examinations, removing the supply benefit from those who did not see their physicians on a frequent and timely schedule was simply unacceptable, and is inconsistent with the CMS initiative to provide more preventive services to the vast number of Medicare diabetic beneficiaries.

This is not to say that requiring an order for DME be written within thirty days of a face-to-face physician examination may not be appropriate for many other items of DME, particularly for items that are often used for only a limited duration. We are merely indicating that the issue was already considered for glucose testing supplies and an acceptable standard has already been adopted. We strongly recommend that this proposed standard be modified with respect to glucose testing supplies to keep it in line with existing policies that have already proved to be effective.

2. The term "prescription renewal" should be changed to "renewal of an order," so as not to confuse it with a "refill." A new physician order for diabetic supplies is required once every twelve months; however, items may be refilled every three months on the same valid order. Accordingly, absent this clarification, diabetic beneficiaries could be required to see their physicians every three months, far more frequently than necessary. Additionally, the regulation

should clarify that a physician order for items of continued need, such as diabetic testing supplies, can be for up to a one-year period, as this is the current rule.

3. The requirement that a written order be completed and signed before delivery of medical supplies is inconsistent with current requirements and is simply not feasible for many types of products. The entire mail order medical supply business, upon which so many of the Medicare population rely and that is often the only practical source of such supplies in certain areas, would be ground to a halt should this rule be applied.

The current requirement, as expressed in the DMERC Manuals, is that "suppliers must have an order from the treating physicians before dispensing a DMEPOS item to a beneficiary. Except for items specifically requiring a written order prior to delivery, the dispensing order may be a written, fax or verbal order." This allows suppliers to get beneficiaries the supplies that they require without delay, as it can often take weeks to get a written physician order. Of course, in order to protect the program, current rules reasonably require that the supplier may not bill the DMERC for the item until it has a written or fax order in hand.

A verbal order has been universally accepted to dispense a DMEPOS item (except for those few special items) and is consistent with every state's pharmacy laws for dispensing prescription drugs.

The restriction in billing until a written or fax order is in hand has been sufficient to minimize fraud. Requiring a written order prior to dispensing will not decrease fraudulent billing by those who are intent on defrauding the program, but it will place an extreme burden on the delivery of products that are often needed immediately per a physician's verbal request. Delays could effect the health and well-being of Medicare beneficiaries and result in unnecessary complications and hospitalizations. Moreover, the current rules place the entire risk on the supplier that agrees to dispense to a beneficiary on a verbal order without the absolute assurance that the written order required to bill will ever follow.

For those few items where abuse has been rampant, the current requirement for written orders prior to delivery may be justified. To place this restriction on all items of DMEPOS is excessive and burdensome.

4. The requirement that the prescribing physician be "independent from" the DMEPOS supplier will result in many legitimate and necessary arrangements being prohibited. DMEPOS items are "designated health services" under the physician self-referral and payment prohibitions (commonly referred to as the "Stark Law") that, generally, forbid a physician from having financial relationships with DMEPOS suppliers to whom they refer. The Stark Law, however, does provide certain exceptions which Congress and CMS believed were both necessary and inoffensive. This proposed provision would offend the Congressional intent of permitting certain relationships. The Stark Law, as interpreted by CMS in regulations, is more than sufficient to thwart abuse of physician-supplier financial relationships, and this proposed provision should be withdrawn.

5. Finally, since these proposed requirements substantially decrease the risk that medically unnecessary services will be billed to the program, CMS should balance the increased burden it places on suppliers with the assurance that if the supplier complies with these provisions, that the supplier will not be responsible for providing any additional information or verification of medical necessity, absent clear evidence of fraud. For example, with more stringent requirements regarding the type, timing and frequency of written physician orders, should come an allowance for greater reliance on those orders. In other words, if the order signed by the physician includes all required information and certifies that the item is medically necessary for the patient, the supplier is bound to dispense the item as ordered. The supplier's responsibility to assure that the patient and the item meet the coverage criteria should be complete at that point. The Coalition believes that continued burdens to prove medical necessity placed on suppliers who have responded to complete physician orders consistent with coverage policy are indications of obtrusive and unjustified harassment.

We strongly urge CMS to limit any liability to a supplier who complies with these conditions.

Thank you for this opportunity to comment.

Very truly yours,

Irwin Cohen

IC/ams

cc: Diabetic Product Suppliers Coalition
Seth H. Lundy (Firm)

Submitter : Mr. Duglas Baker **Date & Time:** 09/15/2004 06:09:09

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I am concerned about the limitations of Certified Athletic Trainers (ATC)professional role. I do not agree with the exclusion of ATC's in the treatment and rehab of injured persons. ATC's have gone through an extensive educational program and certification process that proves their ability to work within the medical field. ATC's are not looking to diagnosis injuries or their return to any level of activity. We make ourselves available to individuals, mainly in the athletic field, who desire to return the physical health to their pre-injury status, and ideally even better. We are in many situations more more capable to do this area of rehab better than other medical professions due to our training and experience working hands on with athletes.
Again, ATC's are not looking to diagnos or clear anyone to return to any level or activity, but should be looked at by their expertise in assisting Physicians in their goals of returning individuals to a healthy lifestyle.

Thank you for your concerns in the good health of the population, and your investigation of ALL health care professionals.

CMS-1429-P-1602

Submitter : Mr. Jesse Townsend **Date & Time:** 09/15/2004 06:09:41

Organization : UPMC/National Athletic Trainers' Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please consider the attached letter.

CMS-1429-P-1602-Attach-1.doc

Jesse Townsend, MS, ATC
UPMC Sports Medicine
Greensburg Salem High School
65 Mennel Drive
Greensburg, PA 15601

Attachment to #1602

September 15, 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. Thank you very much for your consideration on this matter.

Sincerely,

Jesse Townsend, MS, ATC
Certified Athletic Trainer

CMS-1429-P-1603

Submitter : Jane Pratt **Date & Time:** 09/15/2004 06:09:27

Organization : New Beginnings (mastectomy fitter)

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

As a mastectomy fitter (DME), the implementation of the face-to-face provision of the Medicare Modernization Act would place an undue burden on physicians, beneficiaries, suppliers, and Medicare. The face-to-face prescription requirement will require the inconvenience of a visit to the physician, the physician's time for the visit, and Medicare's payment for the visit. The effects of a mastectomy are permanent, and mastectomy products are necessary throughout the life of the recipient. Medicare already has parameters in place for the dispensation of these items, and these paremeters should be sufficient.

Submitter : Mrs. Linda Hice **Date & Time:** 09/15/2004 06:09:52

Organization : Manelines Unique Boutique

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I feel that including mastectomy products in the face-to-face precsciption requirements would be an undue burden on mastectomy patients, physicians, suppliers,and on Medicare as well. If you include these services, Medicare will have to pay for face-to-face visits with a physician every time a patient needs mastectomy products. A mastectomy is a permanent condition. It should not need to be documented over, and over. It would tax the Medicare system, and decrease available funds for needed services. Medicare already has parameters in place for the dispensation of these items. I feel that it is an unnessary measure.

Submitter : Mr. Nobutaka Takashima **Date & Time:** 09/15/2004 07:09:48

Organization : Ball State University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

School of Physical Education, Sports and Exercise Science
Health and Physical Activity Building
Ball State University
Muncie, Indiana 47306

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

Re: Therapy ? Incident To

Dear Sir/Madam:

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

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession.

As I am an international student from Japan, I strongly admire athletic training as a highly successful health care profession and athletic trainers as highly educated health care providers as well as any other health related professionals in United States. Because I have an opportunity to see the health care system in both United States and Japan, I purely feel that health care services in United States, especially in the field of sports medicine, physical rehabilitation, and athletic rehabilitation, excel than those in my country. I have had an opportunity to observe couple of athletic trainers in rehabilitation clinic, sports medicine clinic, and physician?s office, and I have been aware of why these fields of health care system are much better than my country because athletic trainers exist and well function in these fields. I hardly expect that future sports medicine, physical rehabilitation, and athletic rehabilitation in Japan will be much better than today if athletic trainers are employed in these area of health care because athletic trainers have plenty of knowledge and skills of prevention, assessment, treatment, and rehabilitation of injuries. Therefore, I really can declare that athletic trainers are very important professionals in the health care system.

If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. It is not only employment, but also it would threaten the worldwide sports medicine field and its progress. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

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

Sincerely,

Nobutaka Takashima

Athletic Training Student at Ball state University, Muncie, IN

CMS-1429-P-1605-Attach-1.doc

Attachment to #1605
September 15, 2004

School of Physical Education, Sports and Exercise Science
Health and Physical Activity Building
Ball State University
Muncie, Indiana 47306

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. It is not only employment, but also it would threaten the worldwide sports medicine field and its progress. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care

providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

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

Sincerely,

Nobutaka Takashima

Athletic Training Student at Ball state University, Muncie, IN

CMS-1429-P-1606

Submitter : Mr. Keith Vinnecour **Date & Time:** 09/15/2004 06:09:28

Organization : Beverly Hills Prosthetics Orthotics, Inc.

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

Comments to CMS regarding proposed new coverage criteria for DMEPOS as they relate to the Prosthetic and Orthotic Profession

I have been in private practice since 1969. I am a Certified in Prosthetics and Orthotics by the American Board for Certification, ABC. I believe that including Prosthetics and Orthotics in the new DMEPOS coverage criteria in wrong. It is my opinion that these regulations will have more negative effects on protecting CMS from fraud and abuse, will reduce the quality and timeliness of patient care. I think that anyone who correlates the DME provider with a Qualified Prosthetic Orthotic Provider, especially a provider that is ABC certified in their specific discipline, is a terrible misrepresentation, as there are no similarities. There is an issue with CMS not properly defining a qualified provider, which does not protect Medicare Beneficiaries and opens loopholes for the unqualified individuals.

