

Submitter : Colin Foye Date & Time: 09/14/2004 03:09:02

Organization : Healthsouth

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

"Please see attached file"

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

Colin Patrick Foye  
6 Dike Road  
Bath, ME 04530

Attachment to #1400

September 14, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent. I am currently licensed and have been practicing as a Certified Athletic Trainer for eight years. During that time I have evaluated and treated Professional Baseball players, college students, high school students, and patients within the clinical arena. If this proposal were to pass than it would have a direct effect on my future employment within those areas. I urge you to consider rejecting the proposal and allow ATC's to continue with working with the clinical population.

Sincerely,

Colin Foye LATC

Head Athletic Trainer

Brunswick High School / HEALTHSOUTH of Granite Hill

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

To Whom It May Concern:

I am writing to express my concern in regard the ? incident to? billing of physical therapy services. As a sports medicine and family physician, I work closely with both athletic trainers (ATCs) and physical therapists. As with any field I have worked with good and bad in both areas. I have found both fields to be extremely useful as part of the team caring for my patients. However as their skills sets differ in some respects I find that my patients do best when I am allowed to use my judgment as to who performs the therapy services. The proposal by the American Physical Therapy Association (APTA) that they are the only ones capable of performing quality rehabilitation is just plain wrong. Many of the ATCs I work with provide as good if not better, and more cost effective care, then many physical therapist. I am also offended at the APTA assertion that as a physician I am incompetent to judge who is qualified to give such therapy services. I strongly urge you to continue to allow physicians to be able to designate who may perform physical therapy services, including ATCs, as this is best for patients and most cost effective for the system as a whole. Many of my patients who see an ATC prior to leaving the office to help guide them with a home exercise/rehabilitation program get better. This is significantly cheaper than referring everyone to physical therapy. I reserve this for those patients who do not improve on a home program. To summarize I strongly believe that physicians should be able to determine who can give appropriate therapy to their patients and the ATCs are very capable of providing quality, cost effective rehabilitation. Please do not hesitate to contact me if you would like any further information regarding this email. Thank you for your time and consideration.

Sincerely,  
Matthew Gammons, MD  
Director of Sports Medicine  
Assistant Residency Director  
St. Michael Family Practice Residency  
Assistant Professor  
Department of Family and Community Medicine and  
Department of Orthopaedic Surgery  
Medical College of Wisconsin  
414-527-8450

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

I am a practicing licensed physical therapist assistant and a graduate student receiving my masters in physical therapy. It is important for the Centers for Medicare/Medicaid to understand that "physical therapy" is a skilled service that should only be provided by a PT/PTA. Therapists are generally required to obtain 2-3 years of physical therapy specific training. We have a strong understanding of human anatomy. We have been educated in the area of orthopedics, cardiopulmonary, and neurological conditions to name a few. We are skilled in the treatment of physical therapy related conditions within these facets of health care. Along with treatment it is most important to understand that we are educated in safety precautions and contraindications for the different services we provide. It is the safety of the patient that is our concern and we are educated in the proper course of action if a problem should arise. Allowing unqualified staff to perform "physical therapy" related services is a risk to the patient. As health care providers we should strive to continue to provide safe and effective treatments for our patients. By allowing unqualified persons to provide skilled services we decrease the integrity of our current healthcare system.

Submitter : Date & Time: Organization : Category : **Issue Areas/Comments****Issues 20-29**

THERAPY - INCIDENT TO

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 increase the costs associated with this service.

During the decision-making process, consider the following:

Incident to has 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.

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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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, every professional sports team in America, and the U.S. Olympic Team. For CMS to suggest that athletic trainers are unqualified to provide the same services to a Medicare patient that is injured in a 5K race is outrageous and unjustified.

Sincerely,  
Damian Schlinger LATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see the attached file.

[Attachment to #1404](#)

September 14, 2004

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

Melinda K. Burns  
1704 NW 81<sup>st</sup> Way  
Plantation, Florida 33322

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.
- 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.
- Educational and certification requirements exceed those of a PT assistant. This suggests that certified athletic trainers are more than qualified to provide services to a Medicare beneficiary based on experience, skill, and knowledge. Currently, athletic trainers provide care to high profile athletes and patients, yet we are unable to provide care to Medicare patient’s due to current restrictions, as a result leaving many with expensive options for Physical Therapy or denying them from the proper rehabilitation that would in turn allow them to return to a previously active, healthy lifestyle.
- 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.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
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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.
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In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent. Please do not institute a change that is unwarranted. Educate yourselves on the current responsibilities and activities of athletic trainers in your community. I believe that you will see hard working, knowledgeable, and unselfish individuals who have a passion for returning patient's to the game of life.

Sincerely,

Melinda K. Burns, ATC/L

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-1405-Attach-1.txt

Attachment #1405

Mrs. Kelly Callahan, MS, ATC-L  
32925 US Rt. 11  
Philadelphia, NY 13673

9/14/04

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:

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

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

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

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

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

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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,

Mrs. Kelly Callahan, MS, ATC-L  
Indian River Central School District

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Athletic Trainers can be used as a resource to cut health care costs and provide quality care. ATC's go through accredited educational programs and must pass a national board exam. Furthermore, continuing education is required and in fact more demanding than physicians and physical therapist. I encourage you to support Athletic Trainers.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached file

CMS-1429-P-1407-Attach-1.txt

Attachment #1407

Mrs. Kelly Callahan, MS, ATC-L  
32925 US Rt. 11  
Philadelphia, NY 13673

9/14/04

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:

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Sincerely,

Mrs. Kelly Callahan, MS, ATC-L  
Indian River Central School District

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached file

CMS-1429-P-1408-Attach-1.txt

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

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

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

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

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am attaching a comment in word format regarding the proposed changes to "incident to" therapy.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Therapy - Incident To It is imperative that everyone understands the capability to effectively treat patients, athletes, people of all walks of life as athletic trainers. Our training, education, and experience justify that benefit. We are extremely competent, and improve significantly the outcomes of individuals going through rehabilitation. Robert Schultz PTA, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

As a Certified Athletic Trainer, I am outraged that CMS would view us as unqualified to provide services for medicare patients. If our ability to see medicare patients is stopped, then our profession will be destroyed! I have a Masters degree that includes anatomy, physiology, kinesiology, and other aspects of therapy that Physical Therapists are not even qualified to perform. Please consider this when you decide on this issue. Athletic Trainers are more than qualified to perform these types of rehabilitation services. I have wrote letters to Senator Byrd and Senator Rockefeller urging them to take action against this horrible act. Consider the hard work you have done to get yourself to this point in your own career. Now, consider somebody trying to take it away so that they can impoly a monopoly on the rehabilitation profession. That is exactly what the Physical Therapists are doing. I urge you to vote no to this amendment and give Athletic Trainers the power to do what the have been trained to do.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Corette Whipple, ATC  
2275 N Cable Road Apt 115  
Lima, Ohio 45805

Attachment to #1412

September 14, 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.

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- 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,

Corette Whipple, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please understand the repercussions of not allowing Certified Athletic Trainers to provide services to medicare patients in clinics. Certified Athletic Trainers (ATC's) provide services to professional athletes as well as athletes of all ages. Why would it not be acceptable to provide the service of evaluation, rehabilitation and treatment of injuries to the elderly population as we have done for the past several years? Physicians have used our education and knowledge to help rehabilitate their patients and keep the cost of healthcare down. All ATC's are required to complete a four year degree in the field of Athletic Training and pass a National Certification Exam to practice. Knowledge, experience and education is what physicians depend on to provide services to their patients. Why would we all of a sudden not be qualified for something we have been doing for years under the guidance of a licensed M.D.? Our services help lower healthcare costs and provide quality care to patients who need it most. We practice in High Schools, Colleges, Clinics and Industrial settings and help in education and prevention of injuries. It is sound judgement to continue our services in the clinical environment and to be reimbursed for the professional services we provide to thousand of patients.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am in agreement with having Physical Therapy services are provided only by licensed Physical Therapists. I had an ACL reconstruction and did not appreciate being sent to the back of the doctor's office to be treated by an athletic trainer that did not understand pathology or rehabilitation. Please have Physical Therapy done exclusively by Physical Therapist, I sure would not want a Vet. to operate my knee.

Submitter :  Date & Time:

Organization :

Category :

**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  
OFFICE OF STRATEGIC OPERATIONS & REGULATORY AFFAIRS**

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

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

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

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

I am writing to support the proposed rule requiring physical therapy delivered as incident to physician services be provided only by appropriately credentialed health care practitioners.

I am a licensed physical therapist in the Cincinnati area and have witnessed the re-emergence of physician owned physical therapy (POPTS) as physicians look for ways to supplement their incomes.

In order to maximize profits, the model of these services at one of the largest orthopaedic groups in our area is to employ an athletic trainer to run the physical therapy sites, employ one licensed physical therapist to perform the initial evaluation, but hire athletic trainers, PT assistants and aides to actually treat the patient.

I don't think it is a stretch to say that most people would not allow an underqualified or unschooled individual to cut their hair; yet a similar situation occurs when underqualified, unschooled people in the physician owned physical therapy site are delivering what should be skilled physical therapy services. It is both outrageous and dangerous for the unsuspecting health care consumer. I find it hard to believe that CMS allows this to happen by reimbursing these physicians for physical therapy services not provided by physical therapists!

The very fact of POPTS re-emerging is itself problematic. When I was much younger and quite a bit naive as a recent graduate of physical therapy, I took a job with an orthopaedic surgeon. He began sending me his patients for physical therapy 5 days/week for 2 weeks which in itself was overutilization. When he sent me a woman still casted for a wrist fracture for finger range of motion exercises (despite the fact that she already had full range), I marched into his office and told him that I would not participate in such a practice and quit soon thereafter. Stark I put him out of the physical therapy business. Now that the interpretation of Stark II has created the opportunity, well, here we go again. And who is the unwitting victim as the physician strong arms their patient to utilize "their" physical therapist, of course, it is the patient.

I hope that at the very least, CMS right now moves to establish the standard that physical therapy services be provided by licensed physical therapists. The need for that is immediate in order to protect patients and decrease the incidents of fraudulent billing for skilled physical therapy provided by underqualified individuals. In the future, perhaps CMS should evaluate the ethics of physician ownership of physical therapy in their offices under any circumstances.

