

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As part and on behalf of the Massage Therapy community, I beg you, please do not pass this policy wherein a physician can only refer "incident to" services only to Physical Therapists. We all have a great hand in the recovery process for many individuals who have benefited from the use of massage as PART of their therapeutic avenue. I have actually been approached by a physical therapy company associated with a hospital to aid in the recovery of their patients. There are many physicians who recomend massage therapy to aid in the recovery of their patients and, in many cases, massage therapy can save insurance companies money in the long run, decreasing the long duration of physical therapy appointments patients may otherwise be required to attend for full recovery to be accomplished.

Thank you.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

See attached file

Pierre Minerva, M.D.
Bryn Mawr Medical Specialists Association
933 Haverford Rd., Bryn Mawr, PA 19010
610-668-1968

Attn: CMS-1429-P

As a private practice rheumatologist, I am writing to comment on the regulation of Medicare reimbursement for non-oncological infusion medications.

The ASP + 6% plan is problematic for two reasons:

- 1) The published ASP is essentially a wholesale price that is available only to larger entities and not to a single physician such as me; therefore, reimbursement based on ASP would be inappropriately low.
- 2) 6% is too low taking into account the potential losses an office absorbs when ordering, stocking and delivering a complex infusion drug; 10-15 % would be a more reasonable range

Reimbursement for the infusion of a biologic agent such as Remicade should reflect the complex nature of the medication. Physicians are responsible for assess and monitoring risks such as infection and infusion reactions. Remicade infusions should be considered on par with chemotherapeutic agents with respect to complexity of management.

In the end, the combined infusion/drug reimbursement should be NO LESS in 2005 than that for 2004. If Medicare reduces reimbursements such that physicians no longer can offer Remicade infusions in the office, then the burden will shift to a hospital setting which would:

- a) greatly increase cost to Medicare
- b) compromise safety to the patients since the ordering physician would not be on-site to handle and complications
- c) limit convenience and accessibility for patients which in turn would limit compliance resulting in worsened morbidity and mortality

I hope that these comments provide perspective on the nature of the service I provide to patients through the availability of in-office Remicade infusions.

Pierre Minerva, M.D.
Bryn Mawr Medical Specialists Association
933 Haverford Rd., Bryn Mawr, PA 19010
610-668-1968

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I'm a physical therapist/athletic trainer with 7 years of experience working in a Montana outpatient rehab facility. Approximately 30% of the patients I see are medicare recipients.

I strongly support CMS's proposal that physical therapists working in physician offices be graduates of accredited physical therapy programs. Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. Others should not.

The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient by:

1. Patients being misled to believe that they are receiving physical therapy by a qualified, licensed physical therapist. Would you want an unqualified, inexperienced person working on your car or being responsible for part of your surgery?

Physical therapist assess a patient's function and based on their findings develop an individualized program to best meet the patient's needs. By allowing unqualified individuals to provide physical therapy services, and have the physician charge for physical therapy services is fraudulent. That is not what physical therapy codes were established for. An unqualified individual is likely to instruct a patient on a series of exercises or interventions that are generalized and not specifically modified to meet each patient's individual needs.

2. The delivery of physical therapy services by unqualified personnel is also harmful by patients being misinformed and/or inappropriate care provided. Misinformation can lead to further injury or no benefit from the services provided.

If the therapy cap becomes effective in 2006, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist.

Physical therapists receive extensive training in anatomy and physiology and have a greater understanding of the body and its functions. Physical therapists should be the ones providing physical therapy services.

Thank you for your consideration of the above comments.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist and an athletic trainer I believe that qualified physicians should be making the decision as to whom should be providing any incident to services within their offices. The physician, and only the physician, can make these decisions based on a variety of factors. Included in these are the knowledge of their patient population, social factors of that population, and what is the best course of treatment for that population. Incident to services should and need to be provided by the best professional for the task. That may be a physical therapist but also could be a speech therapist, occupational therapist or an athletic trainer. Limiting incident to services will increase the costs of medical services, hinder the availability of services and create a situation were patients will go without care.

As a health care professional and a citizen, I would ask CMS to keep the decision to provide incident to services in the hands of physicians.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I feel that physicians should be able to refer out health care to more than just physical therapist. Patients should be allowed to have more options than just physical therapist

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attachment

Denisha Fergusson
6 Buswell St, Apt.1
Boston, MA, 02215

9/23/04

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. What should be explained is what constitutes QUALIFIED therapy providers? As an athletic training student, I have taken many classes with physical therapy (PT) students and even gone above their requirements as undergraduate students. Classes include: Biology, Chemistry, Organic Chemistry, Physics, Anatomy, Gross Anatomy, Human Physiology, Exercise Physiology, Biomechanics, Therapeutic Modalities, Rehabilitation of athletic injuries (these injuries are not limited to the athletic population), Evaluation of athletic injuries. Many of my classes I took with graduate PT students meanwhile I was an undergraduate. This shows that we are very capable of treating patients as we have been seasoned into the profession with early exposure and room for growth before entering the field.

Medicare and Medicaid were intended to help the elderly and the poor receive health care. By removing athletic trainers from the list of “qualified” care providers, you are depriving them of the right to receive optimal care. This is not to say that athletic trainers are superior but we are equally qualified and in many instances, more experienced in interacting and treating patients than other stated professions. Athletic training students begin interacting and treating patients as early as their freshman year of college, this supports reinforcement of knowledge, immediate feedback, and mastery of skills (treatments). Physical therapists, nurses, physicians, etc, are exposed to patients after receiving enough education and training. They are then given the opportunity to practice their skills after some may have been forgotten. Although this may not compromise their level of care, I am asserting that athletic trainers have the reinforcement to ensure optimal patient care at a much earlier stage in their education/profession.

To say that a physical therapist is more qualified than I will be after I graduate should be considered a personal insult. I have endured four hard years of college to obtain a sound education, with an emphasis in evidence based medicine. My clinical experiences have developed my efficiency in health care delivery as I learned how to cope with various situations under direct supervision before venturing into the field independently. I value my education and take great pride that I was able to aid and treat injured individuals return to previous activity levels or even improve their activity level, while an undergraduate student. Athletic training students sacrifice a great deal to obtain our certification. We have to balance school, clinical rotations, and sometimes outside employment, this is a great attribute which demonstrates that we are well rounded, level minded individuals.

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.** 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.** The main should always be to provide the best care possible and this could potentially be compromised.

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

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

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

On a very personal level, by accepting this proposal, many athletic trainers will become unemployed and will be forced to compete with their peers for limited positions left available to them. It troubles me to think that I may be unemployed before I have a chance to exhibit what I have accomplished after graduation. I know that I am capable of providing quality care for patients of any group and it would be disheartening to think that my money spent on education and my time dedicated to a profession that I adore, could be jeopardized by the views of a few individuals.

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,

Denisha Fergusson

6 Buswell St, Apt. 1

Boston, MA 02215

Submitter : Mrs. Lisa Mell, CMT Date & Time: 09/24/2004 03:09:07

Organization : LAHP and ABMP

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly urge you not to pass this policy whereby a physician can only refer "incident to" services to physical therapists.
All qualified healthcare providers should be able to provide services to patients with a physicians prescription or under their supervision.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

Jennifer Lynn Bates
1225 North Fee Lane B302
Bloomington, IN 47406

September 23, 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.
- 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.

- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. This 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).
- 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.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

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

Sincerely,

Jennifer Lynn Bates

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

THERAPY INCIDENT TO

I wish to comment on the August 5 proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005."
I am currently a Physical Therapist Assistant Student and would like to express my concern for unqualified person(s) administering out of scope practices to patients. Patients place their trust and well being into the hands of the health care providers. I firmly believe that a Physical Therapist and Physical Therapist Assistant (under the supervision of a PT) should be the only person(s) to administer physical therapy to a patient. Its unethical otherwise and takes away from those who have the proper education and training to furnish PT services. Not to mention all the hard work, time, and effort it takes to reach such a goal.
Sincerely, VTS,SPTA

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers, including massage therapists, should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please do not pass this policy whereby a physician may only refer "incident to" services to a physical therapist.
There are many instances where other qualified healthcare practitioners can provide equal or better services at a more reasonable rate, and they should be allowed to do so!

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Please see and recognise the past and current re benefits for patients receiving massage/manual therapy from a licensed massage therapist. Medicare patients (PRONE TO CANCER ECT) who receive Lymphatic Drainage = by a qualified LMT - NOT by a PT (not trained in) improve drastically - thus SAVING medicare dollars and improving patients quality of life.

Submitter :

Date & Time:

09/24/2004 03:09:24

Organization :

Category :

Physical Therapist

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

THERAPY - INCIDENT TO

I am a licensed physical therapist and I strongly support CMS's proposed requirement that individuals providing physical therapy services "incident to" a physician should meet personnel qualifications for physical therapy in 42 CFR S484.4, with the exception of licensure. I have more than 20 years of experience in outpatient physical therapy (primarily orthopedic), with increasing responsibility in supervision of staff. I have observed different non professionals participating in outpatient physical therapy, including physical therapist assistants, athletic trainers, and technicians/aides. I can speak from experience that quality care is provided to the patient when a thorough physical therapy initial evaluation is performed by a physical therapist and specific problems are identified, a treatment plan is developed to address the problems, and a skilled physical therapist or physical therapist assistant provides treatment with specific techniques to address the problem.

Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. They have the ability to assess joints, muscles, etc. and the skill to increase mobility to a joint not moving enough or teach strategies to address joints that move too much. Physical therapists have the ability to stretch muscles without stressing the lumbar spine and strengthen muscles without stressing a freshly repaired ligament. They treat problems as opposed to non-qualified personnel treating symptoms with a "band-aid" treatment.

This delivery of so-called "physical therapy services" by unqualified personnel is potentially harmful to the patient. A patient may have to undergo a surgical procedure, such as a manipulation under anesthesia when he or she doesn't not receive appropriate physical therapy intervention for a joint with decreased mobility. A physical therapist most likely would have been able to provide various joint mobilizations to improve joint mobility. I have seen patients who have had spine surgery following a non successful bout of "so-called physical therapy" at the doctor's office, consisting of modality treatment. I feel that if specific care such as traction, stretching, stabilization exercises and patient education had been used, surgery might have been avoided.

A financial limitation on the provision of therapy services (the therapy cap) is scheduled to become effective on January 1, 2006. Under the current Medicare policy, a patient could exceed his or her cap on therapy without ever receiving services from a physical therapist. This will negatively impact patient's outcomes when the patient receives symptomatic "band-aids" that "use up" the physical therapy services without the problem being addressed. As stated earlier, the patient may end up requiring invasive intervention, have a short term disability become a long term or life long one, or have unnecessary progression of symptoms, injury or disease process.

In my experience, patients do not realize that they may not be receiving physical therapy from an appropriately educated, trained and experienced individual. Patients do not realize that there can be a significant difference in their outcomes based on who they choose to provide the service. A patient also assumes that his or her physician will provide top quality care, whether it be in diagnosis of the problem or resolution of it. With the implementation of the proposed rule, patients will be guaranteed to receive care from an appropriately trained individual.