If a patient presently needs an adjustment to a prostheses or orthoses, they would call and make an appointment, come in and get the problems addressed. It appears that this new regulation would force the patient to have a face to face meeting with their physician before a prescription could be written. This would cause delays that would hinder patient care. I believe that you will see an increase in amputations as Diabetic patients need to be seen as soon as they see a small area of redness. If they wait, they could loose their leg or require a higher amputation. Even though it would be less critical for non Diabetic patients, it would greatly increase the number of fitting problems and lower the quality of life for those individuals that have already had a life?s catastrophe.

I am sure you know that in most professional Prosthetic and Orthotic practices, a physician will refer a patient with a generic prescription. After evaluating each individual, a specific prescription is sent to the physician for signature. This is a tedious paper trail required by Medicare. If an amputee has shrunk out of their prosthesis, it is only a qualified Prosthetist that can identify the problems and notify the physician. These same issues occur in orthotics and are also magnified by our large volume of Diabetic and dysvascular patients.

1. Please separate the Prosthetic Orthotic profession from DME.
2. Please consider that Prosthetics and Orthotics are a minuscule portion of the Fraud and Abuse seen with the DME industry.
3. Please consider the terrible burden on Beneficiaries and the reduced quality of care by having them see their physician for Prosthetic and Orthotic services.
4. Please help our profession to reduce our paperwork and regulations. This will help to compensate for the 3 year freeze forced upon us and will allow us to remain profitable.

I appreciate you taking my comments before implementing new criteria.

Sincerely yours,

Keith E. Vinnecour, CPO

Submitter : Mr. Geoff Hostetter **Date & Time:** 09/15/2004 06:09:30

Organization : Anaheim Angels

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File

CMS-1429-P-1607-Attach-1.doc

Geoff Hostetter
Anaheim Angels
Minor League Athletic Training Coordinator
4125 E McKellips Rd
Mesa, AZ 85215
(480) 830-4137

Attachment o #1607
September 15, 2004

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

Regarding: Therapy-Incident To

To Whom It May Concern:

I am writing in response to the recent proposal that would limit providers of "incident to" services in physician's clinics. This proposal, if adopted, would be detrimental to our health care system and would reduce the quality care received by Medicare patients.

I work with many elite professional athletes as a certified athletic trainer with a professional baseball team and also in the clinical setting during the off -season. I am insulted that it is being implied that I am not qualified to provide care for our senior population.

I worked extremely hard in school and during my internship program to get where I am today. It is a tragedy that some feel I am not qualified.

With more and more of our population reaching the age of retirement each year, the health care system who takes care of these people needs all the help that they can get. My colleagues and myself are more than qualified to meet this demand.

Thank you,

Geoff Hostetter, ATC/LAT

CMS-1429-P-1608

Submitter : Ms. Gail Fleming **Date & Time:** 09/15/2004 07:09:55

Organization : Breast Cancer Awareness Foundation

Category : Home Health Facility

Issue Areas/Comments

GENERAL

GENERAL

For those of us that have had a mastectomy and will be needing mastectomy products for the rest of our lives. Even though we have our check up with our doctors it would be a great inconvience to have to go to the doctor every time we may need mastectomy supplies. I feel that once the facility that I use has a document of necessity on file that should be sufficient. Things are hard enough with out adding more hardships to the elderly.

Submitter : Mrs. brenda mitchell **Date & Time:** 09/15/2004 07:09:08

Organization : not applicable

Category : Individual

Issue Areas/Comments

Issues 20-29

CARE PLAN OVERSIGHT

requiring patients to see physician each time a breast prosthesis is necessary will create more expense rather than save expense. The mastectomy is a permanent condition unless the patient has had reconstructive surgery, the RX should be written for a lifetime unless the situation changes.

CMS-1429-P-1610

Submitter : Mrs. Heidi Hall **Date & Time:** 09/15/2004 07:09:28

Organization : Maternal Instincts

Category : Other

Issue Areas/Comments

GENERAL

GENERAL

I feel that mastectomy products should be excluded from the face-to-face perscription requirement, because the effects of a mastectomy are permanent.Therefore, mastectomy products are necessary for the rest of a recipients life.The face-to face perscription requirement would place an undue burden on Medicare beneficiaries.

Submitter : Mr. Fred Bowen **Date & Time:** 09/15/2004 07:09:41

Organization : Mr. Fred Bowen

Category : Physical Therapist

Issue Areas/Comments

Issues 10-19

THERAPY ASSISTANTS IN PRIVATE PRACTICE

I strongly support the supervision standards for Physical Therapist Assistants in the private practice setting. I was stunned to learn that a PTA could see patients without my being present in the home health setting but could not do the same in my private practice.

Thank you for allowing me to express my opinions and support.

Issues 20-29

THERAPY - INCIDENT TO

I have seen in the past where a physician has decided to provide his own therapy in his office with personnel other than physical therapists. They used passive machines (Slender You) to "exercise" their patients and bill for physical therapy. The patients would lay on the machines and their limbs, etc. were moved by the devices.

As a physical therapist, I must meet the stringent requirements of my profession, both on a state level and a national level. I must attend coursework applicable to my profession and approved by my state. I must also attend coursework in ethics. Physical Therapists are required to endure difficult coursework once they are admitted to school.

My son is currently in physical therapy school. He has met their requirements for admission and is striving to meet their demanding educational goals. The public demands no less than this.

I strongly support the proposed personnel standards for physical therapy services in the physician's office.

Thank you for allowing me to express my views and concerns.

Submitter : Rhonda Baca **Date & Time:** 09/15/2004 07:09:38

Organization : Rhonda Baca

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

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.
As an athletic training student on the verge of graduation, the passing of ?incident to? would more then likely render my education useless. As a non-traditional student I waited over ten years to pursue my degree and chose athletic training because of my love for the care of people. During my research I learned that a certified athletic trainer was an accepted and respected member of the allied health team. Certified athletic trainers have the education and skills necessary to render immediate care, recognition, evaluation and assessment as well as treatment, rehabilitation and reconditioning to athletes in all aspects, from high school to professional, so I have to ask why would a medicare patient be any different? I believe that with the experience and education required and regulated at both a national and state level that certified athletic trainers would be an asset when caring for a medicare or any other patient in need of therapy.
The following is the educational requirement and experience for one to sit for the national exam in order to become a Certified Athletic Trainer as stated by the National Athletic Training Board of Certification:
Using a medical-based education model, athletic training students are educated to
serve in the role of physician extenders, with an emphasis on clinical reasoning skills. Educational
content is based on cognitive (knowledge), psychomotor (skill), affective competencies
(professional behaviors) and clinical proficiencies (professional, practice-oriented outcomes).
Students must receive formal instruction in the following specific subject matter areas:

Foundational Courses Professional Courses
Human physiology
Human anatomy
Exercise physiology
Kinesiology/biomechanics
Nutrition
Acute care of injury and illness
Statistics and research design
Strength training and reconditioning
Risk management and injury/illness prevention
Pathology of injury/illness
Assessment of injury/illness
General medical conditions and disabilities
Therapeutic modalities
Therapeutic exercise; rehabilitative techniques
Health care administration
Weight management and body composition
Psychosocial intervention and referral
Medical ethics and legal issues
Pharmacology
Professional development and responsibilities
Clinical Education

Students are required to participate in a minimum of two years of academic clinical education.

Using an outcomes-based approach, students are instructed and evaluated by Approved Clinical

Clinical Education (cont.)
Instructors or physicians in the following venues:
- Colleges/universities
- Secondary schools
- Professional sports
- Clinics
- Industrial settings
- Hospitals
- Olympic sports

A segment of the clinical education experience must be directed towards a patient population
having general medical ailments (e.g., cardio respiratory, metabolic).
In closing, hopefully you will see that certified athletic trainers are educated and competent to perform services for medicare as well as any other patient in need of therapy services and the decision to exclude us from providing those services will be rejected.
Sincerely,

Rhonda Baca
Future Certified Athletic Trainer

Submitter : Mrs. Donna Richardson **Date & Time:** 09/15/2004 07:09:07

Organization : AnMed Home Care Services

Category : Other Health Care Provider

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 and Medicare as well. The face-to-face prescription requirement will require the recipient the inconvenience of a visit to the physician, the physicians time for the visit, and Medicares payment for the visit.

Submitter : Mrs. Lynn Bigelow **Date & Time:** 09/15/2004 07:09:09

Organization : AthletiCo Fitness Rehabilitation Performance

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

Please see attached file.

CMS-1429-P-1614-Attach-1.doc

Attachment to #1614
August 24, 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

To Whom It May Concern:

I am writing in regards to the recent proposal that would limit providers of "incident to" services in physician offices and clinics. I have worked as a Certified Athletic Trainer for 10 years in several different settings. I have had the privilege of working at the college and high school levels evaluating, treating, and rehabilitating musculoskeletal injuries, and for the last 7 years in a clinical-outreach setting working with a variety of people, working closely with physicians and assisting in the care of their patients. Whether the individual is a high school athlete, an industrial worker, or weekend warrior, our goal is to restore function.

Points of concern regarding CMS proposal:

- By proposing this change, CMS is allowing a specific health care profession to seek exclusivity as the sole provider of therapy services. The United States is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. To limit allied health professionals working "incident to" would be increasing delays in health care and at a greater cost to the patient

- 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. These physicians make decisions that are in the best interest of their patients.

- To allow only physical therapists, occupational therapists and speech and language pathologists to provide "incident to" outpatient rehabilitation 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.