Sincerely,

Gayle K Schild, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

File code CMS?1429?P

Comment on Re-assignment of Medicare payments

Section 424.80

The importance of allowing emergency physician's access to their billings is paramount to the integrity of the individual physician as well as the specialty itself. Contract management groups and billing service companies have already demonstrated their propensity towards amplifying physician's claims in order to increase their profit margins at the expense of the entire health care system. Individual physicians must be able to actively engage these groups, without fear of termination, in order to review their own billing/revenue and ensure no fraudulent billing activity is occurring in their name. Specific language must in fact mandate this behavior or it will NOT happen, and once again "business as usual" will continue to deteriorate the overall quality of emergency medical care in this country, as more emergency physicians experience difficulty work for these largely unethical corporate entities.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Attachment #1418

Mr. Timothy Callahan  
32925 US Rt. 11  
Philadelphia, NY 13673

9/14/04

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. 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,

Mr. Timothy M. Callahan

Indian River Central School District

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I strongly oppose physical therapy services being provided by unqualified personnel. The musculoskeletal system is complex and an accurate assessment of a patients problem is required to ensure proper treatment. Formal education and experience are necessary to make these assessments. Physical Therapy programs now provide their students with masters or doctorate level education so graduates can provide the highest level of care. I have worked closely with physicians who agree that the assessment and opinion of a trained physical therapist is often superior to their own when musculoskeletal injuries have been identified.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Athletic trainers should be able to walk across the street from a collegiate athletic training room to the physician's office and administer the same therapy treatment to an older patient who has sprained an ankle jogging or walking the athletic trainer just provided to a track athlete. Athletic trainers have the skills to treat people for the same injuries so why shouldn't they be able to do so. It is the right of the highly qualified athletic trainer to treat anyone with those injuries within their scope of practice.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

**THERAPY - INCIDENT TO**

I have been a Physical Therapist for 13 years. I remember how tough it was for me to become a licensed Physical therapist. I supported myself through school driving big trucks on the weekends and evenings. For that reason I am proud to be a therapist and I clearly feel that getting an education gives me better opportunities, and that my skills allow me to have a better paying and less physical job. It truly is a rewarding achievement, for which I am thankful each and every day. It has always been a travesty in my eyes, that anyone can provide physical therapy as long as they have 'supervision' by a physician. First of all what does a physician know about physical therapy? Their knowledge about therapy is usually minimal. They do not know (contra) indications for modalities or therapeutic techniques. I see a lot of physicians in my practice as patients, even the orthopedic surgeons and physiatrist do not have the same knowledge levels as a licensed Physical Therapist. Yet CMS legislates that a Licensed Physical Therapist can not supervise a student in physical therapy, who has absolutely more knowledge than some physician staff who treat incidental therapy to a doctor's office visit. That fact shows how lame the current regulation is. State law here in Florida states that someone who is not licensed by the state, who does provide physical therapy, is an unlicensed provider and therefore is subject to penalties under state law.

It is time that CMS recognises that their beneficiaries receive what is promised or billed; in this case that is licensed physical therapy. Under Florida workman's compensation law, a patient has the right to sue his employer if they do not provide licensed care, CMS has yet to catch up with these potential legal issues. what is next? an outpatient surgery can be done by anyone as long as it is 'supervised'

The proffession of Physical therapy has taken a strong scientific direction for the future, we recently raised the entry level to a master's degree, and we are in the process to make physical therapy education a doctoral degree in the near future. We specialise in a very small part of human science; physical rehabilitation. It is my opinion that we should be called physical rehabilitation specialists instead of therapists. CMS gives a value judgement about my proffession; you need to be qualified, but depending on the setting, anyone can perform physical therapy , even high school drop outs, as long as you are in a physicians office, who would directly supervise you (as if that really happens, when is the last time that your doctor, took your weight, height, and bloodpressure?)

I believe that you get my drift here. I feel very passionate about Physical therapy and being a physical therapist. It is not in the patients interest to receive physical therapy by people who have not had the specialised education required to be a licensed physical therapist. legally and ethically it is irresponsible to continue to allow therapy icident to a visit to happen. It is Time to recognise that a specialist will get the superior outcomes with a much lesser chance for ineffective or non appropriate outcomes .Treating someone wrongly due to poor knowledge can incapacitate a patient for the rest of their life.

I strongly urge CMS to consider to stop and cease allowing therapy as incident to a visit at the physicians office.

thank you  
Dennis J.M. Rikken PT.  
FL license # 8175.

IT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Virginia Halling, P.T.  
Work Therapeutics  
42W 668 Falcon Lane  
St. Charles, IL 60175  
(630) 336-7634

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

Dear Sir:

I am a physical therapist with 22 years of experience in mainly an outpatient/orthopaedic setting. I have significant concerns about non-qualified individuals providing "physical therapy" services in any setting, but here I will reference physician's offices.

I have witnessed situations where non-medical employees apply modalities (heat, electric stimulation, ultrasound) to patients in a physician office setting without the presence of a medically qualified individual. In one particular case, tape was applied to dials on an ultrasound machine and an electrical stimulation machine to tell the employee how to "set" the dosage.. and it was never adjusted for INDIVIDUAL patient needs. Also, clearly, the physician had gotten the information on dosage "somewhere" and did NOT know how to determine appropriate treatment levels for various conditions/diagnoses. I know this was an easy way to generate revenue (particularly workers' compensation cases- which in IL are well reimbursed).

Although many physician groups that provide physical therapy services use qualified individuals, there are unfortunately situations such as the one I mention above. Modalities are very rarely the only indicated treatment. The potential to cause harm if these modalities are not used correctly is very real. At the very least, patients may be receiving ineffective or non-indicated treatment.

Physical Therapy COMBINES the use of modalities such as those mentioned above with appropriate exercise (including hands on treatment) and education. Treatment is goal-oriented and functional progress must be made to justify continued care. The therapist monitors, re-evaluates and determines if treatment remains appropriate. Proper documentation supports the above. Physical therapists have significant background in anatomy, physiology, pathology and physics that govern the use of modalities. The physical therapist is required to have a degree, is licensed (in IL) and held accountable medical-legally for the delivery of physical therapy services. Significant dollars are spent on education, research, accreditation and regulation of the physical therapy profession to assure that treatment is in the benefit of the public interest.

It is not a wise decision to negate this investment by allowing non-medical personnel to deliver these services where no check and balance system is in place.

I strongly support CMS's proposal that physical therapy services in physician offices be provided by graduates of fully accredited physical therapy programs.

Thank you for reviewing these comments.

Sincerely,

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

see attachment

# ***PAIN RELIEF and PHYSICAL THERAPY***

203 E. Baltimore Pike, Suite 2  
Media, PA 19063  
Phone: 610-565-0670  
Fax: 610-565-7706



Glen Mills, PA 19342  
Phone: 484-840-0775

Havertown, PA 19083  
Phone: 610-789-9887

**Attachment to #1423**  
**Mark B. McClellan, MD, PhD**  
**Administrator**  
**Centers for Medicare and Medicaid Services**  
**U.S. Department of Health and Human Services**  
**Attention: CMS-1429-P**  
**P.O. Box 8012**  
**Baltimore, MD 21244-8012**

**September 14, 2004**

Dear Dr. McClellan,

I am writing to you regarding the proposed rule on "Revisions to Payment Policies under the Physician Fee Schedule for Calendar Year 2005." This rule would require that physical therapy services provided in a physician's office incident to a physician's professional services must be furnished by personnel who meet certain standards.

My name is Jamie Alexander, a physical therapist currently practicing in an outpatient facility in Media, PA. I have a master's in physical therapy and I am a certified orthopedic clinical specialist. As a new physical therapy graduate in 1999, I was employed by a physician owned clinic. At the time of my employment, there were physical therapists (PT) and physical therapy assistants (PTA) on staff; however, aids without physical therapy degrees were allowed to perform all treatments the PT's were providing. Because of the high volume of patients seen in the clinic, it was impossible for the PT's to evaluate and treat each person. Aids were hired to keep the patient volume high without the physician paying for an additional PT.

In a physician owned clinic, inappropriate treatments could easily be administered by aids secondary to their inadequate knowledge of the service they are providing. For example, hot packs appear to be a simple modality that anyone can use or place on a patient; however, when a patient has a neuropathy with sensory deficits, they are unable to detect the level of heat they are receiving. A simple hot pack can turn into a detrimental burn or wound when not appropriately administered. Another example would be an aid placing a person with upper extremity radicular pain on a mechanical traction machine without appropriate evaluation. A patient may have a vertebral artery

compromise or a cervical fracture (instability) that has not yet been diagnosed that would create a possible fatal situation if placed on traction.

The best example I could give is from personal experience. A patient was diagnosed with bilateral knee osteoarthritis from multiple doctors, including primary and orthopedic doctors, and referred to PT for treatment. The patient complained of knee stiffness and no pain. Pt stated his knee stiffness was affecting his walking and his golf game. After careful evaluation by a PT, the patient was assessed to have a neurological component to his symptoms and was referred out to the appropriate physician. The patient was later diagnosed with spinal cord impingement in the cervical spine secondary to a massive disc herniation. If not accurately assessed by the physical therapist, this patient would have probably received stretching exercises from the aid and this patient could have lost the ability to use his legs if his situation worsened.

When treated by an unqualified aid, patient's safety is compromised and quality of care is decreased. Treatments by aids give the impression that PT is merely routine programs designed specific to diagnoses provided by physicians. Physical therapy services are chosen and performed for a patient based on subjective and clinical findings combined with review of patient's medical history. Constant re-assessment is provided during and after a treatment to evaluate effectiveness. This repetitive evaluative process is provided each treatment. An unqualified person "treating" patients is unable to assess "red flags" which are symptoms that contradict physical therapy as an appropriate treatment choice. Aids are also unable to choose appropriate treatment plans, change treatment techniques according to patient symptoms at time of treatment, or perform treatments appropriately, especially manual treatments that require anatomy and physiology knowledge.

I adamantly oppose unqualified personnel providing PT services in physician offices. I strongly support CMS's proposed requirement that physical therapists working in physician offices be graduates of accredited professional physical therapy programs. I am a physical therapist who participates in constant continuing education to provide optimal care for my patients. Is it fair for patients to receive PT services from someone without an education? I am sure our patients would agree that health care is an ever changing and progressive environment that requires interventions from qualified, educated and trained licensed professionals.

Thank you for your time on this matter and listening to my concerns.

Sincerely,

Jamie Alexander, MPT, OCS

Submitter : Michael Beauvais Date & Time: 09/14/2004 05:09:43

Organization : East Metro P. T., Inc.

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

In regards to Medicare paying for physical therapy services "incident to" physician services, I strongly support the proposal that therapists (PT's) be graduates of an accredited professional physical therapy program. PT's are required to be licensed in the state they practice and assistants (PTA's) are graduates of an accredited 2 year professional program. PT's or PTA's under the supervision of a PT are the only qualified providers of physical therapy services. In other words, physical therapy delivered by and from a PT or PTA...period. This will reduce the potential harm that may occur with unqualified personnel in a physicians office and improve the quality and efficacy of the services. A suggestion to facilitate compliance with this requirement would be to mandate that all billing for physical therapy services include the PT's license number. Thank you for the opportunity to comment on this most needed proposal.