The approach that I use is that I want Physical Therapy care provided to all patients in a manner that I would want my family members treated. I want an educated, trained physician treating me medically, an educated, trained dentist treating my dental issues, and I want an educated, trained physical therapist treating my musculoskeletal problems.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

"Incident to" services should not be limited only to physical therapists. Massage therapists are qualified health care providers and should be allowed to provide services to patients with a physicians prescription. Physicians should be able to prescribe the health care provider they choose to benefit the patient.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Diapulse Wound Treatment System, Diapulse Non-Thermal Electromagnetic Therapy Code G0329

Sept. 4, 2004

Mark Drucker
4004 skyline rd.
Carlsbad, Ca. 92008
760-729-4777 phone
760-729-3169 fax

Dear Hawk:

It was a pleasure speaking to you the other day. We have agreed on a price of \$222,500.00 for the property adjacent to mine which includes the cabin. We have agreed on terms of 20% down, with you carrying 80% @ 7% interest amortized over 30 years, with a balloon of full payment due in 10 years.

I am very happy to get the property although I was hoping to keep the price closer to the \$210,000.00 that I offered, as I am stretching for the additional amount. I am sure the antique furnishings are as wonderful as the cabin. I plan to see the cabin ASAP and I am certain I will want the furnishings, unfortunately I won't be able to pay anymore.

I hope to meet you and maybe we can meet in Oct. when you plan to visit.

Thanks again. Although I have heard only a little about you from Bob and Mitzi, Bob says you're a great guy and he really enjoys you.

Talk to you soon.

Sincerely,

Mark Drucker

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please do NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care provideers should be allowed to provide services to patients with a physicians prescription or under their supervision. Different therapies work for different patients. Please allow them choices for recovery. Thank you.

Submitter : Miss. Jennifer Wetzel Date & Time: 09/24/2004 03:09:37

Organization : Miss. Jennifer Wetzel

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. Physical therapists are required to be licensed in the states where they work.

We can train monkeys to do a lot of tasks but that does not mean we give them drivers licenses and let them loose on our highways. Having unqualified and uneducated people providing services they do not know the scope of is detrimental to the patient. Providing services in this matter is fraudulent.

Physical therapy services need to be provided by individuals with the significant training and experience necessary to maximize positive outcomes for patients.

The goal should always be about providing the best possible care for patients not about who gets the money. It is an extremely sad state of affairs that in this country good health care is being pushed aside.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This new policy should NOT be passed as it only has negative impacts and is detrimental to the overall healthcare industry for patients and practitioners alike. To optimally serve the health needs of patients, all qualified healthcare professionals need to be able to provide "incident to" services, not just Physical Therapists.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I am writing to urge you NOT to restrict doctors to only refer to Physical Therapists. Medicare patients need to be able to receive the care that will be most effective in restoring health.

I believe it is critical that physicians are free to prescribe the treatments that will most benefit their patients. There are numerous adjunct therapies such as Massage Therapy, CranioSacral Therapy, Jin Shin Jyutsu, Accupuncture, etc. that can offer relief and improvement of symptoms in ways that physical therapy does not address.

By restricting coverage to only physical therapists, the full range of needs cannot be addressed. Not only is this unnecessarily poor care, in the long run, it is less cost-effective. In many cases, the correct therapy can eliminate the need for continuous return visits to the doctor or ongoing prescriptions.

Wouldn't you want this for yourself and your family?

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

Attached, in Microsoft Word format, please find my response to the proposed "incident to" billing of outpatient therapy services. Your review of my attached letter is greatly appreciated.

Gregory L Gaa, MBA, ATC/L, CSCS
Director of Outreach Services
Great Plains Sports Medicine & Rehabilitation Center
Great Plains Maximum Performance
Phone 309-676-5546
Fax 309-676-5045

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers- whether nurse massage therapists, massage therapists, athletic trainers, or physical therapists- should be allowed to provide services to patients with a physician's prescription or under their supervision. Having a massage can produce many benefits for a person. It can: improve one's blood and lymph circulation; promote the relaxation of one's muscles; promote one's ability to experience an overall sense of relaxation and wellbeing; increase one's mental clarity and alertness; decrease pain; decrease adhesions between one's muscles and other tissues; promote a person's body's ability to form healthier scar tissue; promote a healthier state for one's connective tissue; and enhance sports performance. If a person gets chiropractic care, massage therapy can also help the chiropractic adjustment to last longer. For further info on other documented benefits of massage, go to <http://www.miami.edu/touch-research/>.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please do NOT pass this policy. It would allow only "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a doctors prescription or under their supervision. If you are looking to limit something require that the specialist be certified in their field. This policy would change (for the worse) many people's current solution to their health problems. This is one door that shouldn't be shut.

Thank you for considering these thoughts.

Sincerely,
Corrie Drosnock, CMT, NCBTMB, AMTA

Submitter : Mrs. Cathryn Wright Date & Time: 09/24/2004 04:09:58

Organization : ABMP

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. ALL qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

September 23, 2004

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

Re.: CMS-1429-P

Dear Sir or Madam,

I am writing as a representative of occupational therapists and occupational therapy assistants in New York State, regarding the proposed revisions to 42 CFR 410.26, 410.59, 410.60 and 410.62 concerning `incident to physician services.

The New York State Occupational Therapy Association would like to express its support for the proposed revision. Occupational therapy should be provided by occupational therapists or occupational therapy assistants who are properly trained and meet the standards and conditions required to provide such services.

Too often, the current practices regarding `incident to physician services' has provided a loop-hole for the delegation of responsibilities to provide rehabilitation services to unlicensed and unqualified personnel. We don't believe that this current practice is safe for the public, since it allows personnel who are not specifically trained in occupational therapy to provide restorative interventions that impact on a patient's physical and cognitive functioning and their safe performance of tasks in the home and community. The delegation of occupational therapy to someone other than an occupational therapist or an occupational therapy assistant, is a practice that provides less than optimal care, and it should not be reimbursed by Medicare.

The New York State Occupational Therapy Association would like to convey our deep appreciation for the work you and your office are doing to provide protection for health care consumers. We hope that you will take our comments into consideration. Thank you.

Sincerely,

Jeffrey Tomlinson, OTR, CSW
Legislative & Government Relations Coordinator

THERAPY ASSISTANTS IN PRIVATE PRACTICE

September 23, 2004

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

Re.: CMS-1429-P, Therapy Standards and Requirements

Dear Sir or Madam,

I am writing as a representative of occupational therapists and occupational therapy assistants in New York State, regarding the proposed revisions to 42 CFR 410.59 and 410.60 concerning `Qualification Standards and Supervision Requirements in Therapy Private Practice Settings.

The New York State Occupational Therapy Association would like to express its support for the proposed revision. We agree that an occupational therapy assistant can safely and effectively provide services in a private practice setting without full-time personal supervision. Requiring `direct supervision' provides adequate patient protection, while at the same time allowing the more cost-effective utilization of occupational therapy assistants for many services.

Occupational therapy assistants have been safely and effectively providing occupational therapy services in many settings, and in many states, with supervision that is at the Medicare standard of direct supervision.

The New York State Occupational Therapy Association would like to convey our deep appreciation for the work you and your office are doing to provide protection for health care consumers. We hope that you will take our comments into consideration. Thank you.

Sincerely,

Jeffrey Tomlinson, OTR, CSW
Legislative & Government Relations Coordinator

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

"Therapy--Incident To" I am an Occupational Therapist in Private Practice for the past 14 years and in practice for 28 years. I employ 9 other Physical and Occupational Therapists. I am very much in favor of this Rule. It will help with providing the proper guidelines and restrictions to those who have been providing Physical and Occupational procedures who are not PT's and OT's. Also, I support the revisions to the supervision requirements of PTA's and OTA's. I appreciate CMS making these changes.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Incident to proposed changes will severely limit recipient's access to health care if AMA recognized and Nationally board certified athletic trainers are eliminated from the regulations all due to political influence.

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

Scott J. Belham, MS, ATC
12356 Windance Drive
Gulfport, MS 39503

September 23, 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 traveled with 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.
- Finally, the implementation of this rule, will in all likelihood, create higher unemployment numbers for up to 20,000 athletic trainers nationwide. The continued restrictions placed upon outpatient therapy clinics, who are the primary employers of athletic trainers, will have even a more difficult time justifying the employment of an individual that has been defined as a non-professional by CMS. On a personal note, I paid approximately \$22,000 in federal taxes last year.

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,

Scott J. Belham, MS, ATC
Athletic Trainer, Certified
MS Lic.# AT-0051

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

Attachment #3730

September 22, 2004

Centers for Medicare & Medicaid Services

Department of Health and Human Services

Attention: CMS-1429-P

PO Box 8012

Baltimore, MD 21244-8012

RE: Therapy -- Incident To

Dear Sir/Madame:

I am writing to express my concerns about the recent proposal that would limit providers of “incident to” services in physician offices and clinics. There are a number of reasons to keep this from being adopted, including the elimination of qualified health care professionals to provide these important and urgent services, the fact that it would reduce the quality of care for our Medicare patients, would delay services in many cases, would increase costs for these services (placing more burden on this system), and it would take the control of the patient’s care **out of the physician’s hands, where it needs to be.** Please let me elaborate on these reason to emphasize why it is *imperative* that this does not become a law.

“Incident to” provides the physician the right to delegate the provision of services to Medicare patients by qualified individuals who are under the “direct supervision” of said physician, and it has been this way since the inception of the Medicare program in 1965.

Trusting our physicians to make the choice of qualified providers, such as Certified Athletic Trainers who are fully trained in protocols to be administrated, is not only prudent, but is respectful to their judgment on how to best serve Medicare patients in the most effective and judicious manner possible. There have **never** been restrictions placed

upon physicians regarding whom he/she can utilize to provide any “incident to” services. The physicians are fully aware that they would be legally responsible for all care ordered, and in every situation are making these decisions to help expedite care to shorten recovery times and lower expenses for Medicare patients. Making a patient wait for further treatment until they can get into a physical therapist’s office might easily lengthen the recovery time as well as cause additional expenses.

Many Medicare patients are in rural areas driving many miles to see the physicians. Legislating them out of “incident to” care that they could possibly get the same day in the physician’s office means more suffering and hardship for the patients. There could also be more cost in terms of time lost and financial outlays for the patients.

Physicians want to provide quality, efficient and cost effective health care for their Medicare patients, and in many instances are already doing so. We all know that there are many health care-related problems for everyone, but forcing a physician’s hand by limiting who they **choose** to utilize to offer Medicare patients top notch services (such as eliminating Certified Athletic Trainers from the possibilities) adds more fuel to the fires burning in their gripe lists. *Physicians have been trained to be directors of our health care, but have seen HMOs and other self-motivated interest groups try to take over and make all the rules. Let’s start setting things straight by continuing to allow physicians the respect and rights they should be offered to run our health care system.*

If all other providers are eliminated from “incident to” care, the physicians might be forced to do all the care themselves. In many cases, this would only decrease the quality of care by taking them away from much more needed services for the Medicare population. Our seniors deserve better.

Certified Athletic Trainers could easily help by providing immediate, qualified care while under the supervision of physicians. 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. Certified Athletic Trainers are highly educated

professionals with a bachelor's degree, and in 70% of all cases, a master's degree from an accredited college or university. Foundation courses include: human anatomy and physiology, kinesiology/biomechanics, nutrition, acute care of injury and illness, exercise physiology, evaluation/treatment/rehabilitation of injuries, and statistics and research design. 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). The great majority of practitioners who hold advanced degrees are comparable to other health care professionals, including registered nurses, physical therapists, occupational therapists, speech therapists, and other mid-level health care practitioners.