Certified athletic trainers have been misrepresented and misunderstood by other allied health care professionals. The National Athletic Trainer's Association has over 30,000

members, with 70% of those members having Master's degrees or higher. All certified athletic trainers must have a bachelor's degree from an accredited college or university and must have, as part of our core curriculums: human anatomy, human physiology, biomechanics, nutrition, pathology of injury and illness, exercise physiology, and psychology/sociology.

To assume that only one allied health profession is qualified to perform physical medicine services is not only short-minded, but detrimental to our health care system.

Thank you for your time and consideration.

Sincerely,

Lynn Bigelow, MS, ATC
17011 S. Blackfoot Drive
Lockport, IL 60441

Submitter : Mrs. Barbara Lillo **Date & Time:** 09/15/2004 07:09:57

Organization : Prosthetic Illusions

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Because the effects of a mastectomy are permanent, we feel mastectomy products should be excluded from the face-to-face prescription requirments. Exemption would be the least costly alternative for both Medicare and the patient. Prosthetic Illusions, Lakewood, Colorado.

CMS-1429-P-1616

Submitter : Ms. Ann Sweeny **Date & Time:** 09/15/2004 07:09:09

Organization : Northwest Ohio Health Information Mgmt Assoc

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

9/15/04

Reference: CMS-1429-P
Section: 302

Dear Sirs,

This proposed rule would utilize more of the physician?s time and resources at a time when they are overburdened and understaffed due partially to prior government regulations. It will force patients to visit their doctors more often regarding their condition with a higher cost to the taxpayer.

Reconsider this proposal, and allow physicians to practice medicine instead of shuffle papers.

Ann Sweeny, CMM, CCS-P, CPC

Submitter : **Date & Time:** 09/15/2004 08:09:24

Organization :

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

This comment is in regard to the comtemplated requirement of a face-to-face provision. While this may be a good idea for most situations, a woman who has had a mastectomy should be excluded when prosthesis & related items are needed. She should not have to be face-too-face with a physician only to have him/her tell her she still has a mastectomy. This condition does not go away!

It would be a waste of the physicians time and a great inconvenience to the patient. Plus additional cost to Medicare to pay for the physician's visit as well as the cost of processing additional paperwork. There would be no advantage to ANYONE, ONLY ADDITIONAL COST TO EVERYONE - INCLUDING TAXPAYERS.

CMS-1429-P-1618

Submitter : **Date & Time:** 09/15/2004 08:09:11

Organization :

Category : Health Care Industry

Issue Areas/Comments

GENERAL

GENERAL

Mastectomy products should be excluded from the face to face prescription requirements. The effects of a mastectomy are permanent, therefore products are necessary throughtout the lifetime of the recipient.The parameters Medicare already has in place should be sufficient. The face to face RX requirement would place an undue burden on all affected Medicare beneficiaries, physicians, suppliers and Medicare as well. This would require a visit to the physician, the physician's time and Medicare's payment for the visit.

CMS-1429-P-1619

Submitter : Mr. J Simons **Date & Time:** 09/15/2004 08:09:46

Organization : Rapid City Regional Hospital

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapist with 24 years of experience in MN, WY and SD. I'm writing to support the proposed rule from 8-5-04 that physical therapy services provided in a physician's office incident to a physician's services should only be provided by personnel who are graduates of an accredited P.T. Educational program. (Either PT, or PT Assistant supervised by a PT) I also believe these personnel should be licensed physical therapists, though I understand that isn't part of this proposed rule! Licensure would be the most appropriate standard to achieve for any person providing and charging for physical therapy services.

Physical therapists are now educated at the Master's and Doctorate level, and "physical therapy" is not just the use of passive modalities delivered in a physician's office by a trained aide or nurse, such as an ultrasound treatment or whirlpool. It is instead "...the care and services provided by or under the direction and supervision of a physical therapist." (from the Guide to Physical Therapist Practice, APTA, 1998) This involves examination, evaluation and intervention provided by the professional PT, or PT/PTA team. Anyone else providing and charging for those services should not be considered to be offering "physical therapy".

I have seen many times in the last few years where personnel in physicians, podiatrists or chiropractor's offices have rendered "physical therapy" to patients, often for several treatments or even over several months. When I finally get a referral to evaluate and treat said patients and they say they've been getting "physical therapy", I find they've never had the "examination and evaluation" part of the picture, only the intervention, and unfortunately often not good outcomes because of it.

Only physical therapists and physical therapist assistants have the broad backround, professional training, and are licensed in the states where they practice. Unqualified personnel should NOT be providing therapy services incident to physician services in physician offices. It doesn't even come close to meeting the established definition of physical therapy.

Thank you for your consideration of this important proposed rule.

CMS-1429-P-1620

Submitter : Dr. Laura Cushman **Date & Time:** 09/15/2004 08:09:32

Organization : APA, Divisions 40 and 22

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am writing in support of the proposed CMS rule change allowing psychologists to supervise psychometricians or other tehcnicians in the administration of diagnostic psychological and neuropsychological tests. Psychologists have the greatest level of expertise in this type of testing, and thus, they are the best qualified to supervise others administering and scoring such tests.

I strongly urge you to enact the proposed rule change.

Thank you.

Submitter : Ms. Sundi Hondl **Date & Time:** 09/15/2004 08:09:33

Organization : Excel Physical Therapy, Ltd.

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

As a Licensed Physical Therapist for 16 years, I find it almost uncomprehensable that our government, that is there to help protect the general public, would allow physicians to hire unlicensed personnel to provide Physical Therapy services, and bill for it on top of it. These unlicensed individuals would have no formal schooling, professional training,etc to make the professional judgements needed to provide safe and effective care, that a licensed PT or PTA would be able to do. I cannot fathom the potential problems that could potentially occur to these Medicare clients, who may already have limitations from severe medical problems, to be treated by non-professionals because the Physician sends their Medicare patient to their own unlicensed staff member, and get reimbursed for it. I am strongly opposed to this. I serve on our State Licensing Board in our state, and we don't get many complaints on behalf of PT's or PTA's, but our medical board sure does! If this is any indication of what will occur in the future, they'll be even busier.

CMS-1429-P-1622

Submitter : Mr. Brian Locke **Date & Time:** 09/15/2004 08:09:44

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

My name is Brian H. Locke, ATC and I have recently been made aware that you are proposing to pass legislation that would render all of my education and experience null and void. I have had the privilage of working with elite athletes such as collegiate all americans, national champions and professional athletes. All of these individuals could vouch for the expert and professional care they received by myself and other athletic training staff. They, like myself, would also be outraged to find that the professionals that contributed so much to their careers, are deemed uneducated by Medicare. On a daily basis I work hand in and hand with Physical Therapists whom will vouch and are also writting letters to you in regards to this issue. Athletic Trainers are more than qualified to provide physical therapy services to the populations covered by medicare. In our facility, the patients give a higher satisfaction rate when their primary therapist is a Certified athletic trainer. This is due to our high level of professionalism and education.
I am asking that you would reconsider this legislation that would prevent highly qualified medical professionals recognized by the American Medical Association from providing care to this population.

CMS-1429-P-1622-Attach-1.doc

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

Brian H. Locke
MidMichigan Health Park
4851 East Pickard St.
Mt. Pleasant, MI 48858

Attachment to #1622
September 15, 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,

Brian H. Locke, ATC

Submitter : Ms. Mary Jo Haugen **Date & Time:** 09/15/2004 08:09:58

Organization : Courage Center

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

This is relative to physical therapy services provided "incident to" physician services in a physician's office. I strongly support the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. The physical therapy interventions should be represented and reimbursed as physical therapy only when performed by a physical therapist or by a physical therapist assistant under the
supervision of a physical therapist. I strongly oppose the
use of unqualified personnel to provide services described and billed as physical therapy services.

Submitter : Dr. Steven Crenshaw **Date & Time:** 09/15/2004 08:09:59

Organization : Jacksonville Orthopaedic Institute

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Dr. Steven M. Crenshaw
Jacksonville Orthopaedic Institute
1325 San Marco Blvd.
Suite 200
Jacksonville, FL 32205

September 15, 2004

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

Re: Therapy-Incident To

Dear Sir/Madame:

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 adjunt 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 proved a particular service. It is imperative that physicians continue to make decisions in the best interests of the patient.

Sincerely,

Steven M. Crenshaw, MD

Submitter : Mr. Robert Charles-Liscombe **Date & Time:** 09/15/2004 09:09:41

Organization : Greensboro College

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter.

CMS-1429-P-1625-Attach-1.doc

Attachment to #1625

September 15, 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 and opposition over the recent proposal to limit providers of "incident to" services in physician clinics. If adopted this would eliminate the ability of qualified health care providers to provide these services and would unnecessarily increase the cost of providing healthcare to the health care system.

The current proposal severely restricts the ability of physician's to select and supervise qualified healthcare providers, such as certified athletic trainers (ATC), who are highly qualified and capable of providing the types of physical medicine and rehabilitation services under review. ATC's are allied health professionals, recognized by the American Medical Association, that specialize in the prevention, assessment, treatment, and rehabilitation of injuries and illness to individuals who engage in everyday physical activity. In order to become certified as an ATC, prospective athletic trainers are required to graduate from an accredited undergraduate or graduate program which includes academic coursework and clinical preparation. Following graduation, each candidate must then pass a nationally accredited certification examination which includes a practical component, a written component, and a written simulation component. Once certified, every ATC must complete 80 hours of continuing education every three years and be re-certified in CPR and First Aid for the Professional Rescuer. Over 60 % of the ATC currently in practice also have a Master's degree or more. These qualifications are more than ANY Physical therapy assistant or occupational therapy assistant program or certification requires.