Michael Beauvais, PT  
36341 Harper  
Clinton Twp., MI 48035

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am a physical therapist in Sheridan, Wyoming, working at the local hospital here in town. I have been a therapist for 4 years, 1 in California and 3 here in Wyoming. I am writing in very strong support for CMS's proposed requirement that physical therapists working in physician offices be graduates of accredited professional P.T. programs. To obtain my status as a physical therapist, I completed 4 years of undergraduate studies, 2 more years of pre-requisite courses, and 2.5 years of graduate studies in a master of science in P.T. program. To adequately work with patients, I use all 8.5 years of my education. As a therapist, I depend on my knowledge in anatomy, physiology, physics, psychology, biology, chemistry, and many other areas. I am proud to be a therapist helping people; however, many clients are misled and even harmed by misinformation and bad recommendations from other healthcare workers. It bothers me that untrained people feel they can adequately treat people without the proper tools. That would be similar to a P.T. trying to diagnose liver cancer or giving out medications. We have not been trained in these areas so should leave this up to the MDs who have been trained.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attachment.

Todd Helser, MS, ATC  
1310 W Sandusky St #F8  
Findlay OH, 45840

Attachment to #1426

September 14, 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.
- 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.

- 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.
- 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,

Todd Helser, MS, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

physicians not government workers should decide what care and treatment are in the best interests of their patients, and who should provide it.  
Athletic trainers' are experts in outpatient services

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

IMPACT

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.

LOW OSMOLAR CONTRAST MEDIA

THERAPY - INCIDENT TO

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.

THERAPY STANDARDS AND REQUIREMENTS

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

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

#### THERAPY TECHNICAL REVISIONS

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.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I would like you urge you to pass the incident to provision for medicare. I am the director of a physical therapist assistant program and have had several students who previously had worked in physician offices. During their employment they were asked to perform 'physical therapy' treatments with no formal training.

Each student stated that they had no idea what could possibly go wrong with the treatment they were providing until they attended the educational program and were appalled that they could have harmed these people.

Our Medicare recipients deserve no less than competent health care provided by those who are educated at accredited college or universities by the Commission on Accreditation of Physical Therapy Education and licensed to perform physical therapy services.

Physical therapists and physical therapist assistants are the only health care practitioners who are qualified to provide these services.

Thank you for your consideration in this matter.

Sincerely,

Toby Sternheimer, PT, MEd

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See Attached File

Kevin Allran  
10700 Ridge Acres Rd  
Charlotte, NC 28214

Attachment T #1430  
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 dvantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kevin Allran. M.S., ATC-L

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

The ruling are a clear sign of manipulation one profession against another for the sake of Control and Money!! The physical therapy association should work with Us ATC's , to make the best services for health and welfare of the cleints we serve.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I have been an Athletic Trainer for 20 years. This change you propose will greatly effect the care that we provide. The hundreds of injuries I look at each year, sent to a physician would cost hundreds of dollars. I see them at no cost! If there is a cost it is minimal. I am payed a supplimental stipen per year by our athletic department. The amount is what our varsity assistants are payed.

My point is you are going to increase cost to patients and decrease services. We (trainers) have worked hard to make our association an accredited, professional organization. In OHIO we have worked hard to become part of the revised code for ALLIED HEALTH CARE PROFESSIONALS. Please look long and hard at this before you make your decision. Contact my association for more information.

Thank You,  
M. Kelly Cruise A.T.C.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

P.O. Box 888  
Phoenix, AZ 85001-0888  
September 14, 2004

Attachment to #1433

Director  
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 have recently been made aware that your Centers for Medicare and Medicaid Services are considering limiting the providers of “incident to” services in physician’s clinics. It is my belief that if such health care regulation were enacted it will have a serious long term and far reaching negative effect on the continuation of deliverance of quality health care in our nation.

It must be quickly pointed out that a licensed physician has the legal right to delegate the care of his or her patients to a trained and credentialed health care provider, including certified athletic trainers, whom in the opinion of that physician is deemed knowledgeable and qualified to appropriately and adequately provide the services prescribed. To my knowledge there has never been any such historic limitations or restrictions placed upon physicians as to whom they can utilize to provide any “incident to” services. This longstanding, logical and ethical policy **should not be altered in any form**. Likewise, physicians accept legal responsibility for those health care providers under their direct supervision to whom they refer patients. Historically patients have also relied on and trusted the judgment of their physician(s) and the recommended service providers. I believe that the proposed regulation that you are currently considering will not only eliminate the physician’s right to determine who will provide the prescribed medical services, but it will also undermine the all important patient confidence status with their physician (s).

Please allow me to point out several other concerns that I believe will result if this regulation of health care services is enacted: There will be further serious reductions, lengthy delays and added inconvenience in obtaining health care services for the elderly and in the rural areas of our nation. These delays and reductions of health care services will ultimately compromise the quality of health in both segments of the population. Consequently, this will result not only in diminished health status but will also ultimately result in even greater health care costs. The regulation you are considering will drastically limit to whom physicians could delegate “incident to” procedures and thus would cause many already over-worked and extended physicians to perform routine services themselves. If this were to occur it would extend the physicians even further and decrease the quality and quantity of health care.

The health care regulation that you are now considering would allow *only* physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services. It is obvious that the backers of this legislation wish to gain for themselves the exclusive right to Medicare reimbursement. To deny other regulated and qualified health care providers, by enacting such regulatory restraints, I consider not only as being illegal, but unethical, and also a major threat or deterrent to cost containment. I would hope that CMS does not have the unrestricted statutory authority to dictate who can or cannot provide “incident to” services.

The regulatory change before you, by all appearance, is being sponsored and promoted by a single professional group whose sole purpose is not to increase the quality of health care, but to rather establish themselves in the position as sole provider of therapy services. If such CMS status were granted to one exclusive provider the cost and the quality of health care would uncontrollably escalate excessively because the spirit and effectiveness of market place competition would have been eliminated.

I am Certified Athletic Trainer currently employed by a club of the National Football League. Therefore, I have accurate first hand experience and knowledge of the quality of health care that is provided to some of this nation’s most visible and skilled athletes by certified athletic trainers. If the highly respected and successful individual owners in the NFL entrust the care of their high profile multimillion dollar athletes to certified athletic trainers, then why are certified athletic trainers not educated, knowledgeable, skilled and fully qualified to appropriately provide therapy and rehabilitation to other member of our society? Furthermore, the United States athletes that competed in the recently concluded Athens Olympic Games were once again provided with expert therapy and rehabilitation services by certified athletic trainers.

I appreciate and respect the quality of health care provided and the knowledge of physical therapist. I am concerned, however, about their attempt to gain therapy and rehabilitation exclusivity in our health care system. Today in various practice settings ATCs and PTs work together in full mutual cooperation and respect and provide excellent and comprehensive health care service. This ongoing cooperative joint effort is providing valuable and highly efficient and successful health care. I believe that this fact is evidence that the current system is effective and does not require new restrictive regulation that will potentially disrupt a working health care system.

In conclusion, I would strongly encourage you and your colleagues to rethink, readdress and reconsider the potential negative outcomes your currently proposed “incident to” regulation will have on this nation’s health care delivery system. It is not necessary nor advantages for CMS to institute the regulatory change now being proposed.

Respectfully submitted,

Jeff Herndon, ATC  
Arizona Cardinals

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am a Physical Therapist who is very concerned about the safety and appropriate treatment of the public by licensed and trained Physical Therapy professionals. I strongly feel that these services should be provided by licensed and qualified practitioners and am concerned that if services are provided by unlicensed and/or less educated and prepared individuals, it could cause detrimental harm to patients and likely prevent them from receiving the high standard of care that a Physical Therapist or Physical Therapist Assistant provides. Further, when unlicensed people provide services in a physician's office, they may be very loosely or not supervised. Thank you for the opportunity to present these remarks.

Submitter : Mrs. Heike Reeves Date & Time: 09/14/2004 05:09:05

Organization : Mrs. Heike Reeves

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am a Practicing Physical Therapist who would like to comment on the idea of unlicensed people performing modalities, such as, Ultra Sound to patients in the Physicians office. I feel it would be a detriment to patients and could cause them immediate harm as well as limiting the attention that could be given them if a licensed Physical Therapist or Physical Therapist Assistant were to treat them following the application of Ultra Sound. I would appreciate further consideration in this matter.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THErapy - INCIDENT TO

I would like to express my strong support of this bill and the "incident to" language. I personally am aware of three physician offices in my community which provide physical therapy. When visiting the offices to follow up on the more complex cases sent to our clinic, I regularly find no therapist onsite. Therefore, I am left to conclude these offices frequently do not have licensed physical therapy staff providing patient treatment. The language in this bill will ensure the public receives quality physical therapy from a licensed professional and the clinic or physician office is reimbursed appropriately according to federal regulations.

Submitter : Mrs. Julie Zuleger Date & Time: 09/14/2004 05:09:06

Organization : Affinity Health System

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Julie Zuleger  
1314 Partridge Ct  
Oshkosh, WI 54904

Attachment to #1437  
September 14, 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.
- Centers for Medicare & Medicaid Services, 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.
- Centers for Medicare & Medicaid Services 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 Centers for Medicare & Medicaid Services to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Julie Zuleger MS, LAT, PES

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

See attached letter.

Attachment to #1438  
September 12, 2004

4205 Danor Drive  
Reading, PA 19605

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

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing as a concerned and apprehensive consumer and a student of athletic training. I am apprehensive towards the proposal of CMS-1429-P and, in effect, I am concerned for the future quality of our health care system. Among other things, ATCs are paramount health care providers with respect to treating an ever-increasing population of health-conscious, physically active individuals. The skills, which are specific to athletic training, may be more valuable now than ever before. Athletic training has earned the professional recognition and accolades deserving of such a profession committed to providing specialized services. The certified athletic trainer will be a major contribution to the healing process, and the patient will ultimately surpass such simple requirements as return to comfortable activities of daily living. Every individual deserves access to knowledgeable and determined health care providers who hold long-term, overall health improvement as a main goal.

I believe that the CMS-1429-P proposal must be turned down for the sake of the entire health care system and all of the hardworking people who uphold its integrity. Patients, current and future ATCs, and others in the health and medical profession will be most advantaged if the proposal is denied. I have full confidence in the competency of my teachers and other certified athletic trainers, as well as my peers, as an asset to any medical facility.

Please allow my statements to influence the legislative decision regarding the CMS-1429-P proposal. Certified athletic trainers have always been a proud and professional group of caretakers—allow our services to continue to enhance the lives of unlimited individuals by rejecting this recent proposal.