It is apparent that to *only* allow physical therapists, occupational therapists, and speech therapists to be providers for “incident to” outpatient services would improperly provide these groups exclusive rights to Medicare reimbursement. Mandating this would improperly remove the STATES’ rights to license and/or regulate the allied health care professions deemed qualified, safe, and appropriate to provide health care services.

The Ohio Physical Therapy, Occupational Therapy, and Athletic Training Boards set our state practice acts and allow for Certified/Licensed Athletic Trainers, to provide rehabilitation. Certified Athletic Trainers are recognized and reimbursed for their therapy by a number of insurance companies, including the Ohio Bureau of Worker’s Compensation.

CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” the physician’s office visit. It appears that this is being done to appease the interests of a single professional group who wants to establish themselves as the sole providers of therapy services, especially when CMS has offered no evidence that there is a problem with the status quo that is in need of fixing.

America was founded on the idea that **we all have the freedom of choice and the rights to pursue our careers without any single interest group attempting to legislate us out**

of jobs that we are fully qualified to do. Certified Athletic Trainers are working with the **physically active** population in almost every post-secondary educational institution, in many of our high school and junior high schools, with professional sports teams, with the US Olympic teams and athletes, with “industrial athletes” in many corporations, and with physicians in their offices providing outstanding health care. Certified Athletic Trainers bring the same high quality of care to our seniors. Just because seniors are on Medicare does not mean that they are not active! They still have to function in their home with daily activities, as well as their life fitness activities such as walking, biking, swimming, golf, etc.

I cannot see how CMS could forego the rights of physicians to **choose** who they feel are qualified providers for “incident to” health care services in this country. Do not allow the selfishness of a single interest group to take away needed quality, cost-effective health care services from our seniors. Do not allow exclusive rights to only one therapy provider group, thereby increasing costs to our already burdened seniors. Do not allow another means to control our physicians – let them decide who provides the care they want to provide to Medicare patients!

Please consider these facts when voting on these proposed changes. The changes are not necessary, not prudent, and do not reflect well on the care our elderly deserve and should expect from our government.

Sincerely,

Gaye Beckman, ATC, MEd, LAT

Certified Athletic Trainer, Licensed Athletic Trainer

Head Athletic Trainer

Pomona High School/Healthsouth

Submitter : Mrs. Karen Graham Date & Time: 09/24/2004 04:09:56

Organization : ABMP

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Thank You.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

OTHER - INCIDENT TO

I've just completed 1,000 hours of training to become a Licensed Massage Therapist in New York. Much of this training was devoted to medical massage and spent working with patients (under supervision) who were referred to my school's medical massage clinic by their doctors and chiropractors.

I strongly urge you not to pass a policy whereby a physician can only refer "incident to" services to physical therapists. To do so would prevent hundreds of thousands of Americans from receiving the skilled care of thousands of licensed massage therapists.

There have been many studies proving the various benefits of massage therapy done by licensed massage therapists in a wide variety of diseases. The therapeutic effect and benefits of massage have been well and widely documented, many in research studies conducted at the Touch Institute at the University of Miami.

According to a survey published in 1993 in The New England Journal of Medicine, more than one-third of Americans used alternative therapies for serious medical conditions. Massage therapy was listed as being the third-most common therapy used (after relaxation techniques and Chiropractic care). Massage therapy is now used to enhance the health and wellbeing of infants, the elderly, those recovering from trauma and athletes. With continued research and documentation of the benefits of massage therapy, massage therapists will experience continued success in their field.

It should be stressed that massage therapy is not the same as physical therapy. In New York, as well as most states, the scope of practice for physical therapy is different than that for massage therapy. For years, doctors have referred patients to both, depending on the circumstances and needs of the patient. To limit a doctor's choice by eliminating a large pool of trained and experienced massage therapists seems counterproductive and risky for the health of all Americans.

I urge you not to pass this regulation, as it would be detrimental to health care in America.

Submitter : Mrs. Erin Geer Date & Time: 09/24/2004 04:09:59

Organization : American Physical Therapy Association

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 23, 2004

Mark B. McClellan
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

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

Dear Administrator McClellan,

My name is Erin Geer and I am a third year Doctorate of Physical Therapy student at Regis University in Denver, Colorado. I have had the opportunity to work with Medicare patients in a skilled nursing facility during my first clinical. On behalf of myself and thinking of the best interest for Medicare patients', I would like to comment on the August 5 proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' In the proposed rule, CMS proposes that individuals providing physical therapy services 'incident to' a physician must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. With my recent background of educational study in anatomy, physiology, neurology, etc., and experience in clinicals, I feel that I have a special niche for understanding the whole body and its functions. Moreover, the doctoral program has given me a broad background in creating physical therapy diagnoses, establishing goals, and treating patients' with a variety of disabilities. Without a physical therapy education I believe myself and others would not be able to perform physical therapy services on a patient safely and appropriately. For example, while working with an occupational therapist at a skilled nursing facility, she tended to be very knowledgeable with a person's activities of daily living primarily focusing on the upper extremities. However, during conversations with her she was very timid when it came to the overall anatomy and especially the neurological and physiological components of the body's musculoskeletal system. If this occupational therapist had treated a patient and billed for physical therapy services, she would most likely concentrate on the upper extremities and interventions based on activities of daily living. Yes, this may benefit the patient some, however, the patient might need more of a lower extremity or neurological/physiological functional intervention that the occupational therapist may not be knowledgeable with. Hence, only physical therapists should be able to perform the needed physical therapy services on patients to better serve the patients' interest in a safe and accurate manner. Occupational therapists and other professionals have their specialties and can bill for those specialties which do not include physical therapy.

Thank you for your consideration of my comments.

Sincerely,
Erin R. Geer
Doctor of Physical Therapy Student Class of 2005

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Section 1862(a)(20)

Opposed to statement omitting licensed Massage Therapists to be included. All qualified and licensed health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision. No exceptions. Massage Therapists in particular have proven with scientific verification to be valuable in the treatment of many conditions.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

The proposed revisions to the RVUs for CPT 36870 (Percutaneous Thrombectomy AV Fistula), which will in fact reduce significantly the allowable, may have unintended consequences. The former RVUs for a non-facility, significantly higher than for facilities (hospitals), served to cover the supplies used in the out-patient setting. Facilities were able to bill for these supplies on a pass-through basis. This situation functioned to shift incentives to the out-patient and overall less-costly place of service while allowing for some profit, as long as there existed efficient use of costly supplies. The proposed decrease in RVUs for 36870 in the non-facility setting, runs the risk of transferring incentives for performing this procedure in the overall more costly facility setting, which appears to be a step backwards for patients, doctors, and CMS. Indirectly it may also result in less efficient use of costly supplies, since in the facility setting these supplies are separately reimbursable by Medicare. The cost of supplies in the outpatient setting is not deflating with time, such that the actual practice expense for those performing this procedure continues to rise. Thank you for the opportunity to comment.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

To whom it may concern:

It has been brought to my attention that the proposed new Medicare regulations may not allow adequate assessment of osteoporosis .
As a practicing rheumatologist for over 25 years -and who because of the recent Medicare guidelines that allow me to assess possible osteoporosis in males who have lost height-I implore you not to cut such codes in future Medicare guidelines.Because of the present guidelines and the recognized importance of assessing osteoporosis and fracture risk in elderly males I have found many cases of occult osteoporosis(and hopefully prevented future fractures).
Please do not change the rules- that we as practicing physicians need to continue to prevent future hip and vertebral fractures.

Fred Dietz
Rockford Illinois

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

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

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

Centers for Medicare and 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 and 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.

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat, and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic team to Athens, Greece this summer to provide these services to the top athletes from the United States.

For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local race or event and goes to their local physician for treatment of that injury is outrageous and unjustified.

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

Thank you very much for your time and concern in this matter.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I am a current student studying to become a physical therapist assisant. I believe as though it is wrong to allow doctors to write off their patients as taking physical therapy when they have not been treated by a physical therapist. It is wrong to have just anyone performing treatments because they may have knowledge of what they may be doing but have no idea why they are doing it. Also, how they can help the patient get better which is the main purpose of a physical therapist.

Submitter : Mrs. Diana DeVault Date & Time: 09/24/2004 04:09:45

Organization : Mrs. Diana DeVault

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

I oppose CMS-1429-P where changes are being made concerning Massage Therapist. Massage Therapy has proven through medical research to be a valued medical treatment and should remain available through physician reference as an insurance option.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We implore you NOT to pass this policy whereby a physician can only refer 'incident to' services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision. I am a Licensed Massage Therapist and have been working with a pain management doctor and have had some remarkable results with many of his patients. Not only are Massage Therapists qualified to work with a medical team, with all the research being done at the Touch Institute at Miami Medical School with Dr. Tiffany Fields and other recognized institutions, Medicare should be considering to include Massage as a recognized modality. Massage is very effective for not only physical problems, but psychological ones as well like depression and anxiety. So PLEASE, do not pass this policy!! We're counting on Medicare to take us into the 21st Century and be more responsive to the needs of Americans!!!!

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Therapy-Incident To. I am a third year Doctor of Physical Therapy student at Regis University in Denver, Colorado. I have obtained a baccalaureate degree in Exercise Physiology, however I was determined to pursue higher education in the field of physical therapy to become a qualified therapist. I am writing to comment on the August 5 proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' In this rule, CMS discusses establishing standards for individuals who furnish outpatient physical therapy services in physician's offices. CMS proposes qualifications of individuals providing physical therapy services 'incident to' a physician's professional services must meet personnel requirements for physical therapy. Specifically, physical therapy services must be provided by individuals who are graduates of an accredited professional physical therapy educational program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. I strongly support CMS's proposal that physical therapy services provided in physicians' offices must be graduates of accredited professional physical therapy programs. A licensed physical therapist and a physical therapist assistant under the supervision of the physical therapist are the most qualified individuals to provide physical therapy services. Physical therapists are professionally educated at a college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. This profession has progressed tremendously by offering at least a master's degree and most programs will offer the doctor of physical therapy degree by 2005. As a doctor of physical therapy student, I have experienced an extensive educational background in anatomy, neuroscience, physiology, functional management of the body, and experience in patient care. I have been properly trained in using current literature to effectively treat patients to provide the highest quality of care. My education and training in patient care have established a foundation to ensure effective outcomes and patient satisfaction. Any unqualified personnel should NOT be providing physical therapy services because it is unfair and exposes the patient to high harmful risks. For example, if my cousin had a below knee amputation and had physician's orders to participate in rehabilitation services, I want a specialist (physical therapist) to provide the best care. Any other health care provider outside the scope of physical therapy (exercise physiologists, athletic trainers, nurses, physician assistants, and other individuals) would be unable to provide the highest quality of care for my cousin. One of CMS' goals is to protect and improve beneficiary health and satisfaction. Permitting graduates of an accredited professional physical therapist program to provide rehabilitation services incident to physician services will be meeting this CMS goal. A financial limitation on the provision of therapy services (therapy cap) is scheduled to become effective January 2006. Under the current Medicare policy, a patient could exceed this therapy cap without receiving care from a physical therapist. This will negatively impact patients' outcomes by not meeting the patients' needs. Thus, patients will not receive the proper care, causing more injury which leads to physical disability. Disability requires more money by impacting the economy negatively. Section 1862(a)(20) of the Social Security Act requires that in order for a physician to bill 'incident to' for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, services must be performed by individuals who are graduates of accredited professional physical therapist programs. Thank you, Dr. McClellan, for considering my comments. Sincerely, Rose Bechet

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

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.