By restricting the types of individuals who are eligible to provide incident to services, the Medicare system will substantially increase the cost, restrict access, and severely strain the already overburdened healthcare system. In many cases, the change to incident to services reimbursements 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 expense to the patient. Additionally, as a result of the current shortage of healthcare works, physicians would be unable to employ a variety of qualified health care professionals to provide "incident to" services. This would place an additional strain on rural and outlying regions of the country to provide physical medicine and rehabilitation to Medicare beneficiaries.

In closing, it is not necessary for CMS to institute the changes to incident to services as currently proposed. This CMS recommendation is a health care access deterrent, unnecessarily increases costs on the health care system, and does not recognize the qualifications and abilities of other credentialed health care professionals, such as certified athletic trainers, to provide quality physical medicine and rehabilitation services under the direction and supervision of a physician.

Sincerely,
Robert Charles-Liscombe, MS, ATC
Asst. Professor of Athletic Training
Clinical Coordinator
Greensboro College
815 W. Market Street
Greensboro, NC 27410

Submitter : Ms. Lillian Petrie **Date & Time:** 09/15/2004 09:09:41

Organization : Mastectomy Prosthesis

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

In Dural Medical Supplies the Mastectomy part should be unchanged. I had a mastectomy in 1974, and need a new prosthesis every two years. This situation will never change or improve.

Submitter : Mrs. Janelle Graham **Date & Time:** 09/15/2004 09:09:32

Organization : Coan

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1627-Attach-1.doc

Janelle Marie Graham

6500 Hardback Ct.

Fort Worth TX 76135

Attachment to #1627

September 15, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

Sincerely,

Janelle Marie Graham

6500 Hardback Ct.

Fort Worth TX 76135

CMS-1429-P-1628

Submitter : Mrs. DOnna Ashby **Date & Time:** 09/15/2004 09:09:36

Organization : THe Perfect Fit Post Mastectomy Boutique

Category : Device Industry

Issue Areas/Comments

GENERAL

GENERAL

In regard to All DME items requiering a face-to-face visit with a doctor. Mastectomy porducts should be excluded from this requirement. Mastectomy patients must wear bras to support their prosthesis. An undue burden will be placed on these women if every time they needa bra, they have to see a doctor. Medicare has guidelines in place for the dispensation of mastectomy items. A doctor should not have to waste his/her time when a woman has worn out a strap, the elestic is streached out,or the hooks no longer hook on a bra. Common sence must be factored into all our requirements.

CMS-1429-P-1629

Submitter : Ms. Sundi Hondl **Date & Time:** 09/15/2004 09:09:52

Organization : Excel Physical Therapy, Ltd.

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir or Madam,

I am writing to express support on the August 5th proposed rule on 'Revisions to the Payment Policies Under the Physician Fee schedule for Calender Year 2005'. This is to support the use of Licensed Physical Therapists and PT Assistants to provide care in Physicians offices versus non-licensed personel. I have been a licensed Physical Therapist for 16 years, and 7 of those years owning a private outpatient clinic. We see a variety of patients including Medicare clients.

It would potentially be harmful to these elderly patients if an unqualified person were treating them with physical therapy prescribed by a Physician. The non-licensed person would not be able to make professional judgements, nor have the medical background and specific training required to treat them appropriately. Not only that, but if there is a monetary cap on the treatment amount approved for Physical Therapy, proposed to start in January of 2006, these clients could potentially use up all their funds before even seeing a licensed PT, if they were billed by a doctor who sent them to their own unlicensed, untrained staff.

Again I strongly support the value of having licensure as a PT or PTA, as a standard, in providing care to Medicare clients.
Thank you for your time on considering this.

Sincerely,

Sundi M. Hondl, PT

CMS-1429-P-1630

Submitter : Dr. Howard Salvay **Date & Time:** 09/15/2004 09:09:57

Organization : Santa Cruz medical Clinic

Category : Physician

Issue Areas/Comments

Issues 1-9

GPCI

As a practicing physician I do not understand why Doctors even see Medicare patients. Knowing the fiancials we lose money on most encounters. I am surprised that a general boycott has not occured. As someone who cares for people we just do it. As a busness it makes no sense. The issue of area 99 and GPCI further magnifies a difficult issue. Here in Santa Cruz home prices are at $500,000 for a small 900 sq foot two bedroom. We can not get doctors to stay here because they are unable to buy a home even if thier partners work. To have a 25% differential to Santa Clara county which is adjacent to Santa Cruz speaks to a broken, outdated and arbitrary system. Personally I am looking at a declining if any social security if I retire and a 40% tax bracket. Please answer this question. Why would I see Medicare patients under these circumstances? I have asked this question of many doctors and they scrug their shoulders, look sad and shake their heads. Someone must consider the medical profession.
In George W. Bush's current stump speech he discusses the dissatisfaction of OB/GYN's and doctors forced out of practice. This issue,GPCI, is a reason for that. We in Santa Cruz are simply agast at the persistance of this problem. I will not bore you with the details of the situation. They are your policies in fact and you should be aware of them. When will someone act to correct this problem.
Please respond by some action. Move this issue forward. Do not let another year go be in complacency. We are faced with overwelming expences, we are doing the work in a high quality manner, support this issue. Make something happen.

CMS-1429-P-1631

Submitter : Mr. Kevin Bresnahan **Date & Time:** 09/15/2004 09:09:50

Organization : Healthsouth

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached file

CMS-1429-P-1631-Attach-1.doc

Kevin P. Bresnahan
5322 S. Archer Ave
Chicago, IL 60632

Attachment to #1631
September 15, 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 in inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions place upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts the legal responsibility for the individual under his or her supervision. Medicare and private payers have 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. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

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

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

- Athletic trainers are 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 or 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 professions deemed qualified, safe and appropriate to provide health care 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. 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, if is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kevin P. Bresnahan, ATC, CSCS
Certified Athletic Trainer
Site Coordinator
Healthsouth Sportsmedicine & Rehabilitation

Submitter : Mr. Jared Propper **Date & Time:** 09/15/2004 09:09:39

Organization : Rowan University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I see it this as an obvious effortto inappropriately regulate athletic trainers and other qualified health care professionals employed by physicians and open those positions to physical therapists and occupational therapists alone. Athletic trainers are academically and clinically qualified and capable to provide these services to Medicare patients.

Submitter : Dr. Dean Zweng **Date & Time:** 09/15/2004 09:09:00

Organization : Santa Cruz Medical Foundation

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Because of the 25% difference in medicare reimbusment between the boarding counties of Santa Clara and Santa Cruz, Santa Cruz is approaching a crises in medical access. We, in Santa Cruz, cannot compete to attract and retain physicians. Our cost of living is as high. The median price of a home is over 600K. It has been difficult to practice in a county were patients are getting more and more frustrated, doctors are closing there practice to medicare, and quality is suffering. Please address this problem in a responsible and time efficent way, Sincerely, Dean Zweng MD

Submitter : Dr. Howard Salvay **Date & Time:** 09/15/2004 09:09:09

Organization : Santa Cruz Medical Foundation

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

As a practicing physician I do not understand why Doctors even see Medicare patients. Knowing the financials we lose money on most encounters. I am surprised that a general boycott has not occurred. As someone who cares for people we just do it. As a business it makes no sense. The issue of area 99 and GPCI further magnifies a difficult issue. Here in Santa Cruz home prices are at $500,000 for a small 900 sq foot two bedroom. We can not get doctors to stay here because they are unable to buy a home even if their partners work. To have a 25% differential to Santa Clara county which is adjacent to Santa Cruz speaks to a broken, outdated and arbitrary system. Personally I am looking at a declining if any social security if I retire and a 40% tax bracket. Please answer this question. Why would I see Medicare patients under these circumstances? I have asked this question of many doctors and they shrug their shoulders, look sad and shake their heads. Someone must consider the medical profession. In George W. Bush's current stump speech he discusses the dissatisfaction of OB/GYN's and doctors forced out of practice. This issue, GPCI, is a reason for that. We in Santa Cruz are simply aghast at the persistence of this problem. I will not bore you with the details of the situation. They are your policies in fact and you should be aware of them. When will someone act to correct this problem. Please respond by some action. Move this issue forward. Do not let another year go by in complacency. We are faced with overwhelming expenses, we are doing the work in a high quality manner, support this issue. Make something happen.

Howard Salvay, M.D.
Santa Cruz Medical Foundation
2025 Soquel Avenue
Santa Cruz, CA 95062

CMS-1429-P-1635

Submitter : Mrs. Phyllis Hedges **Date & Time:** 09/15/2004 10:09:39

Organization : Mrs. Phyllis Hedges

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

I am a mastectomy patient as well as a healthcare professional and I feel that this revision will cause great hardship on many mastectomy patients. Many times they do not want to purchase more than 1 or 2 bras at a time to make sure they are going to be comfortable(such as myself who has unusual suture lines and cannot tell whether a bra is going to be comfortable until worn for a while). There will be additional cost for the government who pays at each physician visit and for the patient as well, not to mention the inconveniece and possible discomfort when the patient has additional physical problems. Please consider the patient --a mastectomy does not "get well" --it is there for a lifetime, as is the need for mastectomy products.