Sincerely,

Jennifer Gervasi  
Athletic Training Student at West Chester University of Pennsylvania

Submitter : Mrs. Laura Reagan Date & Time: 09/14/2004 05:09:13  
Organization : Milestone Physical Therapy  
Category : Physical Therapist

**Issue Areas/Comments****GENERAL**

## GENERAL

I am responding to "Therapy Standards and Requirements". I am a rural private practice physical therapist and have been for three years. Before I became a physical therapist I worked in an outpatient facility as a technician. In my experience I have had the opportunity to work with several good physical therapy assistants. I feel not only should physical therapy assistants be allowed to practice under direct supervision but also under indirect supervision if rules and regulations are laid out for the PTA to provide only services layed out in the plan of care by the physical therapist. I agree there should be limitations to this such as the rules that the P.T. should be reachable by phone or within a 60-80 mile radius of the clinic in which the PTA is treating. Physical therapist assistants are given privileges in acute settings as well as home settings where the patient is at a higher risk of complications or something going wrong. In outpatient settings the patients are usually higher level patients and are at less risk of any complications. This is also something the PT should realize and if he/she is not comfortable with the PTA treating that patient or the patient is not comfortable with it then the patient should not be turned over to a PTA to treat. PTAs are recognized practitioners under Medicare and are defined in the regulations at 42 CFR 484.4. According to this provision, a physical therapy assistant is " a person who is licensed as a physical therapist assistant by the State in which he/she is practicing, if the State licenses such assistants, and has graduated from a 2-year college-level program approved by the American Physical Therapy Association. State licensure laws recognize that physical therapist assistants have the education and training to safely and effectively deliver services without the physical therapist being in the same room. No state requires personal supervision of the physical therapist assistant. Thank you for considering my comments.

Sincerely,

Laura Reagan, P.T.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file

Mollie Malone  
937 Percy Warner Blvd  
Nashville, TN 37205

Attachment to #1440

September 14, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

Sincerely,

Mollie Malone, M.Ed., ATC

937 Percy Warner Blvd

Nashville, TN 37205

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

'In regards to therapy standards and requirements'

As a fieldwork coordinator and faculty instructor, I am in continued support of the proposals offered by CMS regarding OTA supervision. The change from 'personal' to 'direct' supervision would be consistent with all other areas of practice for the OTA's under current Medicare guidelines, and would provide for the continued support of fieldwork sites for OTA students. Currently, many sites have opted to not have OTA students in fieldwork placements secondary to the current guidelines of 'personal supervision'. The proposed change would be very beneficial to all of the practioners, but especially the OTA's. Thank you in advance for you continued support of our profession.

Sincerely,

Sharon Pavlovich COTA/C

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I believe physicians have the right to chose who they send their patients to. They should not be limitted only to physical therapists every patient hsa different demands in their every day life, these patients should be sent to rehabilitation based on those demands and should not be limited to physical therapy based on laws. Athletic trainers are more the capable to rehab patients that are non athletes.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 10-19**

THErapy ASSISTANTS IN PRIVATE PRACTICE

"Therapy Standards and Requirements" - I strongly support CMS's proposal to replace the requirement that physical therapists provide supervision (in the room) of physical therapists assistants in the physical therapist practice office with a direct supervision requirement. This change will not diminish the quality of physical therapy services. Physical Therapist Assistants (PTA's) are licensed individuals, have the education to perform services without a physical therapist being in the same room, and are recognized practitioners under Medicare.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Athletic Trainers must be considered.

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

John A. Norwig  
Head Athletic Trainer  
Pittsburgh Steelers  
3400 South Water Street  
Pittsburgh, PA 15203

Attachment to #1444  
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 in response to the recent proposal that would limit providers of “incident to” services in physician clinics. This proposal, if adopted, would be detrimental to our health care system and would reduce the quality of care received by Medicare patients.

For the past fourteen years I have worked as a certified athletic trainer for the Pittsburgh Steelers Football Club, providing quality health care for hundreds of elite athletes. To imply that I am not qualified to provide this same level of service to our active, senior athletes is insulting. To deny our senior population access to qualified health care providers would be unfortunate, and could cause a host of problems.

The United States is experiencing a shortage of qualified health care providers. This proposal would exacerbate this shortage by eliminating quality providers of these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

Physicians have utilized “incident to” to provide services to patients since the inception of the Medicare program in 1965. 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.*

Certified athletic trainers work under the direct supervision of a physician and operate as part of the total health care team. My colleagues 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. Dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece to provide these services to the top athletes from the United States. In addition, many more will provide services to participants during the upcoming Senior Olympic Games. 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.

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 for considering my comments.

Sincerely,

John A. Norwig  
Head Athletic Trainer  
Pittsburgh Steelers

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Contract groups must provide detailed information on claims made in a physicians's name. Since a physician is liable for those claims, it is only reasonable that claim information is easily and readily accessible.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I have been a practicing physical therapist now for 4 years and would like to comment on physician directed therapy under an athletic trainer. I feel that for skilled physical therapy to be provided, it should be provided directly by a liscensed physical therapist who has received specific training for rehabilitation. Athletic trainers, as skilled as they are, provide great athletic rehabilitation for which they have received specific training. However, they have not been trained nor have the experience to provide skilled care to medicare patients who are in need of skilled physical therapy. In short although the two professions are similar, for skilled therapy to be provided, a physical therapist has the training and is more suited to rehabilitation of medicare patients.

Submitter : Mrs. Anna Lisntedt Date & Time: 09/14/2004 06:09:53

Organization : Affinity Medical Group

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached.

Anna Lisntedt  
638 Zeh Ave.  
Neenah, WI 54956

Attachment to #1447  
September 14, 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.
- Centers for Medicare & Medicaid Services, 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.
- Centers for Medicare & Medicaid Services 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 Centers for Medicare & Medicaid Services to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

*Anna K Linstedt, LAT*

Anna Linstedt, LAT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

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,

Daniel Schinnerer  
Athletic Training Student at Oklahoma State University

Attachment #1448

August 31, 2004

Daniel Schinnerer  
1400 N. Perkins Rd. G54  
Stillwater, OK 74075

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.

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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.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments****GENERAL**

## GENERAL

I am writing in favor of the proposed changes specifically related to the policies affecting therapy services in terms of providers. I understand that this proposal may limit the use of athletic trainers in terms of providing direct services to clients. While I believe that the services of ATCs are valuable, I also support Medicare's revision to exclude these covered services.

I just finished reading a quote by ATC Kimmel. I'd like for you to read it to and then you may better understand my frustration with athletic trainers. Here's the quote:

"ATCs are highly educated," says Kimmel. "All have at least a bachelor's degree and over seventy percent have a master's degree or higher, which is comparable to physical therapists, occupational therapists, nurse practitioners, physician assistants, speech therapists and similar mid-level health care practitioners. If ATCs are qualified to prevent, evaluate, manage and rehabilitate injuries for the top athletes in this country, including many who competed at the Summer Olympic Games in Athens, then surely they are qualified to prevent, evaluate, manage and rehabilitate injuries for Medicare beneficiaries."

I do not argue that ATCs are educated individuals. However, I do argue that they are not educated enough to understand the many facets of rehabilitation. They may have a master's degree but that doesn't mean that they are as qualified as a physical, speech, or occupational therapist. Their training IS COMPLETELY DIFFERENT. They are not coached extensively in pathology, psychosocial levels of rehabilitation, community re-entry strategies, rehabilitation theories that focus on cognitive, social, and historical perspectives. This is a huge part of rehabilitation and working with those in rehabilitation.

They may be able to help strengthen athletes (it could be argued that strengthening someone who identifies as an athlete, a person who has already adopted a high level of fitness and training, is relatively simple) but do they have the skills to work with a 60-year-old lady who is beginning to present with dementia? A 75 year old widow who has not had a fitness routine in years? Don't be so quick to assume that the MEDICARE BENEFICIARIES are so easy to rehabilitate. Please don't be so quick to assume that because ATCs prevent, evaluate, manage, rehabilitate top athletes that they are well suited to prevent, evaluate, manage, and rehabilitate injuries for Medicare beneficiaries. The mere fact that Kimmel would even suggest that rehabilitating a Medicare beneficiary is quite simple leaves me to believe that there is a disconnect in the education and background of an ATC and a qualified therapist.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am taking the time to voice my objection to the proposed "incident to" amendment that would limit providers such as myself from providing care that is deemed medically necessary to those individuals that fall under the medicare program.

I am an Athletic trainer with a masters degree in exercise physiology. I am a graduate of an accredited program and I am a state licensed medical professional. I possess the same, if not higher, education level as a physical therapist. The only difference between myself and a physical therapist is the differentiation that is made by law makers, and the physical therapists who wish to establish themselves as the sole providers of therapy services for medicare recipients.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

It is very insulting to our profession of athletic training that the government does not consider us qualified to care for our senior population.

**Issues 20-29**

THERAPY - INCIDENT TO

The mission of the National Athletic trainers' Association is to enhance the quality of health care for athletes and those engaged in physical activity, and to advance the profession of athletic training through education and research in the prevention, evaluation, management and rehabilitation of injuries.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

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

Subject: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for calendar year 2005 - CMS-1429-P

State the purpose Explain that you wish to comment on the August 5 proposed Rule on "Revisions to Of your letter Payment Policies Under the Physician Fee Schedule for Calendar year 2005."

Dear Dr. McClellan

My name is Locke Ettinger a physical therapist who has been practicing for 15 years. I am currently the Director of Rehab Services in St. George Utah. I would like to make comments on the "Revisions to the Payment Policies Under the Physician Fee Schedule for Calendar Year 2005". I strongly support CMS's recommendation that physical therapists working in physician's offices be graduates of accredited professional physical therapist programs. I would like to suggest that stronger language with reference to Licensure would be an appropriate standard to determine the qualifications of a physical therapist to provide "Skilled Physical Therapy." States require licensure of physical therapists and they are held to a professional level of conduct and competence.

A Licensed Physical Therapist or a Physical Therapist Assistant under the direction of a Physical Therapist should only perform skilled physical therapy. I believe there is potential for abuse and over utilization of physical therapy in physician's offices that are not highly regulated. As a Medicare provider and servicing an area with higher than average Medicare recipients we are held to a high standard in the delivery of "Skilled Physical Therapy." I do not think it is the best interest of patient care nor in the interest of CMS to have varying standards depending on the setting with which it is delivered.

In summary I support regulating physical therapy services in physician offices to guard against potential abuse. At a minimum I suggest only physical therapy services be provided by a licensed Physical Therapist or a Physical Therapist Assistant under the direction of a Physical Therapist.