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.

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

The attachment to this document is not provided because:

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

Submitter : Laurie Henthorne Date & Time: 09/24/2004 04:09:47

Organization : Laurie Henthorne

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

PLEASE DO NOT pass any policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision. A doctor may determine that a patient will benefit most from a therapeutic approach other than PT, and the patient should have the right of access in such a case. This may even provide cost savings!

Thank you for NOT passing this limiting policy.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I am taking the time to submit my support for CMS-1429-P. This provision, governing "Incident To" services is absolutely critical if proper care, as it pertains to physical therapy, is to be administered to Medicare patients. Medicare would not reimburse a physical therapist for a medical procedure performed by a physical therapist. This is as it should be. Logically, it would follow, only a properly educated, accredited, trained, and licensed physical therapist should be reimbursed for outpatient physical therapy services. In addition, only a physical therapy aide under the direct supervision of a licensed physical therapist should be eligible for reimbursement of physical therapy services by Medicare.

It seems obvious the reasons for this provision, but to state the obvious: Physical Therapist currently have 6 - 8 years of educational preparation specific to the recovery/correction of neuromusculoskeletal pathology. NO OTHER disciplines' trainings are nearly this extensive and specific to the patient population requiring physical therapy services (billable and reimbursable by Medicare).

Again, I stress, a physical therapist would not be reimbursed for medical services billed outside of their expertise. A lawyer who has not graduated law school and passed the bar cannot practice law and cannot therefore be paid as a lawyer. Why then would we pay for physical therapy services administered by those who are not licensed and trained specifically in this discipline. An athletic trainer, inesiotherapist, exercise therapist, or any other individual other than a licensed physical therapist may be trained in the anatomy and function of the neuromusculoskeletal system. That is where the similarity to physical therapy training ends. The practice and administration of physical therapy treatment is founded upon the principles of correction and recovery of the aforementioned. No other disciplines, including and especially the aforementioned, address these essential cornerstones of physical therapy.

Education requirements for a physical therapist alone include a B.S. with (2) Physics, (3) Chemistry, Pharmacology, several Psychology, Pre-Calculus, Statistics, just to name a few. Add to that 3 years of classroom training in a physical therapy program, 6 months of clinical training. All of this before a candidate can even sit for the licensing exam. Furthermore this is a brief outline of the requirements, as I believe they are currently more arduous and extensive. When the candidate does complete what is necessary they are able to take to licensing exam. To become a licensed physical therapist, to practice physical therapy legally under the best of conditions for the professional as well as his/her patients, one must pass a rigorous licensing exam. This examination ensures their education and training has prepared him/her to be a competent physical therapist and capable of administering services safely and effectively to his/her patients.

Compromising the requirements necessary to practice physical therapy only puts the patient at risk and prevents them from receiving the safe, optimal care they are entitled to receive.

Allowing anyone other than a educated, trained physical therapist to administer physical therapy services put patients in danger. It is simple, they are not extensively trained and educated in the disciplines specific to physical therapy treatment. There is a reason the schooling is as rigorous and extensive as it is. There is a reason for the hands-on training. There is a reason for the licensing exam. All of these are truly required to be accomplished before a even a physical therapist is capable of performing their services. With that in mind, the implications of allowing anyone other than a physical therapist trained and licensed, could ultimately be catastrophic. We've all heard about doctors practicing medicine without a license, sometimes without even a degree.

Submitter : Mrs. Catalina Baran Date & Time: 09/24/2004 04:09:08

Organization : Indiana University

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

Catalina Baran
710 North College Ave #4
Bloomington, IN 47404

Attachment #3746
September 23, 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.
- Athletic trainers are highly educated. All certified or licensed athletic trainers must have a bachelor’s or master’s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care or injury and illness, statistics and research design, and exercise physiology. Indiana University also requires classes such as: principles and techniques of therapeutic modalities, principles and techniques of therapeutic exercise and athletic training assessment of and adaptation for individuals with physical disabilities. 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).

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

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

Sincerely,

Catalina Baran

Submitter : Mrs. Roxie Westbrook Date & Time: 09/24/2004 05:09:39

Organization : Roxie Westbrook Physical Therapy

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I am asking that you very seriously consider the reimbursement schedule for physicians in Santa Cruz County which has been given a rural classification for decades. Our county borders Santa Clara County which has a significantly higher reimbursement schedule than Santa Cruz County. It is well known here that we are unable to attract physicians because of our high cost of living (equal to that of Santa Clara County). The inequality of Medicare reimbursement adds another significant obstacle to the hiring of physicians. We fear that there will be a time when Medicare recipients may not be able to find a physician willing to treat them in this county. There already are physicians who no longer treat Medicare recipients as well as those who no longer take new Medicare patients. Please, please remedy this issue this year.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

August 23, 2004

Dear Sir/Madam:

I am an athletic training student at Grand Canyon University. After reading about the CMS-1429-P proposal, I feel concerned for the future of athletic training services to patients. With this proposal, Certified Athletic Trainers will not be able to treat patients in physician offices and clinics. It will also result in an abundance of negative effects on the healthcare system. Doctors rely on licensed, certified athletic trainers to provide care to many of their patients. If patients are sent to physical therapy clinics for their care, more time and resources will be utilized. Patients may be forced to drive further to a clinic for their care and pay more money for the services of a physical therapist.

This proposal will allow physical therapists, physical therapy assistance, occupational therapists, and occupational therapy assistance to care for patients. Certified Athletic Trainers are capable of providing an equal quality of care to patients. In reality, the federal government recognizes the preparation of an athletic trainer to be equal to the preparation of a physical therapist. Athletic training education exceeds that of an OT, OTA, and PTA. In Arizona, athletic trainers are required to have a bachelor's degree, from an accredited athletic training education program, be certified, and have a license to practice. Among the classes that athletic training students must take before graduating include modalities, theory of prescribing exercise, exercise physiology, pharmacology, and care and prevention of athletic injuries to mention a few. Not only do athletic training students learn from taking classes but also from spending numerous hours working under certified athletic trainers. It is also mandatory for all certified athletic trainers to receive continuing education hours every year, unlike the physical therapy profession which does not require physical therapists, in certain states, to obtain continuing education credits.

I am sure that if a physical therapy assistant can take care of a patient, a certified athletic trainer is definitely qualified. For years, athletic trainers have provided care to patients under the direction of a physician. This leads me to believe that this issue is more about increasing revenue for the physical therapists, when instead it should be focused on quality patient care.

This is a serious issue that must be carefully examined from all angles. The best interest of the patient should be kept in mind. Patient care will not be jeopardized by the referral to certified athletic trainers.

Sincerely,

Kimberly Candelaria
Athletic Training Student, Grand Canyon University

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached document
Thank you

Attachment #3749
September 23, 2004

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

Re: CMS-1429-P Medicare Program -- Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005: **Therapy-Incident To** provision.

Dear Dr. McClellan,

I am writing in support of the revisions as proposed in CMS-1429-P, specifically concerning the “incident to” provision. As a physical therapist practicing in Kalispell, MT, for six years, I have observed and heard about people practicing physical therapy in doctors’ offices who are not trained physical therapists. I have had some of these people express their concern that they were not given the quality of care that they expected for their condition, so they requested that they switch their care to our clinic. Others have expressed concerns of their PT service in a doctor’s office after receiving care from a qualified physical therapist. For example, one person related how she was given ultrasound on her strained calf muscle but that the person performing the ultrasound did not know to put the calf on stretch. Nor was she instructed how to perform stretches following the treatment in order to maximize the benefit of the treatment.

Unqualified people can go through the motions providing some “physical therapy” services, but do they know how to apply the physical therapy research in order to provide the best possible outcome? In the above case, are they aware of the research articles that state ultrasound is often not effective UNLESS it is applied in the context of other therapy events. In the above case, modifying the treatment slightly could have made a huge difference in the patient’s outcome.

I went to school for 4 years at Stanford University, then 2 years at the University of Montana’s graduate program in Physical Therapy. Both were extremely competitive schools in which to gain acceptance. Both had programs that required rigorous critical thinking. To see a person providing “physical therapy” sloppily – accountable only to an MD who cannot stand over his/her employee to provide intelligent guidance – undermines all medical professionals. It also seems unethical.

While physical therapists can also fall into the trap of providing poor service, we are fully accountable for all of our professional actions. We must be licensed in the states where we practice and are subject to disciplinary action if we do not uphold our states’ practice acts.

As I assume you are aware, Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill “incident to” for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, individuals who

are graduates of accredited professional physical therapist education programs must perform these services. It only seems logical that CMS adopt this provision in its own policies.

Thank you for taking the time to consider my comments. I am sure this is only one of many expressing their support for one or the other side of the issue. I trust that in CMS's final decision, reason will prevail.

Most sincerely,

Brian Miller, MS, PT
Kalispell, MT 59901

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

?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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

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



Submitter : Mrs. laura hanley Date & Time: 09/24/2004 05:09:24

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attached file

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

The attachment to this document is not provided because:

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Please do not allow this regulation/policy to be passed. In my opinion, it will not only adversely affect massage therapy practitioners, but also people seeking alternative, therapeutic treatments. Massage therapists will be limited to working in spas, hair salons and the like, or privately, at prices some people cannot afford. We need to be accepted by more insurance carriers in addition to Medicare. It will bring down the cost of insurance premiums if people remain healthy. Massage therapy is an excellent modality for this purpose and intent. We, as massage therapists, deserve to be recognized as medical professionals not just as "massuses". We are highly trained professionals in anatomy, physiology, pathology and Swedish massage technique. We probably know just as much about the human body as nurses do. If insurances pay for massage as a part of healthcare maintenance, in connection with chiropractic or general medicine, people will stay healthier. Please do not allow the government to limit, and therefore dictate a person's choice to stay healthy if they want to include massage as part of their health care regimen. Thank you. Lisa M.Parella, C.M.T., Professional Member AMTA, PA Chapter. ID Number# 121391

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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



Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision. Physical therapists are limited in their education... other therapists are trained specifically and extensively.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I beg you not to pass this policy whereby a phisicain can only refer 'incident to' services to physicak therapists. Some of the most valuable work a client can receive is structural alignment, myofacial release, hands on body work, hypnosis or neuromuscular re-education. These are best provided by therapists who are trained in those modalities . Trying to rely strictly on Physical Therapists is short changing the client since other therapies have been shown to be more effective in an overwhelming number of cases. Medicare should concern itself with the best therapies that are available and the mind/body/emotional connection is being porven to be the area where real and long lasting healing can take place. All qualified health care providers should be allowed to provide services to patients with a physicians or chiropractors prescription or under their supervision.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached document



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

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Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a medical massage therapist who has worked full-time interactively and closely with numerous MD's, DC;s,& physical therapists on behalf of injured patients for several years. These medical professionals value my input both to the patient and to their overall knowledge of that patient's condition. Please do not limit patients' rights to massage! I understand no wanting to pay for 'paliatory fluffy spa treatments'. But medically therapeutic massage is not only 'helpful', it provides faster and more complete healing, reducing overall costs! If you cut massage, you will increase, not reduce costs.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

I OPPOSE MEDICARE's
proposed policy to eliminate any provider except PT's from providing
"incident to" medical professional's services to patients.