CMS-1429-P-1636

Submitter : **Date & Time:** **09/15/2004 10:09:08**

Organization :

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see the following attachment

CMS-1429-P-1636-Attach-1.doc

American Kinesiotherapy Association
P.O. Box 1390 , Hines Ill. 60141-1390

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

Marge Ferraresi
1053 Kenilworth Dr
Wheeling, IL 60090

Attachment to #1636
September 15, 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, placing 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 registered kinesiotherapists) 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, 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. 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. 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.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. 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,

Marge Ferraresi, RKT

Submitter : Miss. SHIRLEY SEWARD **Date & Time:** 09/15/2004 10:09:46

Organization : JOSEPHINE'S FAYETTE, INC. (POST MASTECTOMEY SHOP)

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

GENERAL

AFTER A PATIENT HAS HAD A MASTECTOMEY, SHE WILL ALWAYS NEED A BREAST PROSTHESIS AND MASTECTOMEY BRAS. I WOULD THING IT WOULD COST MORE FOR THE INSURANCE COMPANIES TO MAKE A PATIENT VISIT A DR BEFORE PURCHASING THE DME. PLEASE BE REASONABLE, THE PATIENTS HAVE ENOUGH TO CONTEND WITH OUT HAVING TO VISIT THE DR EVERY TIME SHE NEEDS A BRA OR PROSTHESIS.

CMS-1429-P-1638

Submitter : Dr. Douglas Hetzler **Date & Time:** 09/15/2004 10:09:04

Organization : Santa Cruz Medical Clinic

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Douglas G. Hetzler, M.D., F.A.C.S.
Otolaryngology-Head and Neck Surgery
Santa Cruz Medical Clinic
2025 Soquel Avenue
Santa Cruz, California 95062
(831) 458-5640
Fax: (831) 423-9556

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

September 15, 2004

Dear Sirs:

I am writing regarding the proposed rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

The proposed Geographic Practice Cost Indices (GPCI) for 2005 fail to correct proven inadequacies in reimbursements to localities in California 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 an astounding 25.1 percent. Such statistics demonstrate the inadequacies 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,

Douglas G. Hetzler, MD,FACS

CMS-1429-P-1639

Submitter : Dr. Douglas Hetzler **Date & Time:** 09/15/2004 10:09:17

Organization : Santa Cruz Medical Foundation

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Dear Sirs:

I am writing regarding the proposed rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

The proposed Geographic Practice Cost Indices (GPCI) for 2005 fail to correct proven inadequacies in reimbursements to localities in California 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.

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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,

Douglas G. Hetzler, MD,FACS

Submitter : Mr. Rodney Newman **Date & Time:** 09/15/2004 10:09:34

Organization : Vanderbilt University Medical Center

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Rod Newman Vanderbilt University 2601 Jess Neely Dr Nashville, TN 37212

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.
? 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.
? CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
? These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.
In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.
Sincerely,
Rod Newman, MS, ATC

Submitter : Mrs. Shirley Adkins **Date & Time:** 09/15/2004 10:09:20

Organization : Personal Touch Apparel

Category : Individual

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 prescripton requirement would place an undue burden on all affected Medicare beneficiaries, physicians, suppliers and Medicare as well.

CMS-1429-P-1642

Submitter : Dr. Ky Kugler **Date & Time:** 09/15/2004 11:09:44

Organization : Chapman University

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1642-Attach-2.doc

CMS-1429-P-1642-Attach-1.doc

Attachment to #1642

Dr. Ky E. Kugler, ATC
Chapman University
Athletic Training Education Program
One University Drive
Orange, CA 92866

1/21/2005

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

I discussed this situation with a faculty colleague from our Doctor of Physical Therapy program and we concluded that both our associations often times create this unnecessary type of correspondence. More importantly we concluded how both the physical therapy and athletic training profession are made up of highly skilled professionals, who should work in concert together to provide the best possible health care to all people. The CMS is making members from both associations choose sides and this is not only unfair to both the APTA & NATA memberships, but not a healthy situation for people seeking health care services.

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

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

Dr. Ky E. Kugler, ATC
Chapman University
One University Drive
Orange, CA 92866

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

Professional	Level of Education	SVP (Specific Vocational Preparation)	Job Zone	Job Zone Examples
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

Dr. Ky E. Kugler, ATC
Chapman University
Athletic Training Education Program
One University Drive
Orange, CA 92866

Attachment 2 to #1642

1/21/2005

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

I discussed this situation with a faculty colleague from our Doctor of Physical Therapy program and we concluded that both our associations often times create this unnecessary type of correspondence. More importantly we concluded how both the physical therapy and athletic training profession are made up of highly skilled professionals, who should work in concert together to provide the best possible health care to all people. The CMS is making members from both associations choose sides and this is not only unfair to both the APTA & NATA memberships, but not a healthy situation for people seeking health care services.

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

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

Dr. Ky E. Kugler, ATC
Chapman University
One University Drive
Orange, CA 92866

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

Professional	Level of Education	SVP (Specific Vocational Preparation)	Job Zone	Job Zone Examples
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

CMS-1429-P-1643

Submitter : Mr. inder rakalla **Date & Time:** 09/15/2004 11:09:05

Organization : polyclinic pharmacy

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

GENERAL

regarding face to face appointment for repeat braces or mastectomy. pt has to be seen by M.D. before issueing rx for replacement brace or mastectomy. he has make notes, transcribe them, and keep medical records, obviously there is expense involved in doing this. How do you justify not paying him for this. We dont expect you to work for medicare or govt without getting paid. This is a basic right in free society that you should be paid for your work. Are you working without getting paid, why do you expect anybody to do that. Surely this is not legal. You want to save money but not by,not paying somebody for legitimate work done. Office staff has to be paid utilities have to be paid. either allow an rx without pt being seen by M.D. or pay him for taking care of your client It is amazing how people who are getting paid for working for the govt, are passing these rules requiring other people to work for free. I definitely cannot justify asking you to work for free, how can you expect that from the physicians.

Number 2 you would not pay the provider if the M.D. did not have complete medical records justifying the brace or dme I would have no control or jurisdiction to check that. Its just like i would say to you that if aother dept in the govt did not do their job properly or the employee sitting in the next office to you did not do his job then you would not be paid either. would that be fair, surley not. Please keep some semblance of sanity and common sense i the regulations being passed. Thank you.

I understand these programs are costing a lot of money, but please come up with realistic and fair ways of doing it. I have a very easy way to save money for Medicare, Cut all CMS employees wages by half. Now that would definitely save money. But is it fair? I donot think so and I am sure you feel the same. My point is we all want to save medicare money but not by unethical , unreasonable or unjust ways.

Submitter : Mr. Matthew Bienz **Date & Time:** 09/15/2004 11:09:38

Organization : Ball State University Athletic Training

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Athletic Training
Ball State University, Muncie, IN

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

Re: Therapy ? Incident To

Dear Sir/Madam:

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

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

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

Sincerely,

Matthew Bienz

Athletic Training Student at Ball State University, Muncie, IN

CMS-1429-P-1645

Submitter : Miss. Tara Hodge **Date & Time:** 09/15/2004 11:09:09

Organization : Athletic Training Program, Boston University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1645-Attach-1.doc

Tara Hodge
Athletic Training Program
Boston University

Attachment to #1645
September 13, 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

To Whom It May Concern:

This letter is regarding the proposal to limit "incident-to" services in physician offices and clinics. If adopted, this could mean bad things for health care professionals and Medicare patients. It would not allow other highly qualified health care professionals to provide these services. In turn, the quality of health care Medicare patients receive will decrease and end up costing more money in the long run.

Before you make your final decision on this proposal I ask that you take into consideration the following points:

- Certified athletic trainers are health care professionals who are trained to perform a wide variety of services. According to the National Athletic Trainer's Association, these services include injury prevention; recognition, evaluation, and assessment of injuries; immediate care of injuries; treatment, **rehabilitation**, and reconditioning; organization and administration; and professional development. Certified athletic trainers are educated in all of these areas and are qualified to perform all services necessary. Athletic trainers provide a broader scope of services than any other health care professional.
- Certified athletic trainers are working in a growing amount of settings. The profession is breaking away from the traditional settings of high schools, colleges, and professional sports, and moving toward more non-traditional venues such as physician's offices, hospitals, and work places. Other people in the health care profession are seeing the value of athletic trainers and are employing them in numerous different settings.
- The services that this proposal would limit certified athletic trainers from performing are ones that they perform on a regular basis in traditional settings. In athletic training rooms and sports medicine clinics, athletic trainers provide therapy to patients under the direction of a physician. This is exactly what the proposal would limit. We are considered qualified enough

to treat high-end athletes in this way, so we should be qualified enough to treat Medicare patients.

- A lot of qualifications are needed to become a certified athletic trainer. A candidate must receive a bachelor's or master's degree from a college or university that has a program accredited by CAAHEP (Commission on Accreditation of Allied Health Education Programs). The curriculum for these programs includes biology, chemistry, physics, human anatomy, human physiology, and exercise physiology, among others. These are the same classes that physical therapy programs require, and, in fact, athletic training students often take these classes with physical therapy students. Along with the classroom work, athletic training students are required to have a minimum of 800 hours in a clinical setting before they can sit for the exam. The certification exam, which is given by the NATA Board of Certification, is a three part exam which must be passed before an athletic trainer can become certified. This certification exam is considered one of the best among health care professions. The education does not stop with graduation, however. Many certified athletic trainers go on to earn master's degrees.
- Certified athletic trainers stay up with the most recent in sports medicine research. All certified athletic trainers are required to earn continuing education units each year to keep their certification and their membership in the NATA. These units are attained by attending conventions, lectures, etc. Many states do not require physical therapists to earn continuing education units.
- The preparation of an athletic trainer is considered equal to a physical therapist's and greater than occupational therapists, occupational therapy assistants, and physical therapy assistants, according to the federal government. According to the U.S. Department of Labor, athletic trainers have a Specific Vocational Preparation rating of 8+, compared to a 7 for occupational therapists, and a 4 for occupational therapy and physical therapy assistants.
- This proposal undermines the judgment of physicians. Physicians are concerned for the well-being of their patients and employ health professionals whom they deem are qualified enough to treat their patients. This includes certified athletic trainers. Limiting who can treat patients shows a lack of trust of our physicians to choose qualified individuals.