Sincerely

Locke Ettinger PT

Locke Ettinger MS, PT, OCS, FAAOMPT  
Director of Rehab Services  
Dixie Regional Medical Center  
St. George UT, 84790  
435-251-2256

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am a physical therapist practicing in Northern Virginia with 15 years experience. Throughout my career I have witnessed several incidences where a specialist and/or family practitioner has utilized office staff and "PT techs", trained by the office staff, performing physical therapy services without the proper education. In addition, the overseeing physician charged for PT services not provided by a licensed Physical Therapist and the insurance companies are reimbursing at a higher pay rate. On the other hand, I am aware that there are physicians who have licensed physical therapists on their staff to provide legitimate patient care.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am a physical therapist working in a rural acute care hospital. I have practiced PT for 29 years treating in patients, out patients and home health patients. I wish to comment on the August 5 proposed rule on 'Revision to of your letter Patyment Policies Under the physician Fee Schedule for Calendar Year 2004.' It is imperative that individuals providing physical therapy must be graduates of an accredited professional physical therapist program. Without these guidelines substandard care could be provided to patients and result in injuries to patients. Physical therapist and physical therapist assistants are the only practitioners who have the education and training to furnish physical therapy services. The delivery of so-called physical therapy services by unqualified personnel is harmful to the patient. It delays the access of the patient to qualified professional services and slows the return to maximum function for the patient thus increasng health care cost. Thank you for you consideration of my comments.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

I am concerned about the recent proposal. This would eliminate the ability of qualified health professionals to provide services to Medicare patients. It would reduce the quality of health care and increase the costs for these services. An undue burden would be placed on the already strained health care system. A physician has the right to delegate the care of his patients to trained individuals (including certified athletic trainers) that he deems knowledgeable and trained in the protocols to be administered. It is imperative that physicians continue to make decisions in the best interest of the patients. The proposed change to "incident to" services reimbursement would render physicians unable to provide patients with accessible health care. This would cause delays, greater cost and a lack of local and immediate treatment. Rural Medicare patients would suffer delays, lost time and increases in travel expenses. This would hinder the patient's recovery and increase recovery time, which would increase the medical expenditures of Medicare. Please consider allowing certified athletic trainers to be included as an acceptable provider. All certified or licensed athletic trainers must have a bachelor's or master's degree from an accredited college or university. This accreditation is through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP). 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 and improperly remove the states' right to license and regulate allied health care professionals. CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services. CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program, every professional sports team, U.S. Olympic Committee, U.S. Military and N.A.S.A. (to name a few) to work with physically active persons to prevent, assess, treat, and rehabilitate injuries. For CMS to suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified. This action may lead to more physicians eliminating or limiting the number of Medicare patients they accept. In closing, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Submitter :  Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

Attachment to #1456

September 14, 2004

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

Dear Centers for Medicare and Medicaid Services:

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

As a clinical neuropsychologist I have completed advanced education and training in the science of brain-behavior relationships. By virtue of my doctoral-level academic preparation and training, I possess specialized knowledge of psychological and neuropsychological test measurement and development, psychometric theory, specialized neuropsychological assessment techniques, statistics, and the neuropsychology of behavior. While other health care providers (e.g., psychiatrists, neurologists) often address similar medical problems with these patients, they have not had the specialized knowledge and training (enumerated above) that is needed to safely direct the selection, administration, and interpretation of psychological and neuropsychological testing. My education and training uniquely qualifies me to direct test selection and to perform the interpretation of psychological and neuropsychological testing results. I am at all times responsible for the accuracy, validity and overall quality of all aspects of the psychological and neuropsychological assessments services that non-doctoral personnel provide under my supervision. Non-doctoral personnel are appropriately trained to assist with the technical aspects of psychological and neuropsychological assessments (i.e., administering and scoring the tests that I indicate).

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

they are currently receiving.

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

Sincerely,

Lisa M. Elliott, PhD  
Licensed Psychologist  
Department of Psychology/Neuropsychology  
Cook Children's Medical Center

Submitter : Mrs. Stephanie Hayes Date & Time: 09/14/2004 07:09:19

Organization : American Physical Therapy Association

Category : Physical Therapist

**Issue Areas/Comments**

**GENERAL**

GENERAL

Therapy-Incident to:

I am a physical therapist in Pekin, IL at an outpatient clinic. I have been a PT for 3 years and have worked in inpatient and outpatient settings with patients of all ages. I strongly support the proposed requirement that only physical therapist and physical therapist assistants in physician's offices will be able to treat and charge for physical therapy services. Physical therapists have significant training in anatomy and physiology and are required to graduate from an accredited physical therapy school in order to receive a license to treat patients. All programs to become a physical therapist require at least a master's degree as of Jan. 2002 and most programs are now doctorate programs (DPT). Physical therapist and physical therapy assistants are the only practitioners who have the education to perform physical therapy services. If patients are treated by people who are not trained to do physical therapy there is a risk of serious injury or harm to the patients. As a physical therapist I am very proud of our profession and the quality of care that we provide. I want all patients to be protected and to receive the best care available from specifically trained physical therapists. It also makes our profession look bad if a patient is told they are receiving 'therapy' by a non-trained/licensed individual and they are injured or hurt in some way. Our patient's safety and health is my biggest concern.

Thank you for your consideration to this matter.

Sincerely,

Stephanie Hayes, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am writing in support of revisions to CMS-1429 allowing for psychologists to supervise diagnostic psychological testing utilizing the general supervision parameters. Psychologists routinely supervise these services in many settings for many provider systems, and have the expertise to dictate appropriate testing procedures and interpretation. Please support these proposed revisions.

Sincerely,  
Susanne Wickie, Ph.D.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am writing to express my concerns about the recent proposal that would limit providers of 'incident to' services in physician offices and clinics. The Ohio Physical Therapy, Occupational Therapy and Athletic Training Boards set out State Practice Acts and it does allow for Certified/Licensed Athletic Trainer to provide rehab. Athletic trainers are recognized and reimbursed for their therapy by a number of insurance companies, including the Ohio Bureau of Worker's Compensation.

The physicians have the right to delegate the provision of services to Medicare pt's by qualified individuals under the 'direct supervision' of said physician, and it has been this way since the inception of the Medicare program in 1965.

CMS does not have the statutory authority to restrict who can and cannot provide services 'incident to' the physician's office visit. Physicians want to provide quality, efficient and cost effective health care for their Medicare patients and in many instances are already doing so. If the care provided by qualified Athletic Trainers is eliminated, physicians will be forced to do all the care themselves. Which in turn will only decrease the quality of care and increase malpractice cost's by putting even more burden on already taxed physicians.

Please do not allow exclusive rights to only one therapy provider group there-by increasing costs to our already burdened seniors.

Please consider these facts when voting on these proposed changes.

Sincerely, Char Susak, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I strongly support the CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional programs. I have been involved with rehabilitation for over 35 years and licensure regulation for 15 years. In my experience I know that if providers are not properly licensed in a jurisdiction they are at great risk of providing sub standard services to our public. Hospitals, Home Health, Universities, and Rehabilitation centers all require appropriately licensed physical therapists to provide care in their environments. This also should be the requirement of a physician's office if they are to bill for physical therapy. Passage of this will assure that CMS is paying for services provided by qualified professionals. Thanks for your attention and consideration of my opinion

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

As a licensed PT in the state of TN , I strongly urge you to make it mandatory for payment for services be ONLY for services received by licensed and credentialed PT staff. contrary to what physicians may think, a PT is highly trained and specialized. Although other tech personnel may have the desire and well meaning attributes, delivery of services and outcomes will be drastically affected otherwise.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

PRACTICE EXPENSE

Support "Incident To" regulation. Payment is made for Professional Physical Therapy Services and the only Professional who has the adequate training are Physical Therapists. Why would one expect to pay a Plumber for Electrical contracting work ? Medicare should not pay for sub-standard physical therapy care.

Submitter : Mrs. Kirstie Vittone Date & Time: 09/14/2004 08:09:15

Organization : Orthopedics and Sports Medicine Owensboro, PSC

Category : Other Health Care Professional

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am opposed to the CMS-1429-P proposal about Medicare Revisions to Payment Policies. As a Certified Athletic Trainer, I have been educated in Anatomy, Physiology, and Rehabilitation Techniques. In terms of my educational background, I feel I am more qualified than a Physical Therapy Assistant in caring for selected patient populations. I am confident in my skills to work in an outpatient physical therapy setting.

Once again, I am strongly opposed to this Docket being passed.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

OTHER - INCIDENT TO

I wish to express my support of the proposed rule on Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005. Physical therapists and physical therapist assistants working under the supervision of a physical therapist are the only practitioners with the education and training to provide physical therapy services. Once graduated from an accredited program, the physical therapist or PT assistant must then pass an examination to become licensed in the state in which he/she practices. Persons providing similar services without the education, training, and license should be prohibited from providing and billing for physical therapy services. Physical therapists receive extensive training in anatomy, physiology, and pathophysiology. They complete internships to gain comprehensive patient care experience. They have a broad understanding of the body and its functions in health and in disease. Personnel without such qualifications can actually cause harm to a patient by providing "physical therapy".

I recently treated a lady for lymphedema which occurred after she received ultrasound treatment to her shoulder. She had a history of lumpectomy and lymph node removal due to breast cancer. In her case, heating the affected quadrant with ultrasound would be contraindicated because of her risk of lymphedema. A physical therapist would know this. However, the ultrasound was delivered by a physician's office staff member. This is just one example of the problems that occur when unqualified personnel deliver "physical therapy" services.

Thank you for your consideration.

Sincerely,

Mary Phelan, PT

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support the proposed rule change to allow Psychologists to provide general supervision of technicians and ancillary staff in administration of psychological and neuropsychological tests to Medicare Beneficiaries.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

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

To whom it may concern:

As a health care professional ( Athletic Trainer ) I am very concerned about your proposal limiting Incident To. I like most Athletic Trainers take my job very seriously and perform my daily tasks as a health care professional should. Working with medicare patients is part of my job that I take pride in. These people have helped build our country and have shaped society into what it is today. I have great respect for these patients and enjoy working with them. To take me out of that equation so that other therapists can enjoy a bigger paycheck is not fair to them, nor is it fair to me.

I could have sent a general form letter and signed my name at the bottom, but I feel very strongly about this issue. As you well know most insurance companies follow medicare's lead when it comes to reimbursement. If you enact this proposal you will effectively eliminate health care jobs, you will drive up the costs of health care for medicare recipients, and you will make it more difficult for medicare patients to receive care in a timely manner.

I have worked for six years in a therapy clinic, and I feel that I perform a valuable service. I spend a majority of my time in the clinic working directly with patients. I urge you to please allow me to continue my services. Please do not bend to the pressure of a strong lobbying group like the APTA. We Athletic Trainers and the NATA who represents us are hard working Americans who take pride in our jobs. We receive satisfaction in knowing that we have helped someone, PLEASE DO NOT TAKE THAT AWAY FROM US.

We deserve respect as health care providers, and Americans with medicare deserve the best health care they can get. Please do not pass this proposal.