I am a massage therapist and feel that myself and others in my field of health care should not be excluded.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

File Code CMS-1429-P, Re: GPC

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

Please reconsider your proposed rule. CMS committed in 1996 to updated the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in a county less than 20 miles from our business is over 25% greater than for services performed by local physicians. We understand that this is by far the greater such differential in the country.

This needs to stop. We are losing doctors and important specialties. Our organization cannot fathom how this is allowed to continue. We believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. Further, we believe that no other county in the U.S. is in greater need of reform than our county. It is your responsibility to correct this problem. Continued postponement of this long-needed reform is ill advised and inappropriate.

Health care costs are high in our community. The economy of this county is entirely equivalent to Santa Clara County. Housing costs, wages, and benefits are equivalent. How can you support the payment differential as you propose in your rule? How can you continue to include counties such as Santa Cruz, Sacramento, and San Diego in the rural Locality 99 designation? We understand that Congress is directing to include our county in a federally sponsored redistricting in 2005. This needs to occur now.

Sincerely,

Matthew Zwerling, PT, MS

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Thanks Jeffrey A. Erb

Submitter : Mrs. Pamela Pfeil Date & Time: 09/24/2004 05:09:16

Organization : OSMC

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

Pamela Pfeil
1801 Barclay Dr.
Goshen, IN 16528

Attachment #3765

September 23, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- 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.
- I work in a physician-owned facility, which utilizes physical therapists, occupational therapists and certified athletic trainers. We all work in conjunction

with oneother and all treat Medicare and Medicaid patients. Many of these patients are passed from a PT to an ATC for care. Medicare patients make up a large portion of our practice, and should ATCs be restricted from treating them, there would be no room on the PTs' schedules to accomodate new patients. Patient care and services would suffer greatly. Our rehabilitation director (a PT), all of our orthopedic surgeons and our chief executive officer support the utilization of ATCs in the rehabilitation setting and are confident in our ability to provide appropriate and adequate care to our Medicare and Medicaid patients.

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

Sincerely,

Pamela Pfeil
1801 Barclay Drive
Goshen, IN 46528

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

To whom it may concern:

Grouping Santa Cruz County as Locality 99 cannot be justified. A cursory examination of the cost of living for this community will show that housing cost is one of the highest in the country. Young physicians cannot be attracted to the area and are lost to adjacent counties. Key physicians are leaving for "urban" designated communities. Services are being curtailed here for lack of the required service needed. Adjacent counties can't meet our needs and are closing there facilities to us.

Please examine our community now as compared to your maps of forty yeqrs ago. We need a change now. We are not rural under your definition . Your help is needed.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

OTHER - INCIDENT TO

To whom it may concern: I have been working as an athletic trainer in a physical therapy clinic for 12 years. I have worked with many patients that qualify for Medicare. Some of my patients live a very active lifestyle, some will never be able to live life without the support of another individual. Either way, it is very disturbing to me that these fine people will potentially have their lives affected in a negative way, once again, by politics.

I would never claim to be able to do a job of a physical therapist, just as the physical therapists that I work with would never claim to be able to do the job of an athletic trainer. Right now, we work as a team with the common goal to make sick or injured people feel better. It saddens me that people are trying to destroy the working relationship that our clinic has in trying to obtain that goal.

This past year, I had the privilege of working with an elderly lady, that is the current world record holder in the 100, 200, and 400 meter races within her age group. I would be very hard pressed to have to look her in the face and tell her that Medicare does not consider her to be an athlete, and does not deserve to be able to use the services of an athletic trainer. Is it the right of CMS to tell the patients, and their doctors, who they are able to see?! Why are certain organizations targeting athletic trainers?!

I have a 4 year degree, spent over 3,000 hours in a collegiate training room, have completed the following courses,(anatomy and physiology, biomechanics, kinesiology, therapeutic modalities, therapeutic exercise, legal issues in health care, pharmaceuticals in sports, chemistry, physics, genetics, microbiology, beginning and advanced athletic training, etc.), and successfully qualified and passed our national certification exam. If I need any additional information, or education, to set a baseline of knowledge to be able to work with people who qualify for Medicare, I would really like to know what that is. Please remember, it is not only the education that is important to work in certain situations, it's how the person applies that knowledge through experience.

Whatever decision comes from this, I hope that the people who made those decisions were able to go out in their communities and get a good sense of the impact that you will have on those individuals. It's easy to make decisions on paper, it's a lot harder to face the responsibility for one's actions.

Thank you for your time and hard work. Let's make this a better world for everyone, not just a few selected individuals.

Mike Obergottsberger, A.T., C.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see Attached file

Attachment #3768

Lauren M. Johnson, ATC/L
14808 N 51st Dr.
Glendale, AZ 85306

09-23--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,

Lauren M. Johnson, ATC/L



Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I believe patients should be able to receive supervised treatments given by massage therapists. We are interested in improving the health and well-being of our clients. To take away that option for a client is cruel.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Re: Therapy ? Incident To

Dear Sir/Madam:

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

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.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Apparently you do not realize the INCREDIBLE healing power of Massage Therapy! For nearly 30 years clients have been telling me of the benefits they've recieved from my massages that tehy did not derive from other modalities, including, but not limited to Physical Therapy. Physicans need to be able to prescribe massage as it is sometimes the only thing that does help! Please DO NOT PASS THIS!

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing in support of the provisions in the proposed 2005 Medicare physician fee schedule rule. I have attached a file containing a letter in regards to this matter. Thank you for your time. - Sharmilee D. Bavaria, SPT

Attachment #3772

To whom it may concern,

I am a second year student in the doctorate of physical therapy program at the University of Medicine and Dentistry of New Jersey. I am writing in support of the provisions in the proposed 2005 Medicare physician fee schedule rule. There is a reason why physical therapists and physical therapist assistants go to school for physical therapy...it is because an individual needs to be properly educated in and have a proper understanding of physical therapy interventions. We have been educated to understand that although a particular intervention may seem right for a patient, factors such as their past and current medical history, the stage of the injury, and the patient's particular physiology may indicate that a "general" intervention may not be best for the patient.

If a patient receives improper treatment from an unlicensed individual performing "physical therapy," an individual who does not have a proper understanding of the patient's diagnoses from a physical therapy aspect, then that individual may end up prolonging the patient's recovery time, or even worsen their condition. In either scenario, more Medicare dollars may be spent in the end. If Medicare is reimbursing for physical therapy services, shouldn't Medicare be getting what it is paying for? That is, physical therapy from a licensed physical therapist?

I believe the provisions in the proposed 2005 Medicare physician fee schedule rule would do a great justice to the profession of physical therapy. If a physical therapist assistant, who has been educated in physical therapy, is not allowed to provide physical therapy services without the supervision of a licensed physical therapist, then how is it that an individual who has not had any education in physical therapy is permitted to provide "physical therapy" services? When an individual has cardiac problems, they seek a cardiologist. When a woman is pregnant, she seeks the services of a gynecologist. When an individual is in need of physical therapy, they should receive the services of a licensed physical therapist. Thank you for your time.

Sincerely,

Sharmilee D. Bavaria, SPT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 22, 2004

Mark B. McClellan
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

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

Dear Administrator McClellan,

'Therapy-Incident To.' My name is Luke Geer. I am a third-year Doctor of Physical Therapy student at Regis University in Denver, Colorado. This letter is regarding my support on the August 5th proposed rule in 'Revisions to Payment Policies under the Physician Fee Schedule for Calendar Year 2005.' I firmly advocate for all persons providing physical therapy (PT) services 'incident to' a physician should meet personnel qualifications for physical therapy in 42 CFR 484.4, with the exception of licensure. Throughout my doctoral schooling and clinical experience, I have come to learn and understand that in the health rehabilitation field, professional physical therapists possess a greater knowledge encompassing overall musculoskeletal and neurological rehabilitation than other types of therapists. Just as speech therapists (ST) are the most proficient at speech therapy, and occupational therapists (OT) the most proficient at upper extremity rehabilitation associated with activities of daily living, each therapy entity has a niche. Even though there exists some small amount of crossover between these therapeutic sciences, each has a different educational background and practice, where OT, PT, and ST efforts are not interchangeable. Furthermore, letting unqualified individuals practice rehabilitation in areas where they are not educated or trained can create at best an unproductive and at worst a dangerous therapy situation/environment for patients. For example, an elderly patient needing rehabilitation for a total knee arthroplasty who also has a cardiac comorbidity (hypertension) could have their life endangered if unqualified personnel provided contraindicated therapies that would drastically increase the patient's heart rate and blood pressure, increasing the risk of an acute myocardial infarction. I would not take my car to get fixed by a plumber, and patients needing physical therapy should not be treated by a personal trainer. Lastly, allowing unqualified personnel to treat and bill for physical therapy services negates my education and life investment, and the education of many thousands of true physical therapists across the United States of America. Only dentists should practice dentistry, and only physical therapists and physical therapy assistants should treat and bill for physical therapy services.

Thank you for your consideration of my comments.

Sincerely,

Luke D. Geer
Doctor of Physical Therapy Student Class of 2005

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I believe in the right to work as a Massage Therapist and the right to work with or for medical doctors or chiropractors as massage therapists or to allow our family & friends to receive professional health care in physician's offices from those other than physical therapists only.

I do not want PT's to be the only health care professionals allowed to provide medically related care to physician's patients.

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

It is our urgent request that you NOT PASS this policy whereby a physician can only refer 'Incident to' services to physical therapists. ALL qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter :

Date & Time:

09/24/2004 07:09:23

Organization :

Category :

Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

I am a physical therapist, and have been practicing for 12 years. I have experience working in various settings from hospital based out-patient services, home health, nursing home services to private practice out-patient clinics. I obtained a Masters of Physical Therapy degree from an accredited program, and have been licensed to practice physical therapy in several states. I strongly support CMS's proposed requirement that individuals providing physical therapy services 'incident to' a physician should meet personnel qualifications for physical therapy. Physical therapists are professionally educated at the college or university level in programs accredited by the independent agency, the Commission on Accreditation of Physical therapy. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree and the majority will offer the doctor of physical therapy (DPT) degree by 2005. My physical therapy education gave me a broad understanding of the body and its functions. This education and training has been particularly helpful when treating Medicare beneficiaries. An elderly patient with a rotator cuff injury can also have heart disease and diabetes. A patient with multiple system involvement takes more skill and consideration when developing their rehabilitation and treatment programs. It is through my education and continuing education that I am able to carefully consider all the individuals problems and develop the best program to help my patients fully recover in the shortest period of time. Physical therapy service delivered by unqualified personnel is harmful to the patient. A diabetic person with a rotator cuff injury can have their full recovery delayed by an unqualified individual providing an exercise program without consideration for the patient's compromised healing abilities. Allowing unqualified personnel to provide physical therapy services can also negatively impact a Medicare beneficiary's outcome under the current Medicare therapy cap. If the therapy cap becomes effective January 1, 2006, a patient receiving physical therapy services 'incident to' could exceed his/her cap on therapy without ever receiving services from a physical therapist. For example, a patient being seen in the physician's office by a massage therapist for neck pain and billed for physical therapy services could exceed the financial cap without getting treated for the actual cause, cervical disc herniation, by a physical therapist. A massage would not do anything to reduce the nerve irritation, where by specific treatment by a trained physical therapist will reduce the pressure on the nerves involved and help the patient return to his/her previous level of function. Massage therapists' do not have the training to provide safe physical therapy treatments to all individuals. Physical therapists' training is critical to the provision of effective and safe treatments which provide patients with the best possible recoveries. Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill 'incident to' for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

Unqualified personnel should NOT be providing physical therapy services. Physical therapy interventions should be represented and reimbursed only when performed by a physical therapist. I urge you to strongly support the proposed requirement that physical therapists providing services 'incident to' a physician meet the qualifications for physical therapy in 42CFR;484.4. Thank you for your consideration of my comments.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 23, 2004

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

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

Dear Dr. McClellan:

I have been a physical therapist for 28 years, 23 of them in private practice. I wish to make a few comments regarding the August 5th proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule to Calendar Year 2005 regarding standards for personnel providing physical therapy services "Incident to" in physician offices.