Certified athletic trainers are just as, if not more, qualified to perform the services under question. It is unnecessary and unjustified for CMS to implement the changes suggested. The quality of health care that Medicare patients receive will be decreased if these changes take place.

Sincerely,

Tara Hodge, Athletic Training Student

CMS-1429-P-1646

Submitter : **Date & Time:** **09/15/2004 11:09:49**

Organization : **Athletic Training, Boston University**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

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

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 : Ms. Toni Figy **Date & Time:** 09/16/2004 12:09:16

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Toni M Figy LAT, CSCS
301 O'Neil Street
Lake Mills,WI 53551

9/15/04

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

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

CMS-1429-P-1648

Submitter : Mr. Robert Jordan **Date & Time:** 09/16/2004 12:09:49

Organization : Jordan Therapy and Wellness

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing in support of proposed personnel standards regarding the use of non-physician personnel for the provision of physical therapy services in a physician's office. As a physical therapist in private practice for the past 14 years I have personally witnessed the abuses and poor quality of services provided in physician's offices. Physical therapists (PT) and physical therapy assistants (PTA) are specially trained to provide rehabilitation services to individuals affected by disease, trauma, or illness. Physicians are trained to diagnose and treat pathology. Physical therapists are trained to diagnose and treat impairments. There is no similarity in the philosophy or the treatment approaches. Physicians who attempt to provide these services in their offices are serving only one purpose--to make money. They have used the present regulations as loopholes to allow them to supplement their own incomes. They typically seek to hire untrained staff to provide minimal care, while billing as physical therapy. Numerous studies have shown that such services are ineffective and more expensive than skilled services provided by a PT or PTA. CMS should demand that any provider who claims to provide physical therapy services should do so by hiring the staff who are qualified to provide those services--PTs. If the physicians are truly concerned about the well-being of thier patients, then they should have no reservations about hiring the most qualified professionals to provide those services. Why would a physician want to provide physical therapy via unqualified personnel? The answer: money. CMS should not allow itself to be defrauded by such individuals just because they have MD after their names. If anyone at CMS honestly believes that a physician is going to have the interest or initiative to personally oversee these services, then they have become delusional. I have spent 14 years refining my art. I have received more than 10 years of professional education to become skilled in my trade, and I am Board certified in both Geriatrics and Orthopedics. It is insulting that CMS would even consider lessening the restrictions for the provision of these services. The real problem lies in the fact that CMS has failed to recognize physical therapists as primary care providers in the Medicare system. Physical therapists do not have their own billing codes to identify what they do. We are forced to use Physical Medicine and Rehabilitation codes when billing for our services. Unfortunately, many other providers also use these codes which has led to countless abuses by physicians, chiropractors, osteopaths and even dentists. Each of these professions has their own billing codes, so why do they insist upon using PM and R codes? The answer is simple, they are claiming to perform services that they are not qualified to provide. They know it and physical therapists know it. The only ones being defrauded are the patients who receieve these inadequate services and CMS who pays for the services. Physical therapy should be provided by physical therapists and physical therapist assistants in a physical therapy office. Physical therapists should have their own set of billing codes for submitting bills. This would immediately eliminate millions of dollars in excess spending every year. Physical therpists provide rehabilitation services under strict regulatory control. Physicians who use unskilled personnel to provide pseudo-rehab are doing so with complete contempt for CMS and the American tax payers. Physicians are only interested in padding their pockets with taxpayer money and they believe CMS is foolish enough to believe that they have the best interests of their patients in mind.

Submitter : Mr. James Moore **Date & Time:** 09/16/2004 01:09:42

Organization : The National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached Microsoft Word file.

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

The attachment to this document is not provided because:

1. The document was improperly formatted.
2. The submitter intended to attach more than one document, but not all attachments were received.
3. The document received was a protected file and can not be released to the public.
4. The document is not available electronically at this time. If you like to view any of the documents that are not posted, please contact CMS at 1-800-743-3951 to schedule an appointment.

CMS-1429-P-1650

Submitter : Mr. James Moore **Date & Time:** 09/16/2004 01:09:15

Organization : The National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached Microsoft Word file.

Thank you for taking the time to read this letter and view my thoughts on this issue.

CMS-1429-P-1650-Attach-1.doc

Attachment to #1650
Jim Moore
2536 Santa Rosa Drive
Kettering, Ohio 45440

September 15, 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:

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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.
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a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

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

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

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

Sincerely,

Mr. Jim Moore
2536 Santa Rosa Drive
Kettering, Ohio 45440-1129
USA

CMS-1429-P-1651

Submitter : Mr. Rob Sandmann **Date & Time:** 09/16/2004 01:09:00

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Please educate yourselves about the education and certification of a certified athletic trainer. We are a professional organization that has many years of training and specialization. We are able to provide quality and economic care to patients in all settings. Please do not tie the hands of the physicians by limiting who they can send patients to for outpatient therapy and rehabilitation.

Thanks for your consideration
Rob Sandmann
817-656-3348

CMS-1429-P-1652

Submitter : Mr. George Britt **Date & Time:** 09/16/2004 01:09:43

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To whom this may concern,
I am outraged at your allogations of stating that Athletic Trainers are not capable of treating medicare patients. I treat medicare sports medicine patients everyday and help those athletes get back to the sport that they are involved. We are very educated in the prevention, education, rehabilitation of sport related injuries. Who do you think treats high schools, colleges, olympic, and professional athletes everyday to get them back to the sport that they are involved. We are educated healthcare professionals that have to go to atleast a 4 year program in which some go on to get masters and Doctorate just like the physical therapy field. Most of the time we can get the athletes back faster than most physical therapist with our expertise in sport rehabilitation. So we are more than qualified to treat medicare kids. Granted Athletic trainer can not treat stroke patients, muscular distrophy patients,etc, but we do treat all athletic sport related injuries such as Acl reconstruction, hamstring strains, ankle strains, dislocated shoulders, multi-instability of the glenohumeral head and several other related injuries. We are usually the first medical staff that reaches the athlete on the field with anything from a quad contusions, to cervical spine fractures, all the way to catastrophic injuries. We are well trained on treating all injuries. We also have a huge National association, and also strong district and state associations. We are also licensed professionals, and are able to bill insurances from large corporations such as nova care, blue cross/ blue shield, aetna, united healthcare, and basically all other insurance companies. I just do not understand how you can say that athletic trainers are not qualified in treating medicare patients. I think that you guys need to be more educated on what athletic trainers actually are? We are not personal trainers who give out of shape people work out programs to get themselves in better shape. We are educated medical health care professionals that are well qualified in treating all sports related injuries. We are just like physcal therapist but we specialize in sport related injuries. With out Athletic Trainers, there will be no Sports Medicine.. Then who will treat kids and get them back to there sports, or who will treat that professional football players injury and get them back on the field. With out athletic trainers, Athletes will suffer. Physical therapist are not able to rehab sport related injuries as well as Athletic Trainers. All I am asking is for you guys to please educate yourselves on what athletic trainers are before you can say that we are not qualified to treat medicare patients. I think other than physical therapist in the rehab field, athletic trainer are just as good if not better in treating and rehabilitating athletes. We also work well and develop great relationship with the Physicians which helps the patients get the best treatment that they can receive!!!! Please do not limit my profession in treating kids and adolescents and even adults from doing something that we love!!! With your accusation, you will hurt our field and limit patients from getting the treatment that they really deserve. All I want to do is to help athletes get back on to the field so they can do what they love as well!!! Please, all I ask is for medicare to let athletic trainers treat medicare and medicaid sport related injuries. That is all we, as athletic trainers are asking you guys for. Please just understand and educate yourself more on what athletic trainers are!! You can ask anyone and even physcians, and they are will agree that athletic trainers are outstanding in what we do!!! Please just put athletic trainers into consideration. WE ARE QUALIFIED IN TREATING MEDICARE PATIENTS. If you have questions, you can go to the national athletic trainers site www.nata.org. Thanks for your time and consideration.
Thanks again
George

Submitter : **Date & Time:** 09/16/2004 01:09:38

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Athletic Training Program
School of Physical Education
Muncie, IN 47306

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

Re: Therapy ? Incident To

Dear Sir/Madam:

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

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

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

Sincerely,

Athletic Training Student at Ball State University

Submitter : Mrs. VIrginia Csillan **Date & Time:** 09/16/2004 01:09:06

Organization : Mrs. VIrginia Csillan

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached letter

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

The attachment to this document is not provided because:

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2. The submitter intended to attach more than one document, but not all attachments were received.
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Submitter : Ms. Stephanie Carter **Date & Time:** 09/16/2004 01:09:44

Organization : Rowan University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The world of Athletic Training is becoming even stronger apon the horizon. The qualifications to charge for our services have been met, so why can we still not charge for the services? We as Athletic Trainers are certified in the areas that we practice, therfore we should be able to charge for our expert assistance and knowledge of the field.
Athletic Trainers have the same qualifications of those in other medical careers to do the same things that they are charging for, so in the near future things should change. Charging for our services should become equal in the aspect of our knowledge and certification for what we are or should be charging for, and not what are certification says we as health care providers are.

CMS-1429-P-1656

Submitter : **Date & Time:** 09/16/2004 01:09:32

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

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Submitter : Mr. Sean Hurney **Date & Time:** 09/16/2004 01:09:23

Organization : NATA

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File!!
Thanks

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

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CMS-1429-P-1658

Submitter : Ms. Francesca Galarraga **Date & Time:** 09/16/2004 01:09:07

Organization : Ms. Francesca Galarraga

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

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.

CMS-1429-P-1659

Submitter : Mrs. Olga Galarraga **Date & Time:** 09/16/2004 01:09:19

Organization : Mrs. Olga Galarraga

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

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.