Thank You,  
Scott Grove ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

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

Dear Sir or Madam:

I am writing this letter in response to your proposed changes concerning Medicare benefits, specifically "incident to" services provided by physicians and those who can provide these services under the supervision of a physician. I believe this change would limit athletic trainers' ability to provide quality care to Medicare patients under such an instance. We as athletic trainers are more than qualified to provide such care and to limit it to only physical therapists, occupational therapists, speech therapists, and their aids is wrong and unfounded. Athletic trainers are highly qualified to treat many conditions and I strongly suggest that Medicare do further research before limiting quality care from athletic trainers to patients in need of services. Please see the attached letter for further information. Thank you.

Sincerely:

Eric Kannegieter, ATC

Attachment to #1467  
Eric Kannegieter, ATC  
1865 Iowa Ave SE  
Huron, SD 57350

September 14, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent. Also, I feel it is extremely unfair to limit athletic trainer's ability to practice without fully understanding the abilities and full extent of our professions' medical knowledge. I believe each physician is more than capable of deciding who is and who is not capable of providing services to their patients.

Sincerely,

Eric Kannegieter, ATC

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I strongly support this provision. It is dangerous for the public to believe they are receiving physical therapy services from a qualified professional when they are not. This could lead to greater malpractice risk for physical therapists. If physicians want to provide this service then they should be required to use qualified and trained personnel, not someone with a high school education and some on the job instruction. I can't treat without being educated and licensed. I know more about PT than most physicians, why should they be able to supervise the provision of therapy? Most physicians admit they do not know enough about this and that is why they refer them to a physical therapist. I hope you take these comments into consideration when debating this provision. Thank You.

Submitter : Mrs. Janet Harris Date & Time: 09/14/2004 09:09:18

Organization : Cameo Boutique

Category : Nurse

**Issue Areas/Comments**

**GENERAL**

GENERAL

I disagree to the cost to the patient as well as the time taken up for the physician. Mastectomy should definitely be excluded from the face-to-face prescription requirements. With the medical expenses going up so high, the patient can not afford this.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

PRACTICE EXPENSE

Medical drs should practice medicine and physical therapists should practice physical therapy.....

Submitter : Mr. William Maack

Date &amp; Time: 09/14/2004 09:09:13

Organization : Martin Bowen Hefley Knee and Sports, P.A.

Category : Other Practitioner

## Issue Areas/Comments

## Issues 20-29

## THERAPY - INCIDENT TO

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

**CMS-1429-P-1471**

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

CMS-1429-P-1471-Attach-1.doc

Attachment to #1471

September 14, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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- 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,  
William Maack

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

SECTION 611

Three ISSUES:

Preventive PX within 1st 6 months. This will be difficult to track. Most physician groups use either monthly, quarterly and yearly flow charting. Systems are established to remind patients to conduct yearly follow-ups. And the benefit may be limited. IE A patient may schedule their physical at a certain time in the year. If the patient becomes eligible for Medicare a month later, they will be required to get another physical in 7 months. We would suggest allowing the patient a full year to receive the benefit in order to take full advantage of the physical and associated testing.

Second: Current coding convention allow physician practices to separately code for diagnostic tests such as EKG's, x-ray, lab. To combine the EKG with the physical creates a burden to the physician practice. Many systems are automated so that when an EKG is ordered, a charge is generated, which is released when the necessary documentation is performed by the performing physician. Many EKG's are reviewed by cardiologists in the same group, but who will not perform the preventive medicine service. The EKG should be billed separately, to allow for proper coding, and charge capture of the service. It also allows us to bill correctly for the performing physician. If the service is bundled together, a greater opportunity for duplicate billing will exist, and additional work on both the physician and the carrier to review denials, answer appeals etc. Instead, using an identified modifier or diagnostic code to trigger the one time screening test would make the process flow through the current system, for both physician and carrier more effective.

Third: The Work RVU's for a physical for a patient of the age of 65 is 1.71. Most physicians approach a patient for a physical the same way regardless of the patient. The same type of history and PX are conducted, regardless of age. So while a new Medicare patient may have less complexities, on the other hand, they may require more maintenance and baseline work, as they begin their retirement. Patients who are older have less maintenance and less counseling as more time is spent in managing the active problems.

So, reducing RVU's to that of a Level 3 new patient 99203 and adding the work of an EKG on top of it does not represent the service provided to the patient. We would suggest using the values for 99397 (as most of the new Medicare patients have been established with their physicians for some time), and the separate coding and fee for an EKG.

Respectfully yours,

Linda Howrey

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Gary Briggs,ATC  
Head Athletic Trainer  
Utah Jazz  
301 W. South Temple  
Salt Lake City, UT 84101

Sept. 14, 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 Madam/Sir:

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

For the past 23 years I have worked as a certified athletic trainer for the(Utah Jazz and Cleveland Cavaliers), providing quality health care for hundreds of elite athletes. To imply that I am not qualified to provide the same level of service to our active, senior athletes is insulting. To deny our senior population access to qualified health care providers would be unfortunate, and could cause a host of problems.

The U.S. is experiencing a shortage of qualified health care providers. This proposal would exacerbate this shortage by eliminating quality providers of these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

Physicians have utilized 'incident to' to provide services to patients since the inception of the Medicare program in 1965. 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 physicians'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.'

Certified athletic trainers work under the direct supervision of a physician and operate as part of the total health care team. My colleagues 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. Dozens of athletic trainers accompanied the U.S. Olympic Team to Athens, Greece to provide these services to the top athletes from the United States. In addition, many more will provide services to participants during the upcoming Senior Olympic Games. 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.

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 for considering my comments.

Sincerely,

Gary E. Briggs, ATC  
Head Athletic Trainer  
Utah Jazz



Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

DIAGNOSTIC PSYCHOLOGICAL TESTS

I support the rule change to allow psychologists to supervise evaluation technicians. Psychologists are specifically trained in administration and interpretation. Such a change is appropriate and cost effective.

Submitter : Mrs. Priscille Belanger Date & Time: 09/14/2004 09:09:35

Organization : La Corseterie

Category : Other

**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 physician's time for the visit and Medicare's payment for the visit.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Margaret Fillinger

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

During the decision making process, please consider the following. There have never been any limitations or restrictions placed upon the physician interns 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 supervisor, 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 tha physicians continue to make decisions in the best interest of the patients.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached Word document(file).

Bryan Voracek, ATC/R  
204 Ninth Avenue Southeast  
Faribault, Minnesota 55021

Attachment to #1477

September 14, 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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- 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.
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- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

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

Sincerely,

Bryan Voracek, ATC/R  
Certified Athletic Trainer/ Registered

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am greatly dissappointed by the recent proposal which would limit the role of the athletic trainer. I am an athletic trainer at the high school level with 17 years of experience evaluating, treating and rehabilitating athletic injuries.

My undergraduate and graduate education in athletic training prepared me how to deal with a vast array of injuries and illnesses. There is no other health profession that possesses this unique body of knowledge. Yet, this regulation says that my educational background and years of experience is not sufficient to provide "incident to" services.

I would welcome an explanation of how a group of highly trained and hard working individuals can be denied the opportunity to provide the services that we provide so effectively.

Thank you for your time and consideration.

Mike Hunker MS, ATC-L, CSCS  
Cathedral High School  
5225 E. 56th St.  
Indianapolis, IN 46226  
(317) 968-7361

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Physicians should be able to hire who ever they want to take care of their patients. If the trainer is qualified enough to work with a physician after he is done working at a school, college, etc. he should b able to do that.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am a physical therapist who has been in practice for 31 years. In that time I have been in several practice settings and have seen the effects of unqualified personnel providing what they term physical therapy. I have seen patients injured as well as a great deal of money spent for care that does not obtain the desired goals as proper care was not rendered. For physical therapy to obtain maximum benefit it is necessary to do on going evaluation and modification of the care being rendered. When care consist only of modalities without evaluation outcomes are not ideal. I have had patients terrified to come to physical therapy and upon questioning they have been harmed by unqualified personnel using techniques and equipment that they do not have a thorough understanding of or how to monitor the patient for undesired side effects. I recently treated a patient who was physically ill before coming to therapy due to an experience she had with untrained personnel. This is a terrible waste of the limited dollars available for patints in their rehabilitation.

I appreciate your time and I support your goal of assuring patient recieve appropriate care with the best use of the funds available.  
Sincerly Brenda Horn Chickasha Physical Therapy Clinic 626 Kansas Ave Chickasha Oklahoma 405-222-5030

**Issues 20-29**

THERAPY - INCIDENT TO

When physical therapy is provided incident to care it is inperative that the personnel delivering the care be the same as they would receive in other facilities. When unqualified personnel deliver care it is not supervised by the Doctor and the proper care can not be delivered. Physical therapist are licenses in all states and are held to a high standard of training and education in the science of the human body and the care of that body in response to illness and injury. Physical Therapy is a profession that has required a minimum of a bachelors degree and had now moved to a masters and by 2005 will be a doctoral program This covers many hours of study of the human body and the changes and interventions necessary to help people obtain maximum benefits from our services. The human body and its various illnesses and injuries can not be understood in an on the job training or limited education. Licensure in the first step to assure quality care for all patients but especially those on Medicare as geriatrics is a specialized area of care and have special limitations and considerations. When care is given in an optimal way this population have decreased assistance needs and their care does not result in excessive cost as is the results of inadequate rehabilitation and intervention.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

It is imperative that rehabilitative therapies be performed by a qualified physical therapist or physical therapy assistant under the supervision of a physical therapist. This category of personnel has a distinct background which applies exercise and manual therapy to injuries, in a safe and cost effective manner. No other group in the health profession is qualified to claim this. In physician private offices it is of utmost importance that any rehabilitative therapies be issued under the supervision of a physical therapist or a physical therapy assistant under the supervision of a physical therapist.

Submitter : Mrs. Teri Maciejewski Date & Time: 09/14/2004 11:09:54

Organization : Physiotherapy Associates

Category : Physical Therapist

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am a physical therapist with 14 years of experience in this field. I would like to comment on the August 5th proposed rule on Revisions to Payment Policies Under the Physician Fee Schedule for 2005. I strongly support CMS's proposed requirement that physical therapists working in physician's offices be graduates of accredited professional PT programs or meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. It is the only way to ensure appropriate standards of care. It is beyond my comprehension that physical therapy services could be billed for or reimbursed when provided by an individual other than a licensed therapist. This is the requirement when services are provided in any other setting, and I would expect no less when services are provided in a physician's office. Services provided by anyone other than a physical therapist are not physical therapy services.

Therapists must graduate from an accredited program, earning at least a master's degree or doctorate degree. They must pass rigorous licensure exams. It would be a travesty for anyone with lesser credentials to provide services and call them physical therapy.

I thank you for considering my comments.