I strongly support CMS' proposed requirement that physical therapists working in physicians offices should be graduates of accredited professional physical therapist programs. Requiring licensure would be the most appropriate standard to guarantee the quality of care that the consumer deserves. Physical therapists or physical therapist assistants under the supervision of physical therapists are the only personnel qualified to administer physical therapy.

It is unrealistic to assume that aides or other unqualified personnel can administer physical therapy because they are "under the supervision" of the physician owner. I am old enough, and have been practicing long enough to remember the bad old days when it was legal for physicians to employ aides to do a physical therapist's job. Secretaries were administering hot packs, and Medicare and other insurance companies were being billed for physical therapy. Unfortunately, it was the case more often than not that the bottom line was more important than the patient's rehabilitation.

Patients who found their way to my office, after being treated by unqualified people at a physician's office would often say, "I never knew it (physical therapy) could be like this!" Instead of being pleased, I was angry to think of all the people who had received sub-standard care, and had come away from the experience thinking that they had had physical therapy! These terrible times may return with even worse consequences as a financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. The consumer would be cruelly cheated!

You are, by now, aware of the extensive education of physical therapists, and the expertise required in our treatment of pain and disability. It is this expertise that is sacrificed when unqualified personnel, uneducated in anatomy, physiology, fail to properly assess a patient's status, fail to prescribe exercises, or worse, fail to prescribe the correct exercises, and wind up hurting the patient. I remember many times having to completely overhaul a patient's home exercise program because they had been given a standard list of exercises that was indiscriminately handed out to everyone, but which were obviously inappropriate for some patients, had anyone bothered to do a proper evaluation.

Please ensure that all patients, even those treated in physician's offices, are protected against substandard care. Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.

Thank you so much for your time and consideration of this very important consumer protection issue.

Name withheld by request.



Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Please see the attached file.

I am opposed to the proposed guidelines limiting 'incident to'. To allow one health care group to dictate the way that the government operates is not in the best interests of the patients or the citizens of the United States.

T. David Burton, Jr.
820 Cherlyne Drive
Cedar Hill, TX 75104

Attachment #3779
September 23, 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 a restriction 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,

T. David Burton, Jr., ATC, LAT



Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Issues 20-29

THERAPY - INCIDENT TO

As an LMT, Craniosacral and Manual Lymphatic Drainage practioner, I have seen the benefits of these alternative therapies in combination with doctors treatment plans.

I urge you NOT to follow through with these proposed revisions. Help keep these and other life changing treatments within patient's reach.

Sincerely,

Brande LeBlanc, LMT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a licensed physical therapist employed by a group of physicians in a family based practice. I strongly support the requirements for individuals who furnish outpatient physical therapy services in a physician's office be graduates of an accredited professional physical therapy program. The intense training and education one receives from such programs allows the professional to evaluate accurately, educate the patient properly and set specific goals to achieve their objective. In a time where our insurance dollars are constricted with the cap, it is imperative that the patient receives the proper care that will give them the best outcomes.

The group of physicians I work with had the foresight to recognize this. Originally they employed an exercise physiologist and an employee with several years of tech experience to work for them, this arrangement did not last long. Family practice involves a great number of Medicare patients and it is imperative that a qualified, licensed physical therapist and physical therapist assistant obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. I have referred patients back to our doctors due to rib fractures (from Osteoporosis), TIA's, bulging discs that required surgery, physiological changes that required changes in the patients medication and evaluated patients that required special equipment to perform safe daily functions. Under-qualified personnel are not trained to deliver such care and can endanger patients with improper treatment.

Section 1862(a)(20) of the Social Security Act requires that in order for a physician to bill "incident to" for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Services must be performed by individuals, who are graduates of an accredited professional physical therapist program. It is imperative this requirement be met in order to provide proper care for patients in all settings.

Do not let patients lose their precious time and resources with underqualified personnel.

Sincerely,
Jenny Goodlett, PT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Taking the Certified Athletic Trainer out of the picture for reimbursement will have a negative impact upon the services provided to patients in our country. Athletic Trainers need to be allowed to continue practicing in a physician extender setting and billing incident to physician services for out-patient thereapy. Certified Athletic Trainers aree 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 interst of other groups, to the detriment of patients and the athletic training profession, and the proposed change would reduce patient access to care.

Thank you for reviewing this letter.

Sincerely,

Randy C. Holland MS/ATC

Submitter : Mrs. Dawn Core Date & Time: 09/24/2004 09:09:32

Organization : ABMP

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Thanks for your help!

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I do not want PT's to be the only health care professionals allowed to provide medically related care to physician's patients. I feel it is limiting treatments for recovery for good health.

Submitter : Mrs. Linda Robidoux Date & Time: 09/24/2004 10:09:17

Organization : Compassionate Hands

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I sincerely ask you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 20, 2004

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

Dr. McClellan:

I am writing in regards to the Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule for Calendar Year 2005. I am currently a senior Physical Therapy student at Texas State University - San Marcos. Attaining my Masters in Science of Physical Therapy will allow me to practice cost effectively and provide quality services to my patients.

I am commenting on the August 5 proposed rule, regarding Therapy-Incident To Services, which requires that individuals who furnish physical therapy services in a physician's office must be graduates of an accredited professional physical therapy program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. The rigorous curriculums provided by accredited physical therapy programs provide the background necessary for administering quality physical therapy services. In addition to differential diagnoses, proper technique and administration of physical therapy services, physical therapists are trained on contra-indications and adverse responses to treatments including modalities. Physical therapists should be the only individuals to perform and bill for physical therapy services.

Administration of physical therapy services without this training could physical therapy result a lower standard of care for physical therapy services, as well as cause injury to the patient and increase healthcare costs. Licensed physical therapist have passed a National Board Exam and must maintain their license by attaining continuing education classes annually, this achieves a quality standard for the profession. There is no standard for unqualified personnel; physicians do not have the physical therapy educational background necessary to qualify services provided by individuals who are not licensed physical therapists as physical therapy services. In addition to being unethical and the potential to cause harm to the patient, services not provided by or supervised by physical therapists and billed as physical therapy could result in a patient's insurance coverage of physical therapy services running out without the patient ever receiving therapy from a licensed physical therapist.

Physical Therapists and Physical Therapy students including myself have worked hard to achieve the knowledge and skills to become licensed in their profession to serve the public through quality cost effective services. Thank you for your consideration of my comments.

Submitter : Valerie Ryan Date & Time: 09/24/2004 10:09:56

Organization : American Massage Therapy Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Submitter : Mrs. DONNA KIENTZEL Date & Time: 09/24/2004 11:09:57

Organization : MASSAGE THERAPIST

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I OPPOSE ANY POLICY THAT WOULD LIMIT HEALTH CARE TO BE PROVIDED "ONLY" BY PT'S. IF WE ARE LISCENSED BY THE STATE THEN YOU SHOULD RECOGNIZE THOSE QUALIFICATIONS TO TREAT FOR THAT WHICH WE ARE TRAINED AND QUALIFIED TO DO.

Submitter : Mrs. Nordia Hall Date & Time: 09/24/2004 03:09:28

Organization : University of Medicine and Dentistry of New Jersey

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

September 24, 2004

Dear Sir/Madam:

I do not support the use of unqualified personnel to provide services described and billed as physical therapy. It is my belief that such practices are not only harmful to patients and clients but also creates a false perception, that physical therapy as a profession is unnecessary.

The depth and quality of education received by physical therapists about the musculoskeletal system and its associated pathologies exceeds that of many specialties of medicine and other allied health fields. Allowing other healthcare providers (i.e. physicians, nurses, aides) to provide services for which physical therapists are specifically trained thereby places the patient at a disadvantage (because they are not receiving the best possible care), may potentially increase healthcare cost (since a lower quality of care may result in longer recovery times) and will make physical therapy education of null effect.

As a student physical therapist, a rule requiring only physical therapists to provide physical therapy services will create a sense of security not only because I will feel valued as a professional, but also as a possible patient (receiving physical therapy) because I will be certain that I will be treated by the most qualified individual. On the contrary, the prospect of a future without such a rule, may potentially lead to the elimination of physical therapy as a profession. Physical therapists are trained to be autonomous professionals; the state of NJ has recognized that fact by legally granting them direct access to patients, nevertheless, such recognition will be useless if physical therapists are denied ownership of their profession.

Please consider these comments as you make your decision about the 2005 Medicare physician fee schedule rule.

Sincerely,

Nordia Hall, SPT

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

Comments on Sections 302 and 305



William B. Eck
Senior Vice President
Chief of Healthcare Affairs
Deputy General Counsel

T: 772-398-5610
F: 772-337-7188

eck@polymedica.com

September 24, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Via Electronic Submission

Subject: CMS-1429-P (Sections 302 and 305) - Comments on Proposed Rule, Revision to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005

Dear Sir or Madam:

We are writing in response to the solicitation for public comment in the above-noted Notice of Proposed Rulemaking ("NPRM") implementing Sections 302 and 305 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and entitled "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005. *See* 69 Fed. Reg. 47488 (Aug. 5, 2004).

PolyMedica Corporation has been in the medical product and pharmaceutical distribution businesses for over 15 years. Today, through our primary segment, Liberty Diabetes, we are the leading provider of diabetes testing supplies and related products to Medicare beneficiaries. The Liberty Diabetes segment currently services more than 600,000 active diabetes customers. Over 95% of these customers are Medicare eligible beneficiaries.

Through our Liberty Respiratory business segment, we provide prescription respiratory medications and supplies to over 60,000 Medicare beneficiaries suffering from chronic obstructive pulmonary disease (COPD). Through our Pharmaceutical business segment, we supply prescription medications directly to our Liberty Diabetes and Respiratory customers. A large portion of those beneficiaries that suffer from chronic respiratory ailments and depend on Liberty to provide necessary respiratory drugs and inhalation equipment, supplies, and instruction, including counseling and education.