CMS-1429-P-1660

Submitter : Mr. Christopher Mohall **Date & Time:** 09/16/2004 01:09:44

Organization : Mr. Christopher Mohall

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

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.

CMS-1429-P-1661

Submitter : **Date & Time:** 09/16/2004 01:09:02

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

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

CMS-1429-P-1661-Attach-1.txt

Attachment # 1661

Jessica Klerlein
2401 Ravine Way Suite 100
Glenview, IL 60025

September 15, 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, Certified Athletic Trainers, 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,

Jessica Klerlein, ATC/L, NCTMB
2401 Ravine Way Suite 100
Glenview, IL 60025

CMS-1429-P-1662

Submitter : Mr. Michael Mendoza **Date & Time:** 09/16/2004 02:09:42

Organization : Cleveland Clinic Health System

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to write in opposition of the proposal to limit the physician's ability to delegate care to trained professionals, such as Certified Athletic Trainers, to provide care to patients in the physician's office. This proposal could deny patient's access to health care they could receive. It could also increase health care costs. Ultimately it would not allow caring, trained professionals, such as Certified Athletic Trainers to care for patients who need them. Please see the attachment which elaborates on this issue.

CMS-1429-P-1662-Attach-1.rtf

Michael Mendoza
171 Old Rockside Rd.
Seven Hills, OH 44131

9/15/04

Attachment to #1662

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

Sincerely,

Michael Mendoza

171 Old Rockside Rd.

Seven Hills, OH 44131

CMS-1429-P-1663

Submitter : Mr. Paul Savard **Date & Time:** 09/16/2004 02:09:45

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madame:
I am writing to express my concerns about the recent proposal that would limit providers of "incident to" services in physician offices and clinics. There are a number of reasons to keep this from being adopted including the elimination of qualified and in cases superiorly qualified health care professionals to provide these important and urgent services to our Medicare patients. In my professional opinion, it would seriously hinder the quality of care that our Medicare patients will receive, not to mention that it would INCREASE costs for these services placing a HUGE burden on the the system, and more importantly, it would take the the control of the patient's care OUT OF THE PHYSICIAN'S AND INDIVIDUAL'S HANDS WHERE IT NEEDS TO BE. Let me elaborate why it is imperative that this does not become a law.
"Incident to" provides the physician the right to delegate the provision of services to Medicare patients by QUALIFIED INDIVIDUALS who are under the "direct supervision" of said physician, and it has been this way since the inception of the Medicare program in 1965.
Trusting our physicians to make and guide the choice of qualified providers, such as Certified Athletic Trainers who are more than fully qualified and trained in protocols to be administered, is not only prudent, but it is respectful to their judgement on how best to serve the Medicare patients in the most effective and judicious manner possible. There have NEVER been restrictions placed upon physicians regarding who he/she can utilize to provide any "incident to" services. The physicians are fully aware that they would be legally responsible for all care ordered, and in every situation are making these decisions to help expidite care to SHORTEN RECOVERY TIMES AND LOWER EXPENSES FOR THE MEDICARE PATIENTS. Making a patient wait for further treatment until they can get into a physical therapist's office can and does LENGTHEN THE RECOVERY TIME AS WELL AS CAUSE ADDITIONAL EXPENSES not to mention that by legislating Medicare patients out of "incident to" care that they could get the same day in the physician's office means more suffering, pain, and hardship for the Medicare patient.
Physicians want to provide quality, efficient and cost effective health care for their Medicare patients, but forcing a physician's hand by limiting who THEY CHOOSE to utilize to offer Medicare patients the best in services (such as eliminating Certified Athletic Trainers from the possibilites) will add more fuel to the fires burning already. Physicians have been trained to be the Directors and Managers of our health care, but they have seen SELFISH interest groups try to take over and make all the rules. Let's start setting things straight and allow the physician the RESPECT AND RIGHT they should have to run our health care systems.
If all other providers are eliminated for incidenct to care, the physicians will be either forced to use inferior care for their Medicare patients or to do the care themsleves. Our Medicare patients deserve BETTER!
Independent research has already demonstrated that the QUALITY of services provided by Certified Athletic Trainers is EQUAL TO OR BETTER THAN the services provided by physical therapists. Patients who have been involved with a Certifed Athletic Trainer's care in our area are more than satisfied with their care and are VERY PLEASED WITH THEIR RESULTS. Certified Athletic Trainers academic programs are accredited through an independent process by the Commision on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT). The qualifications for a Certified Athletic Trainer are already apparent to these bodies. It appears that this "incident to" is being done to appease the interests and selfishness of a single group who wants a monopoly in the care of patients, not out of concern FOR THE PATIENT. Sincerely, Paul Savard, ATC, LATC.

CMS-1429-P-1664

Submitter : **Date & Time:** 09/16/2004 02:09:28

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

"please see attached file"

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

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Submitter : SHIRLEY BERNHARDT **Date & Time:** 09/16/2004 02:09:43

Organization : SHIRLEY BERNHARDT

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

WHY MUST WOMEN SEE THEIR PHYSICIAN FOR NEW MASTECTOMY PRODUCTS. ITS NOT LIKE THEY WILL GROW A NEW BREAST! ARE YOU FOLKS FOR REAL?
THANKS

CMS-1429-P-1666

Submitter : Mr. Craig Huff **Date & Time:** 09/16/2004 03:09:28

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physicians 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.

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 anatomy,human physiology, 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 therapistss, 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 an 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 care professional to seek exclusivity as a provider of therapy services.

It has been proven out that competition bring about the best result. It is obvious that other therapy professions would like to slim there competition for Medicare reimbursements.

Sincerely,

CMS-1429-P-1667

Submitter : Sylvia Mehl **Date & Time:** 09/16/2004 03:09:06

Organization : Sylvia Mehl

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Physical therapy should be provided by a licensed physical therapist at all times or a licensed physical therapy assistant supervised by a licensed physical therapist. This is in the best interests of the patient in order to receive effective treatment and achieve a positive outcome. The education process is such that the licensed physical therapist is trained to provide skilled therapy, and it is the physical therapist's specialty to supervise an assistant or license applicant (foreign trained), not a physician. Just as a physical therapist is not trained to supervise a physician's assistant or other personnel in their office. I strongly oppose the direction of this bill to allow payment of therapy services in a phsyician's office without the presence of a physical therapist. Thank you.

CMS-1429-P-1668

Submitter : **Date & Time:** 09/16/2004 03:09:38

Organization :

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services. CMS does not have the statutory authority to restrict who can and cannot provide services incident to a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

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

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

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

CMS-1429-P-1669

Submitter : Mrs. Anna Edwards **Date & Time:** 09/16/2004 03:09:06

Organization : APTA

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I support adoption of the proposed changes to incident to regulations for physical therapy services provided in physician offices

CMS-1429-P-1670

Submitter : Miss. **Date & Time:** 09/16/2004 03:09:24

Organization : West Chester University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached letter

CMS-1429-P-1670-Attach-1.doc

Attachment to #1670
September 15, 2004

Stacey Ayles
300 E. Marshall St. Apt 106
West Chester, PA 19383

Centers of 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

To Whom It May Concern:

As a current athletic training student, and a soon to be certified athletic trainer I feel very compelled to write this letter opposing the proposal CMS-1429-P. I am opposed to proposal CMS-1429-P for a few reasons. One reason is that I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as certified athletic trainers (ATCs) in physicians offices and clinics; thereby, reducing the quality of health care for physically active patients. Secondly, this limited access to qualified health care providers will cause a delay in the delivery of health care. This delay will in turn cause an increase in health care costs and put excess taxes on an already heavily burdened health care system.

Certified athletic trainers are just one profession that would be greatly impacted by this proposal. An ATC is a health care professional who specializes in the prevention, assessment, treatment and rehabilitation of injuries to all levels of athletes and physically active people. Athletic trainers are highly educated health care providers whom are recognized by the American Medical Association as an allied health care professional. All certified or licensed athletic trainers must have a bachelors or masters degree from an accredited college or university. ATCs take many of the same classes as physical therapy students, and sometimes even sit side by side with them in these classes. Because ATCs are highly qualified health care providers many ATCs work in physicians offices and clinics under the supervision of the physician. If a physician is confident in an ATCs skills and is willing to take the responsibility for the actions of an ATC in his/her office, then why can't Medicare and Medicaid continue to trust the physicians judgment like they have in the past. If this proposal were passed it would put many athletic trainers jobs in jeopardy along with my future as an ATC employed in these settings. And because of this the value of my degree I am earning would not be used to its full potential.

If this type of limitation is placed on the provision of “incident to” services by qualified health care providers like ATCs, the CMS will only add to the quickly increasing health care costs, and reduce the overall level of health care in the United States.

In conclusion, I feel and believe that the CMS-1429-P proposal must be rejected in order to maintain a patients right to choose the type of quality of health care, and my right as a future allied health care provider.

Sincerely,

Stacey Ayles

Athletic Training Student at West Chester University, PA.

CMS-1429-P-1671

Submitter : Mr. Matthew Vinnal **Date & Time:** 09/16/2004 03:09:57

Organization : Rowan University

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The issues that will raise from this bill entering law, could possible destroy the Athletic Training profession. As a student, planning to enter the work force as a certified athletic trainer, I would hope that my future would not be in jeopardy. This is why Medicare cannot go through with the proposed changes.

CMS-1429-P-1672

Submitter : Mr. Kirk Bradley **Date & Time:** 09/16/2004 03:09:33

Organization : BDPTI

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am responding the recently legislated proposal restricting athletic trainers from treating medicare patients. My credentials include that of ATC as well as a physical therapist within the field(s)for over 15 years. I have seen many proposals, many changes, many challenges for the "opportunity" to render health carfe to various populations.