Sincerely,  
Teri Maciejewski, PT

Submitter : Mrs. Diane Cordeiro Date & Time: 09/15/2004 12:09:39

Organization : JBL Rehab Associates

Category : Physical Therapist

**Issue Areas/Comments**

**GENERAL**

GENERAL

Therapy- Incident to

I am a physical therapist and believe strongly that my education and training uniquely qualifies me to perform physical therapy. The mere application of modalities that can be used to augment a PT program is not a substitute for the licensed physical therapist and the skills we have to offer the patient. The unique skills include: the evaluation skills utilized to identify the patient's specific problems, the assessment skills to categorize those findings into a physical therapy diagnosis and develop a plan that includes modalities, manual therapy to address the muscular, joint and neuromuscular components contributing to the problem and develop a prescriptive therapeutic exercise program to address the individual concerns.

The public safety is a factor in these practices where unskilled and untrained people are applying potentially dangerous modalities and instructing the patient in potentially harmful exercises. Also the medicare or insurance dollars are not being spent on a cost effective or valuable service.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I strongly support CMS' proposal that individuals who deliver outpatient physical Therapy services in a physician's office have a state license to practice physical therapy (or be under the direct supervision of a PT on staff). 'Physical therapy' is not merely the use of ultrasound or another modality, or massage, which are typically what a physician is billing for. Only a physical therapist has the requisite training to decide whether, and what type of, physical therapy procedure is appropriate. Just as those who do not have a medical license cannot legally practice medicine, those who do not have a license in physical therapy should not be allowed to practice physical therapy. Otherwise, why would we be required to be licensed to begin with? Physical therapists spend a minimum of 6 years working toward their license. They learn the specific indications and contraindications for delivering physical therapy. Those people who merely learn to use a machine (usually from someone who is not qualified themselves to deliver physical therapy) do not know what to look for and, in some instances, may harm the patient. I would challenge most physicians to whether they actually can state the indications and contraindications for the use of physical therapy modalities... Please consider why we as therapists are required to have a license in the first place. By letting unlicensed individuals bill for 'physical therapy services' we are ignoring what the law was intended for: protecting patients from harm. There should not be reimbursement for a service which pretends to be what it is not. Leave the practice of medicine to the physicians and leave physical therapy to the licensed physical therapist.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

see attached letter.

Jakob Walter Jr.  
P. O. Box 313  
Marion, MD 21838

Attachment to #1485  
September 11, 2004

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1429-P  
P. O. Box 8012  
Baltimore, MD 21244-8102

Re: Therapy – Incident to

Dear Sir/Madam:

I am writing to express my concern and anger over the recent proposal that would limit providers of “incident to” services in physician’s offices and clinics. My daughter is a senior athletic training student at Salisbury University. I have supported my daughter’s education by paying her tuition for the past four years. I am angry that after all her hard work and all the money I have paid, she will be restricted in where she can work and apply her skills. When I enter the Medicare system, I want to receive therapy services from whomever the physician feels I would best be served. It disappoints me that Medicare is considering this proposal. It is clearly not in the best interest of the patients.

Please take into consideration that physicians have the right to delegate the care of the patients under his/her care to qualified individuals whom the physician feels is knowledgeable and trained in the protocols to be administered. The physician is legally responsible for individuals under his/her supervision. Therefore, the professional judgment of the physician on who is or is not qualified to provide a service has been respected. Changing the “incident to” services reimbursement would not allow the physician to offer comprehensive, quickly accessible care. Patients would be forced to seek separate therapy treatments, causing the patient increased expense and inconvenience. There is an increasing shortage of health care professionals. If physicians were not able to utilize a variety of health care professionals working “incident to” the physician, patients will ultimately suffer a decreased quality of health care.

Athletic trainers provide therapy services to world class athletes at the Olympic, professional, and collegiate level. They also provide services in high schools and at clinics. Why are they being labeled unqualified to provide therapy services to Medicare patients?

Sincerely,

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Mastectomy products should be excluded from the face to face prescription requirements. The effects of a mastectomy are permanent and mastectomy products are necessary throughout the life of the recipient. Parameters are already in place for the dispensation of these items. The face to face prescription requirement would put a burden on all affected Medicare beneficiaries, physicians, suppliers and Medicare as well. It would require a visit to the physician, the physicians time for the visit, and Medicare's payment for the visit.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

"Therapy - Incident To:"

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

Jason Mulholland  
1094 South Sunswept Street  
Union City, TN 38261

Attachment to #1487  
September 14, 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. This is certainly true in my current employment setting in rural Northwest Tennessee at an onsite industrial rehabilitation clinic with only 2 full-time allied health care professionals (OT and ATC). Management has been searching for an additional staff member (OT or PT) for over 10 months and has had zero luck. Unfortunately, patient care has suffered and management has only recently seen the value of the certified athletic trainer (ATC) to provide quality health care in this rural setting.
- 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. Physicians are already stretched too thin, especially in rural settings such as the one mentioned above. Various allied health care providers (including certified athletic trainers) are vital in situations such as these where the physician is already overworked to ensure that quality patient care continues.
- 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. I presently work in an industrial setting with both an occupational therapist and physical therapist – both of whom do not pay attention to detail, lack professionalism, and lack experience. Bottom line is the patient’s in our facility prefer to be treated by the certified athletic trainer.
- 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 certified athletic trainers have accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- In a setting the presently employs a physical therapist, occupational therapist, physical therapist-assistant, and a certified athletic trainer, it has been proven time and time again that our patient population prefers to have their health care delivered to them from the certified athletic trainer. I have witnessed patients recover faster and safer to their greatest functional abilities with the assistance and direction of the certified athletic trainer. Patients are more appreciative of the certified athletic trainer’s work from the elevated levels of patient education, attention to detail, persistence with safe progressive rehabilitation, identification of the problem at hand, and overall compassion of the care provided. It is evident in my workplace that the certified athletic trainer holds the most orthopedic knowledge, expertise, and professionalism to deliver the best health care possible – not the physical therapist or occupational therapist. It is totally irrational to conclude that this would not be the same case

in treating Medicare patients, the elderly, disabled, or any others that a physician may deem appropriate for a certified athletic trainer to provide health care services.

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

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

Sincerely,

Jason Mulholland, MS, ATC/L, CSCS

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Dear Sirs, not to consider ATC's qualified for service for the older population is an outrage. Money issues in health care continue to strangle our society and it seems that the only way to eliminate expenses is to eliminate qualified workers while sacrificing service to the elderly. It is my opinion that this service should be quantified and quality assessed before it is considered useless or unqualified. The Physical Therapy community is putting pressure on Certified Athletic Trainers because of the threat of profit sharing and the latest efforts by the NATA to acquire recognition at the Federal level. I guess they have figure out the best defense is to attack. I work in the clinical setting and approximately 60% of the people have Medicare as their primary health coverage, all along under the supervision and guidance on a Physical Therapist and in all my years as a professional I have not had any single complaint from the patient and/or the referring physician. If we are not qualified to provide such services it has worked so far to the convenience of my employees to put me to the task and let me emphasize that it has always been ?under the supervision, guidance and control of a Physical Therapist?. It is comical that throughout the years there has been an increase in the quality of the curriculums for developing Certified Athletic Trainers and it is now that we are under pressure. Please do not allow this to take place.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

As a practicing Physical Therapist since 1982, I believe it is IMPERATIVE that only licensed PT's and PTA's be allowed to render services which are billed as Physical Therapy. To allow unskilled and untrained people to provide these services, just because they are EMPLOYED by a physician, seems to be contrary to all of Medicare's Quality Assurance programs and certainly poses considerable risk to the public. Would you feel safe if your Orthopedic Surgeon had his secretary treating your disc herniation or dislocated shoulder? Please do not allow such practices to continue when there are plenty of qualified professionals who spent YEARS in school to learn their profession. The minimum entry level of education for a Physical Therapist is now the Masters level, requiring 5-6 years of school. The amount of knowledge Physical Therapists possess is immense and absolutely necessary for the safe delivery of quality care to patients.

Submitter : Mrs. Barbara Zarrell Date & Time: 09/15/2004 01:09:27

Organization : The Woman's Personal Health Resoruce

Category : Health Care Industry

**Issue Areas/Comments**

**Issues 1-9**

PRACTICE EXPENSE

CMS is currently contemplating the implementation of the face-to-face provision of the Medicare Modernization Act to apply across the board to all DME items covered by Medicare to include mastectomy products. The proposed new rule would require that prior to the provision of a covered item, the recipient would have to have visited their physician to receive a prescription for the item. 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 physician's time for the visit, and Medicare's payment for the visit.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 1-9**

CODING-GLOBAL PERIOD

The proposed rule does not explain any details regarding the change in CPT codes for the ProSORBA column treatment. It would be helpful if the change from CPT code 36516 to CPT code 36515 would be explained in the relevant section "Coding Issues". That this change occurred seems to be obvious based on the information given in Table 3 "Proposed Practice Expense Supply Item Additions for 2005".

(details see attachment)

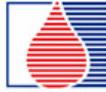
PRACTICE EXPENSE

According to the file '2005 Summary File of Practice Cost Inputs' the equipment costs for non-facility settings is set with a value of \$43.37 for CPT code 36515. In reviewing these costs for capital investments the value of \$43.37 appears to be too low.

(details see attachment)

CMS-1429-P-1491-Attach-1.doc

CMS-1429-P-1491-Attach-1.doc



# Fresenius HemoCare

A Division of Fresenius Medical Care NA

Attachment to #1491  
September 14, 2004

Fresenius HemoCare  
A Division of Fresenius Medical Care NA

14715 NE 95<sup>th</sup> Street NE, Suite 100  
Redmond, WA 90852

800.909.3872 ext. 2116  
425.242.2117 FAX

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
<http://www.cms.hhs.gov/regulations/ecomments>

**Attention: CMS-1429-P**  
**Comment with Regards to CPT code 36515, ProSORBA Column**

Dear Sirs,

Fresenius HemoCare is the manufacturer and distributor of the ProSORBA Column in the United States. The ProSORBA Column is indicated for the use in patients with Idiopathic Thrombocytopenic Purpura (ITP) and moderate to severe Rheumatoid Arthritis (RA). We have reviewed the proposed rule regarding the "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005". We would like to submit the following comment based on our review and discussions with current and potential users of the ProSORBA Column in non-facility settings:

1. Change in CPT code

The proposed rule defines a change in the CPT code for ProSORBA Column treatment from CPT code 36516 to CPT code 36515 as of January 1, 2005 (effective date of Physician Fee Schedule 2005). A similar change in the CPT code caused significant problems in the billing and reimbursement process with local carriers some years ago. The question was raised if there could be a more specific explanation in the Federal Registry or any official letter from CMS regarding the change in CPT code – once the final rule is published – which then could be used by billing staff as an attachment to the claim forms submitted to local CMS carriers. This should help limit billing issues as a result of this coding change.