POLYMEDICA CORPORATION
8881 Liberty Lane, Port St. Lucie, FL 34952
Tel: 772-398-5610 • Fax: 772-337-7188

We are very concerned about the impact these provisions of the proposed rule would have on the furnishing of inhalation drugs and diabetic supplies.

Inhalation Drugs

The proposed rule demonstrates significant progress by CMS in implementing the Medicare Dug, Improvement, and Modernization Act of 2003 (“MMA”), Pub. L. No. 108-173, that was enacted by Congress last December. Section N of the preamble to the NPRM sets out the proposed method for determining payment rates for inhalation drugs, such as albuterol sulfate and ipratropium bromide. At N.7, CMS estimates that the Average Sales Price (“ASP”) plus 6 percent for albuterol sulfate is \$0.04 per mg and \$0.30 per mg for ipratropium bromide. It is our understanding that CMS’ calculation is an estimate based on historical data and that CMS intends to update the ASP using third quarter sales data submitted by the various manufacturers.

As noted in the preamble, the resulting payment is significantly lower than the current rate in two ways and raises concerns “about beneficiary access to these drugs.” 69 Fed. Reg. at 47549 (col. b). First, the payment for the drug itself is dramatically reduced by approximately 90%. Second, the six-percent add-on (*i.e.*, 6% in addition to the ASP) does not cover “shipping, handling, compounding, and other pharmacy activities” associated with providing these drugs. *Id.* We share both of these concerns. We recognize that MMA may limit the Secretary’s flexibility with respect to calculating the payment for the drug itself. However, we agree with CMS that the organic legislation both generally (*see* Social Security Act § 1871(a)) and specifically (*see* Social Security Act § 1842(o)(2)) authorizes the Secretary to pay a dispensing fee and further, that “it is appropriate for Medicare to continue to pay a separate dispensing fee to pharmacies that furnish inhalation drugs to beneficiaries.” *Id.* In view of the actual costs associated with dispensing inhalation drugs and the fact that the 6% spread will not even cover normal handling and shipping, Polymedica strongly agrees that CMS should establish a separate dispensing fee for inhalation that is “in addition to the difference between the supplier’s acquisition cost and the Medicare payment for the drug.” *Id.* The dispensing fee must be sufficient to account for the unfunded direct and indirect costs of furnishing inhalation drugs to Medicare beneficiaries. Polymedica welcomes CMS’ invitation to provide comments about the appropriate dispensing fee amount and below, sets forth its methodology for determining the appropriate dispensing fee.

Polymedica believes that in calculating an appropriate dispensing fee, both direct and indirect costs associated with the pharmacy activities in providing the inhalation drugs must be taken into account. These costs include, aside from the processing, handling, and postage costs, the costs associated with the professional component of the pharmacy activities. Those professional activities, that are particularly important for inhalation drugs, include education, counseling, and monitoring patients’ drug use and medical history to minimize or avoid adverse reactions and interactions. We have calculated the approximate total direct¹ and indirect² cost of

¹ Direct cost include cost of goods sold, pharmacy staff, direct patient costs, direct pharmacy cost for freight and postage, direct costs for storage/warehouse/facility, and other direct costs such as training, maintenance, travel and miscellaneous supplies.

² Indirect cost include billing and collections, administration, insurance, overhead, quality assurance, depreciation and interest. Sales and marketing cost are totally excluded from this model.

these pharmacy services to be \$0.62 per dose based on a typical prescription³. It is important to note that our methodology takes into account shipments that may contain one drug or may contain more than one drug. In either event, the \$0.62 per dose figure represents an approximate average of the costs in excess of our drug acquisition costs. If we assume a 90-day prescription the total direct and indirect cost would be \$0.44 per dose based on a typical prescription for 90 days.

It should be noted that in calculating the 90-day fee, we considered, as requested by CMS in the NPRM, whether CMS' proposed program changes and clarifications related to billing requirements would decrease operating expenses. First, we found that a 90-day prescription, as opposed to the current 30-day prescription, will achieve some savings, as reflected in the numbers above. However, the pharmacy must still fill the initial prescription for only 30 days. As noted above, our methodology takes into account the new 90-day prescription only. Second, the revision that allows modification of the timing of refills will not generate appreciable savings for Polymedica. The Liberty companies currently use sophisticated software and advanced order fulfillment systems to provide these drugs to beneficiaries. Third, the clarification permitting orders to be filled based on an initial verbal order followed by written prescription, would also not generate any savings for Polymedica since we have adopted this process already and this process is reflected in our costs noted above. Fourth, revisions to the proof of delivery requirements would not generate appreciable savings because of the automated systems used by Polymedica. Finally, changes in the requirement to obtain a signed Assignment of Benefits ("AOB") form specifically for inhalation drugs will have no affect on Polymedica's operating costs since we routinely obtain AOBs for DME supplies and PolyMedica's costs currently reflect the use of a single AOB for all services and supplies rather than multiple systems.

Polymedica believes that not paying fully for dispensing fees for inhalation drugs will dramatically distort and concentrate the market; thereby adversely affecting beneficiary choice and access. This is especially so given that ASP inadequately compensates pharmacies for inhalation drugs. As it is, relatively few pharmacies dispense inhalation drugs routinely. Only the largest of these pharmacies could absorb loses associated with inhalation drugs by shifting the costs to other drug products and services. Savings that may be achieved by reducing the reimbursement to the ASP and not paying adequate dispensing fees for inhalation drugs would be more than offset by increases in the costs of other drugs, supplies, and services. This cost shifting could occur both within Medicare, but equally likely across all payor lines. Since the smaller and mid-size pharmacies lack the ability to cost-shift, they will likely exit the market. Reducing the number of pharmacies in this market will adversely affect the competition among manufacturers and that would directly drive the ASP up thereby eliminating the savings sought to be achieved by MMA. A dispensing fee and reimbursement level that is lower than what is suggested will mean fewer suppliers of these drugs in the marketplace. Larger suppliers may be able to cross subsidize a lower rate; however, that will likely result in fewer choices for beneficiaries and providers and ultimately higher prices for the product over the longer term as ASP calculations are revised. We urge you to support a competitive marketplace for these products to ensure access and quality.

³ A typical prescription is defined as 4 times per day for 30 days for each drug.

An adequate dispensing fee is thus critical given that the ASP inadequately compensates pharmacies for inhalation drugs, because it fails to take into account the following necessary costs: (1) pharmacy staff must include respiratory specialists; (2) pharmacies must maintain a pharmacist on-call seven days per week, twenty-four hours per day; (3) pharmacies routinely conduct follow-up monthly calls with patients; (4) pharmacies provide continuous education and disease management counseling, including 24-hour support lines; and (5) pharmacies must maintain ability to fill emergency orders seven days per week, twenty-four hours per day. Given the inadequacies of the ASP methodology it is critical that wherever possible CMS exercise its discretion to avoid untoward consequences associated with broad application of the methodology. Specifically, inhalation drugs, such as albuterol, are provided by the manufacturer in two forms—in a premixed solution or as a powder (or other concentrate) that must be diluted by the pharmacist. The ASP should be calculated separately for each of these to appropriately reflect the different acquisition costs to the pharmacy for the different forms. For example, the premixed form is significantly more expensive for the pharmacy to acquire than the powder for similar dose and strength. We therefore recommend that the ASPs be separately calculated and a separate modifier be designated for the J code to distinguish between these two forms for reimbursement purposes.

Diabetic Supplies

Diabetes is a chronic disease and the fifth leading cause of death by disease in the United States. As noted by the American Diabetes Association, “ Direct medical and indirect expenditures attributable to diabetes in 2002 were estimated at \$132 billion. The direct medical expenditures alone totaled \$91.8 billion and comprised \$23.2 billion for diabetes care, \$24.6 billion for chronic complications attributable to diabetes, and \$44.1 billion for excess prevalence of general medical conditions.”⁴ The same study goes on to conclude that “ Eliminating or reducing the health problems caused by diabetes through factors such as better access to preventive care, more widespread diagnosis, more intensive disease management, and the advent of new medical technologies could significantly improve the quality of life for people with diabetes and their families, while at the same time potentially reducing national expenditures...” Keeping blood glucose levels as close to normal through consistent and routine testing helps reduce the risk of long-term complications of diabetes.⁵ The program should not create obstacles to greater access to diabetes testing supplies that might lead to decreased testing by beneficiaries.

CMS proposes to implement Section 302 by (1) establishing a requirement for a face-to-face examination by a physician, physician assistant, clinical nurse specialist, or nurse practitioner to determine the medical necessity of all DMEPOS items and establishing that this face-to-face examination should be for the purpose of evaluating and treating the patient’s medical condition and not for the sole purpose of obtaining the prescribing physician’s or practitioner’s order for the equipment; (2) requiring that orders for DMEPOS be dated and signed within 30 days after the face-to-face examination and include verification of the examination; (3) requiring that the prescribing physician or practitioner maintain appropriate and timely documentation in the medical records that support the need for all DMEPOS ordered;

⁴ The Economic Costs of Diabetes in the U.S. in 2002, American Diabetes Association, *Diabetes Care* 26:917-932,2003.

⁵ American Diabetes Association, www.diabetes.org, *Conditions and Treatments*.

(4) providing that CMS would promulgate through contractor instructions other criteria required for payment, such as prescription renewal requirements, repair, minor revisions and replacement. The proposed rule also states that a written order prior to delivery would be required for all DMEPOS items.

PolyMedica has concerns with several of the above stated requirements.

The Requirement of a Face-to-Face Examination by a Physician

The proposed § 410.36(b)(2)(ii) includes a requirement for a face-to-face physician examination of a patient prior to the dispensing of covered items of continued need. This section specifically mentions glucose testing supplies and it appears that this requirement would apply to the ongoing provision of diabetic supplies such as glucose test strips and lancets. We recommend that CMS not adopt as final these new requirements, but rather the agency should retain the criteria for ongoing diabetic supplies already established by the durable medical equipment regional carriers (“DMERC”). These criteria are published in the DMERC Manuals and were developed through consultation with both the medical and supplier communities. During the development of the LMRP that covers diabetic testing supplies, the issues covered in proposed § 410.36(b) were addressed. Unlike the CMS proposed requirements, the DMERC criteria take into account the ongoing, chronic nature of the disease and the critical and integral self-management component of keeping it under control. The DMERC criteria account for the fact that diabetic supply orders rarely, if ever, become outdated and the need for self-management with the diabetic supplies if the physician is not available for a face-to-face appointment.

For blood glucose testing supplies, the proposal should be modified as follows:

- § 410.36(b) should state “The treating physician has seen the patient and has evaluated their [sic] diabetes control within six months prior to ordering quantities of strips and lancets or lens shield cartridge that exceed the utilization guidelines.” For glucose testing supplies that do not exceed the CMS guidelines for diabetic testing, the condition is and should remain only that the ordering physician is “the physician who is treating the patient’s diabetes.”
- The term “prescription renewal” should be changed to “renewal of an order,” so as not to confuse it with a “refill.” It should be clear that a new physician order for diabetic supplies is required only once every twelve months, i.e. renewed; however, items may be refilled every three months on the same valid order. Absent this clarification, diabetic beneficiaries could be required to see their physicians every three months, far more frequently than necessary.
- § 410.36(b)(2)(ii) should be modified to be consistent with other sections of the proposed rule that clarify that a verbal order is sufficient to dispense most DMEPOS supplies. A written order is required of course before a claim can be submitted for the supply item.