I am commenting on the sheer appropriatness of treatmetn administration to a patient based upon the training and "tort laws". These laws actually were most emphasized not when I was in PT school but rather in my ATC training. To paraphrase, one must not do harm to another person. In my opinion I don't recall any training in evaluation or treatment of various acute or chronic diseases or conditions. ATC's greatst and primary role was that of prophylactic as well as treatment of musculoskeletal and injury cases. I have unique advantage as several of my physical therapist peers to have received the ATC training and consider it invaluable. I do however believe that my training did NOT prepare me for the successful administration of an acute renal failure, above knee amputee, scleroderma, multiple sclerosis, Gullian Barre, etc.

ALthough I am pushing the envelope slightly when I contend that few of us would encourage our dentist to perform a rotator cuf repair simply because they had anatomy and physiology, a principle can be applied from this statement. Therefore, if not for the purpose of professionalistic turf beating, I believe that the recent legislation to restrict ATC's treatment of the Medicare population makes sense and certainly the consumers (patients) would not want a leser or unqualified person working with their mother or father. Why risk malfeasance?

Submitter : Mr. James Wilson **Date & Time:** 09/16/2004 03:09:39

Organization : California State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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Athletic trainers are health care professionals recognized by the American Medical Association. They specialize in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others engaged in physical activity. Athletic trainers are multi-skilled health care professionals who make significant contributions to health care. All certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. A great majority (70%) of practitioners hold advanced degrees comparable to other health care professionals, including physical therapists, registered nurses, and speech 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. Dozens of athletic trainers served with the U.S. Olympic Team in Greece to provide health care services to our top athletes. For CMS to even suggest that athletic trainers are unqualified is outrageous and unjustified. Independent research demonstrates the quality of services provided by athletic trainers is equal to physical therapists.

?Incident to? has, since 1965, been utilized by physicians to allow others, with physician supervision, to provide services as an adjunct to the physician?s services. A physician has the right to delegate patient care to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and qualified. There have never been restrictions in terms of who can 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 physician?s professional judgment to determine provider qualifications of a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Ms. Carmen Macall **Date & Time:** 09/16/2004 03:09:47

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
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Submitter : Mr. Joseph Avitabile **Date & Time:** 09/16/2004 03:09:45

Organization : Mr. Joseph Avitabile

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
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Submitter : Mr. David Cox **Date & Time:** 09/16/2004 03:09:21

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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Submitter : Mr. David Didlake **Date & Time:** 09/16/2004 03:09:48

Organization : California State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

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September 15, 2004

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Department of Health and Human Services
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Submitter : Miss. Brigette Gallup **Date & Time:** 09/16/2004 03:09:47

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

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September 15, 2004

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Submitter : Mr. Mark Van Riper **Date & Time:** 09/16/2004 03:09:44

Organization : California State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Submitter : Miss. Devon Wayne **Date & Time:** 09/16/2004 03:09:33

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Attachment #1680

September 15, 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:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of "incident to" services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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

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In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Respectfully,

Devon Nichole Wayne

Athletic Training Student
Division of Kinesiology and Health Science
California State University, Fullerton
Fullerton, CA. 92834

Submitter : Miss. Heather Calkins **Date & Time:** 09/16/2004 03:09:47

Organization : Cal State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Submitter : Mr. Daniel Vasquez **Date & Time:** 09/16/2004 03:09:25

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Department of Health and Human Services
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Attachment to#1682
September 15, 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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Respectfully,
Daniel Vasquez

Athletic Training Student
Division of Kinesiology and Health Science
California State University, Fullerton
Fullerton, CA. 92834

Submitter : Mr. Michael Hoang **Date & Time:** 09/16/2004 03:09:47

Organization : Califronia State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
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Submitter : Miss. Kyoko Kajiya **Date & Time:** 09/16/2004 03:09:48

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
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Attachment #1684

September 15, 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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Respectfully,

Kyoko Kajiya

Athletic Training Student
Division of Kinesiology and Health Science
California State University, Fullerton
Fullerton, CA. 92834

Submitter : Miss. Kira Graff **Date & Time:** 09/16/2004 03:09:08

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Submitter : Miss. Lorrie Clement **Date & Time:** 09/16/2004 03:09:40

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

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September 15, 2004

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Submitter : Mr. Parwiz John Siaghani **Date & Time:** 09/16/2004 03:09:48

Organization : California State University,Fullerton

Category : Other

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Department of Health and Human Services
Attention: CMS-1429-P
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Submitter : Mr. Brent Smedley **Date & Time:** 09/16/2004 03:09:36

Organization : CSU, Fullerton

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 2004

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Attention: CMS-1429-P
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Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America. Dozens of athletic trainers served with the U.S. Olympic Team in Greece to provide health care services to our top athletes. For CMS to even suggest that athletic trainers are unqualified is outrageous and unjustified. Independent research demonstrates the quality of services provided by athletic trainers is equal to physical therapists.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Ms. Julie Smith **Date & Time:** 09/16/2004 03:09:50

Organization : California State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of ?incident to? services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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Submitter : Mr. Zachary Dumont **Date & Time:** 09/16/2004 03:09:47

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Ms. Melissa Belandres **Date & Time:** 09/16/2004 03:09:38

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of ?incident to? services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Mr. Hirokazu Nagai **Date & Time:** 09/16/2004 03:09:47

Organization : California state University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of ?incident to? services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Miss. Jennifer Rieger **Date & Time:** 09/16/2004 03:09:39

Organization : California State University at Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of ?incident to? services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my Bachelor of Science degree, as well as my Masters degree with athletic training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers, the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Mr. Christopher Bates **Date & Time:** 09/16/2004 03:09:54

Organization : California State University Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. America places a lot of value on education and by passing this proposal my education would be in vain, not to mention the waste of money spent. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

Submitter : Mrs. Sandy Smedley **Date & Time:** 09/16/2004 03:09:12

Organization : Mrs. Sandy Smedley

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

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Submitter : Miss. Jennifer Summerfield **Date & Time:** 09/16/2004 03:09:45

Organization : California State University, Fullerton

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Kinesiology. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary, and will diminish health care in the US.

Submitter : Mrs. Marti Graff **Date & Time:** 09/16/2004 03:09:31

Organization : Concerned Citizen

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 15, 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:

As a mother of a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. This proposal limits patient access to qualified health care providers of ?incident to? services, such as ATCs and others, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers causes health care delivery delays, which increase health care costs and taxes an already over burdened health care system.

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If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my daughter's future employment in those settings and the value of my daughter's degree in Athletic Training. With this type of limitation artificially placed on the provision of ?incident to? services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In summary, CMS offers no evidence of a problem and the CMS-1429-P proposal must be rejected. This appears as an effort to appease a single professional group who seeks to establish themselves as the sole provider of therapy services. The proposed changes are unjustified, not necessary and will diminish health care in the US.

CMS-1429-P-1698

Submitter : **Date & Time:** 09/16/2004 03:09:34

Organization :

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Provision of physical therapy services by individuals working in physician's offices who are not graduates of accredited professional PT programs results in significant risk to patients and significant risk to themselves. Only licensed PTs and PTAs have the education and training to provide services which adhere to the standards of care required by law. As of January 2002, the minimum educational requirements for becoming a PT is a post-baccalaureate degree from an accredited program and by 2005 graduating physical therapists will be awarded a doctor of physical therapy degree. Keeping this is mind, one can safely say that an individual working in a physician's office who is not a graduate of an accredited professional PT program does not have the education and training necessary to provide physical therapy modalities and treatments. By virtue of licensure in the state in which they practice, a physical therapist is professionally responsible for the care that they provide or that they supervise the provision of, this cannot be said of an individual working for a physician who does not have a PT license or is not supervised by a licensed PT. The application of physical therapy modalities and treatments requires a knowledge of not only anatomy & physiology, but electrochemistry, kinesiology and comprehensive patient care (as it relates to the practice of physical therapy) as well, which can only be obtained in an accredited PT program and then assessed by the PT licensure process. These are the individuals who will obtain the most positive patient outcomes and who will minimize the professional risks of providing these services. Imagine the risk of an individual delivering an ultrasound treatment who has no or limited knowledge of what ultrasound waves are or what they can do (both beneficial and harmful). The same can be said about an individual instructing exercises without a comprehensive understanding of biomechanics and stabilization. This is particularly important when treating medicare beneficiaries. By allowing individuals who are not physical therapists to provide physical therapy services can also financially incapacitate the medicare system and its beneficiaries. Quick, positive outcomes are fiscally beneficial for all involved. Under current Medicare policy, a cap on physical therapy services is scheduled to become effective January 1, 2006. An individual therefore, could exceed his cap on therapy services without ever receiving services from a physical therapist, which could negatively impact the outcome. Finally, in order for an outpatient setting to bill physical therapy services, these services must be provided by individuals who are graduates of accredited professional physical therapy programs. Section 1862(a)(20)of the Social Security Act clearly states that billing for physical therapy services by a physician's office must meet the same requirements as billing for physical therapy from an outpatient setting. Thank you for taking the time to consider my comments.

Submitter : Mr. Steve Fink **Date & Time:** 09/16/2004 04:09:02

Organization : Mr. Steve Fink

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-1699-Attach-1.doc

Steve Fink
13825 N. 42nd Drive
Phoenix, AZ 85053

Attachment to #1699

September 15, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

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

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

- It is demeaning to a Certified Athletic Trainer, who works with high profile athletes on a daily basis, to be told they are not qualified to help a Medicare beneficiary that has been injured golfing, playing tennis, etc…
- Certified Athletic Trainers in Arizona and many other states are licensed health care providers.
- 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,

Steve Fink, ATC/LAT