2. Equipment costs for non-facility settings

According to the file "2005 Summary File of Practice Cost Inputs" the equipment costs for non-facility settings is set with a value of \$43.37 for CPT code 36515. This includes the costs for the following equipment:



# Fresenius HemoCare

A Division of Fresenius Medical Care NA

| Description          | Life | Price       | Time NF |
|----------------------|------|-------------|---------|
| a. Medical recliner: | 10   | \$829.03    | 184     |
| b. Cell separator:   | 6    | \$59,320.00 | 184     |
| c. Pulse oximeter:   | 7    | \$1,207.18  | 184     |
| d. Blood warmer:     | 7    | \$3,840.00  | 184     |

In reviewing these costs for capital investments the value of \$43.37 appears to be too low. We would like to ask CMS to review the equipment costs for the cell separator for non-facility settings based on the following assumptions:

- I. Usage Factor - Average number of Prosorba Column treatments per year
  - a. According to the experiences of Fresenius in the field of therapeutic apheresis (TA) the average number of treatments performed with cell separators used for TA is approximately 100 – 125 treatments per year.
  - b. The average number of Prosorba Column treatments performed in hospital outpatient treatment facilities and non-facility settings was below 25 treatments in 2003. This number might be influenced by customers treating ITP patients on an occasional basis and therefore only performing a small number of treatments per year. However, the average number of treatments per year remains below 100 even for the 10% of the users with the highest treatment numbers.

The above mentioned figures take hospital outpatient treatment facilities into consideration which provide Prosorba column treatments for more than one physician office. Thus it is very unlikely that even large non-facility settings will exceed a treatment number of 100 per year. The opposite has to be expected. Many smaller non-facility settings will perform significantly less treatments than 100 per year. Therefore, the “Usage Factor” of 0.5 used in the formula to determine the equipment cost per treatment seems to be too high. Using a number of 100 treatments per year and a time of 184 min (“Time NF”) the **Usage Factor would be 0.1227** instead of 0.5. As described above the number of 100 treatments per year already exceeds the average of the top 10% of the users.

- II. Maintenance:

It is most likely that non-facility settings will enter into full service contracts to ensure coverage of preventative maintenance such as emergency repairs. The full service contract for a Cobe Spectra cell separator cost \$4,095.00 according to Gambro BCT Price List with the effective date of March 1, 2004. This would represent 0.069% of the price of a cell separator and be higher than the assumption used in the calculation. The factor for maintenance should be changed from 0.05 to 0.069.

Under these assumptions the equipment costs for non-facility settings should be set with a higher value than \$43.37.



# Fresenius HemoCare

A Division of Fresenius Medical Care NA

We would greatly appreciate if CMS would review these assumptions and consider our comments in a revision of the proposed rule. The cost per minute for the cell separator should be \$0.923002. This would be calculated using the formula mentioned under the data element "COST\_MIN" (cost per minute) as part of the "Direct Practice Expense Values Used to Create Resource-Based Practice Expense Relative Value Units For Calendar Year 2005". The increase of costs per minute is the result of changing the "Usage" from 0.5 to 0.1227 and the "Maintenance" from 0.05 to 0.069.

Please contact us if you need any further information with regards to the comments and assumptions made herein.

Sincerely yours,

Stefan Schulze  
President

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services.

A physician has the right to delegate the care of his or her patients to trained individuals (including athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. 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 summary, it is NOT necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,  
Patrick J. Triano, MS, ATC/L

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Since this is an election year, I do believe that issues regarding cost of healthcare must be addressed.

The reason for having a board of physical therapy in each state is to govern over licensed physical therapists and physical therapist assistants in order to protect the public and prevent abuses in practice of physical therapy while medical board of examiners protect the society from abuses in medical practice.

However, the medical board of physicians do not govern over physical therapy staff or less qualified and less-trained individuals in their offices. Thus, it puts the public at large in great risk for harm and abuses in practice if there is not a public governing body that will protect and serve the individual patient from potential abuses.

In addition, the financial interest or overuse of services will be most efficiently managed in this healthcare environment by utilizing unbiased professional staff in the provision of rehabilitation services.

In conclusion, I must state that all physical therapy services must be provided by licensed and educated physical therapists and physical therapist assistants in each state to assist in the societal needs in the future.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

I am concerned that if the law does not require contract holders to provide all claims data on billing to the providing physician then the law will not be useful to prevent possible problems related to that billing.

If a contract group that is enrolled in a Medicare program is able to accept payment on behalf of the EM doctors who work for them the providing physician is liable for false claims. Therefore the law must state that the contract group be OBLIGATED to provide appropriate billing information to the physician and not just 'provide for access' to the information to that physician.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

RE: Therapy - Incident to

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

CMS-1429-P-1495-Attach-1.rtf

Attachment to #1495  
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 in regard to the recent proposal that would limit providers of “incident to” services in physician offices and clinics. As a current Athletic Training student, I am deeply concerned with the possible changes that would result from this piece of legislation being passed. In the past doctors have the ability to refer patients to qualified health care providers that they deem creditworthy, such as Certified Athletic Trainers. Without the ability to refer patients to Athletic Trainers, the resources available to the public will greatly decrease. As of right now, the United States is already short of health care providers, this legislation would only limit the field further. This proposal not only limits the options for patients, but it also limits the ability of the physician to make decisions according to the best interests of their patients.

Not only am I concerned about the effect this proposal would have on the general public, I also fear the effect this will have on the job market for Certified Athletic Trainers. Forty percent of Certified Athletic Trainers work outside of the traditional school setting, and the majority of these professionals provide “incident to” services. This proposal would eliminate MANY jobs in the field of Athletic Training.

Please consider the negative effects this proposal would have on the quality of health care provided in the United States. This restriction on qualified, competent professionals is unmerited, and unjustified.

Sincerely,

Katherine Vaughn

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Subject: "Therapy-Incident to"

I am writing to ask that athletic trainers be allowed to continue practicing in a physician extender setting and billing incident to physician services for outpatient therapy. Athletic trainers are academically and clinically qualified to provide these services, and it is both false and insulting to suggest otherwise. CMS has no standing or authority to restrict the medical decisions of physicians. This proposed CMS action is clearly driven by the financial interest of other groups, to the detriment of patients and the athletic training profession. Furthermore, this proposed change would reduce patient access to care.

Sincerely, Sky Pierce, ATC  
Hana High School Athletic Training Dept.  
PO Box 128, Hana HI 96713  
808-248-4850

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

ASSIGNMENT

Assignment of CMS reimbursements to contract management groups while, at the same time holding the provider physician responsible for fraudulent billing places the physicians at risk for punishment for something they have no knowledge of. If physicians are to be held responsible, then CMS should mandate that copies of all billings and reimbursements filed should be forwarded directly to the physician for their review to allow providers to address inappropriate billing.

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**Issues 20-29**

THERAPY - INCIDENT TO

Please see attached file.

Attachment to #1498  
September 14, 2004

Via electronic mail

Center for Medicare and Medicaid Services  
Dept. 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 concerns regarding the recent proposal that would “incident to” services provided in physicians’ offices. If adopted, this would limit the ability of qualified health professionals to dispense needed services in this way, which will then adversely affect the quality of care delivered to Medicare and Medicaid patients. It will also ultimately increase health care costs for reimbursement and further burden the health care system. During your deliberations, please consider the following:

- 1) Historically, “incident to” has been utilized to others, under direct supervision of the physician, to deliver services as an adjunct to the physician’s professional services. A physician has the right to determine which professionals and services are the appropriate professionals and services to deliver these services to individual patients. There has never been any limit on physicians’ ability to choose providers of service, and reliance should be placed on the physician’s best professional judgment to make these decisions. Limiting the variety of providers is a disservice to patients.
- 2) There is a shortage of health care providers in rural areas at this time. Limiting the “incident to” providers will reduce access to needed services, causing delays in service to patients while also driving up costs. Patients will suffer from a lack of local and immediate treatment.
- 3) Athletic trainers are highly educated professionals. All ATC’s are required to have at minimum a bachelor’s degree, and over 70% have a master’s degree. This is certainly comparable to many mid-level health professionals, including physical therapists, occupational therapists, speech pathologists, registered nurses. The National Athletic Trainers’ Association (NATA) has been instrumental in developing rigorous certification procedures to assure high professional standards, and these academic programs are accredited by the Commission for Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on education programs in Athletic Training (JRC-AT). Athletic training curriculums contain coursework in human anatomy/physiology, kinesiology, nutrition, statistics and research design, acute injury evaluation and management, and exercise physiology.

- 4) CMS, in proposing this change, offers no evidence that there is a problem that needs fixing. This appears on the surface to be an effort to appease the interest of a single provider group who is trying to become the sole provider of these types of services to CMS patients. CMS does not have statutory power to restrict who can and cannot provide “incident to” services. To allow only physical therapists, occupational therapists, and speech pathologists to provide these services virtually guarantees them sole access to CMS reimbursement, in effect a health care trust. Antitrust legislation exists for good reason. History has shown that trusts in business increase costs while limiting service to customers. In addition, the American Physical Therapy Association (APTA) has taken a stand against physician owned physical therapy services (POPST), which have been shown to increase over utilization of services and drive up costs. The Stark laws were enacted to prevent this practice, and have been weakened as of late. This change will encourage physicians to get this “piece of the pie” themselves by increasing the number of POPST providers.
- 5) Athletic trainers have been shown, in independent research, to provide services within their scope of practice to be the equal of other allied health professionals. Athletic trainers are employed by almost every post-secondary education institution that offers athletics, almost all professional sports teams, and were a major part of our Olympic team’s success in Greece and other previous Olympics. To suggest that they should not be allowed to offer these services to recreational athletes and a Medicare patient injured in a 5K walk is outrageous and unjustified.

In summary, these proposed changes are neither advantageous nor necessary. These changes will limit access to needed services and could well result in increased costs to CMS and taxpayers.

Sincerely,

Steven B. Mather, MA, PT, LAT  
2515 27<sup>th</sup> St.  
Des Moines, IA 50310  
(515)277-6051

Submitter :  Date & Time:

Organization :

Category :

**Issue Areas/Comments**

**GENERAL**

GENERAL

Please see attached file.

CMS-1429-P-1499-Attach-1.doc

CMS-1429-P-1499-Attach-2.doc

CMS-1429-P-1499-Attach-3.doc

Sky Pierce, ATC  
PO Box 128  
Hana HI, 96713

Attachment 2 to #1499  
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, Sky Pierce, ATC

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PO Box 128  
Hana, HI 96713

Attachment to #1499  
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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PO Box 128  
Hana HI, 96713

Attachment 3 to #1499  
September 15, 2004

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Attention: CMS-1429-P  
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Baltimore, MD 21244-8012

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