Medical Necessity Documentation

Reliance on the medical record to support a finding of medical necessity poses problems for suppliers and beneficiaries because of the current inadequacy of documentation in the physician’s records. CMS is holding the supplier accountable for documentation that the

supplier has absolutely no control over and when documentation is inadequate, only the payment to the supplier is currently affected. CMS does not affect the payment to the physician for lack of adequate documentation. The physician order should include all information required for the supplier to determine whether the items are covered by Medicare.

Written Orders Prior to Delivery for All Items of DMEPOS

The proposed rule would require suppliers to have a written order prior to delivery for all items of DMEPOS. The Liberty Companies currently furnish most items of DME based on a verbal order from a physician. This practice allows for the immediate delivery of items in a timely manner and prevents beneficiaries from having to wait for their supplies. Based on an analysis of internal data, the Liberty Companies are experiencing, on average, an approximate eleven-day lag⁶ for receipt of a valid written order from a physician from the time of receipt of a physician's verbal order for the same item. We believe that a requirement of a written order prior to deliver for diabetes testing supplies will severely impair beneficiaries' access to the supplies that they need to manage their diabetes. We strongly recommend that CMS look at the effects on beneficiary access to diabetes supplies prior to implementing such a requirement.

Reimbursement of Diabetes Supplies

Polymedica is also concerned about appropriate reimbursement for supplying diabetic supplies. Reimbursement for diabetes supplies, lancets and glucose test strips, are covered durable medical equipment. The reimbursement for these services, in the past, was established by the various DMERCS and varied based on geographic region. MMA instructed CMS to adjust the payments for these covered items according to a special payment rule. SSA §1834(a)(21)(A). It was intended that the products be reimbursed at 4.10% less for Blood Glucose test or reagent strips for home blood glucose monitor, per 50 strips, and 5.36% less for lancets, per box of 100.

While we believe that the fundamental methodology in comparing the two prices is flawed, we recognize that the reimbursement for these services will be reduced. As each DMERC reimburses these products differently, the level of reductions will vary by region. However, we believe that Congress and CMS does not want to limit accessibility and availability of these products, especially at a time when diabetes treatment and prevention is such a priority to reduce the long term costs of secondary diseases. A decrease in accessibility and availability of these supplies is contrary to the express intent of Congress to provide broader coverage for diabetic screening and increase disease management for this complex and debilitating chronic disease. *See SSA §§ 1807; 1861(ww) (2) and (yy).*

Therefore, we encourage CMS to evaluate whether DMERC's can adjust the reimbursement level or whether an additional "administration" fee can be added to ensure Medicare beneficiaries are receiving the appropriate DME products. By providing a service fee for dispensing diabetic

⁶ Based on an analysis of internal system data for new orders for the time period 4/3/2003 – 9/22/2004.

supplies, CMS would enhance the expanded access and counseling opportunities to promote better self-management of the diabetes. Such a fee could include assurances that the products are compatible, that the beneficiary is ordering sufficient product to ensure appropriate self-management of his diabetes, and that adequate instructions are provided to ensure beneficiaries are using the supplies and monitoring their glucose appropriately.

Conclusion

We appreciate the opportunity to provide input into this process. As the focus continues to shift to the prevention of secondary illnesses associated with diabetes, we encourage CMS to ensure reimbursement levels of diabetes supplies are adequate. In addition, inhalation drugs are critically important in the care of chronically ill Medicare patients. We urge CMS to ensure access to these covered benefits continue for Medicare beneficiaries.

Sincerely,

William B. Eck
Senior Vice President, Chief of Healthcare Affairs
And Deputy General Counsel

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-3791-Attach-2.doc

CMS-1429-P-3791-Attach-1.doc

Christopher Stawitz M.S ATC
1 Karen Lane
Depew, NY 14043

9/23/04

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. As a certified athletic trainer this proposal has the potential to negatively affect my professional status. We are highly trained health care providers that specialize in prevention, evaluation and treatment of musculoskeletal injuries. Athletic trainers work with a diverse physically active population, ranging from factory workers to highly skilled athletes. Our training enables us to provide effective treatment to many sectors of the population including Medicare patients. Many athletic trainers, including myself, hold advanced degrees, and it would be an injustice to limit the professional status that we have earned. We have worked extremely hard to advance our profession and increase public knowledge about athletic training to let this proposal set us back many years.

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

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- 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 accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top

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

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

This CMS recommendation is a health care access deterrent.

Sincerely,

Christopher Stawitz M.S. ATC



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

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Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

GENERAL

GENERAL

American Academy of Mohs Micrographic Surgery
and Cutaneous Oncology

555 East Wells Street Suite 1100 Milwaukee, WI 53202
Phone: 414-347-1103 Fax: 414-272-6071
Email: info@mohscollege.org

September 23, 2004

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

Dear Dr. McClellan,

The American College of Mohs Micrographic Surgery and Cutaneous Oncology wishes to file a comment on the August 5, 2004 proposed rule entitled: the Medicare Programs; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005 (CMS-1429-P). The College wishes to comment on the Sustainable Growth Rate (SGR) formula, the proposed update to the Professional Liability Insurance (PLI) relative values, and a correction to the practice expense component of CPT 17307 made in error in Appendix B. The College's membership is composed of Fellows trained in the Mohs technique, a normal tissue sparing procedure whereby a single physician acts in both capacities as the surgeon and pathologist, in the surgical removal of skin cancer. The procedure, performed in stages, removes thin cancerous layers with immediate histological examination while the patient waits. If tumor is found, an additional stage(s) is performed, until all tumor, sparing normal tissue, is removed.

SGR Formula

The College, like other dermatology colleagues, is concerned with the flawed SGR formula affecting the annual update in the Medicare Physician Fee Schedule. The College requests that you administratively correct the SGR by removing Medicare-covered outpatient drugs from the expenditure target, or properly account for the cost of these drugs. Another long needed administrative correction is to account for the impact of new laws and regulations on Medicare Part B spending.

Professional Liability Insurance Relative Value Units

The College is in support of requesting that the PLI updated RVUs be designated as "interim" to provide time for CMS to work with organized medicine on methodology and data issues of concern. We question the choice of insurers used, as well as data from rating manuals rather than survey data. We encourage CMS to work with the AMA RUC to refine the PLI relative values.

Appendix B Error in Practice Expense for CPT 17307

Upon initial review of the NPR, an error was noted in the nonfacility Practice Expense Relative Value of CPT 17307 whereby the value was reduced from the actual 2004 PE value of 3.78 when performed in the office to 2.63 where there was no review of this code by the AMA Practice Expense Advisory Committee. The error was the omission of some clinical labor in the PE calculation. CMS staff were immediately contacted, and stated that the error would be corrected. We want to file a comment to assure that the appropriate PE value has been inserted in the fee schedule so that there are no rank order anomalies in the Mohs family of codes.

Thank you for your careful consideration of our comment letter. If you have any questions about our comments or recommendations, please contact Diane Krier-Morrow at dkriermorr@aol.com or (847) 677-9464.

Sincerely,

Stuart J. Salasche, MD
President
American College of Mohs Micrographic Surgery and Cutaneous Oncology

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

A certified athletic trainer is more qualified than a physical therapy assistant to evaluate and plan a rehabilitation process for an individual. Certified athletic trainers are currently recognized by the allied health field as a medical provider and should be allowed to work as an extender to the physician in any type of health setting.

Submitter : Date & Time:

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Issue Areas/Comments

GENERAL

GENERAL

Medicare reduces payments to physicians and other practitioners whenever program expenditures for their services exceed the sustainable growth rate (SGR). The SGR formula requires Medicare actuaries to predict the unpredictable, leads to constantly changing government cost estimates, and creates volatile and unexpected payment swings that undermine the ability of medical practices to make rational business decisions and remain financially viable. No other Medicare provider group is subject to the SGR. The medical needs of patients do not decline during economic downturns. The increasing practice expense and professional liability costs for physicians make it necessary for them to have increased funding to avoid cuts that could jeopardize care to their patients.

CMS should not penalize physicians for volume increases when the government promotes greater use of physician services through new coverage decisions, quality improvement activities, and a host of other administrative decisions that are good for patients but are not reflected in the SGR. The Iowa Medical Society (IMS) encourages CMS to take steps administratively to remove the cost of prescription drugs administered in physician offices. Although the administration of a drug by a physician is clearly a physician service, the cost of the drug itself is not and should not be included in the calculation of the SGR. Without intervention, the situation will worsen. Medicare Trustees project that physicians face cuts of 5% a year from 2006 through 2012.

Issues 1-9

GPCI

Make the floor of 1.00 for the work GPCI permanent. Incrementally increase both the practice expense GPCI and the professional liability insurance GPCI to 1.00 over the next ten years.

Ultimately, the Iowa Medical Society (IMS) proposes that GPCIs should be eliminated from the Medicare reimbursement formula and, as a result, the nation be put on a single national fee schedule for Medicare reimbursement for physician services. While this is the goal of IMS, we are aware of the political impediments inherent to such a proposal. Placing all physicians in the nation on the same fee schedule will not completely solve the Medicare problem. Congress also needs to fully fund its obligation by raising Medicare reimbursement up to a level that, at a minimum, fully covers the cost of treating the U.S. elderly population.

SECTION 413

When determining the ratios of primary care and specialty physicians to Medicare beneficiaries for purposes of identifying eligible scarcity counties, CMS needs to also distinguish between LICENSED physicians and ACTIVELY PRACTICING physicians. Most physicians continue to be licensed long after they have retired and are no longer actively practicing.

Submitter : Date & Time:

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Issue Areas/Comments

GENERAL

GENERAL

See attachment

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

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Issue Areas/Comments

GENERAL

GENERAL

I have been practicing for 8 years in the field of Physical Therapy. In that time, I have seen many changes in Medicare and Medicaid. I am writing in regards to the proposed personnel standards for Medicare ?incident to? physical therapy services. The Physical Therapist and Physical Therapist Assistants that I am associated with have been working long and hard, on the behalf of Medicare and Medicaid recipients, to assure that they are getting the type of quality care that they need and deserve. One of my biggest concerns is that patient?s are not being treatment by qualified personnel. I went to an accredited school in order to be trained to properly provide soft tissue modalities in a safe and effective manner. I also had to pass a state board exam in order to be licensed to practice in the state of Texas. I do not feel that sitting in on an inservice qualifies one to administer soft tissue modalities. These modalities are only a very small part of a broader treatment philosophy that a Physical Therapist develops in a Plan of Care. The Plan of Care treats the persons as a whole, not just at a symptom. The Physical Therapist and Physical Therapist Assistant work together to address the causes of the patient?s symptoms and teaches the patient ways to resolve these causes. Our respective Practice Acts, Code of Ethics, and regulations hold Physical Therapist and me to higher standards by third party payers. I do not feel that we should let someone bill for the same services and not be held under the same standards. This is why I ask that you support the proposed personnel standards for Physical Therapy services.

September 23, 2004

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

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

My name is Richard Gregory Crawford and I am a Physical Therapist Assistant in Paris, Texas. I have been practicing for 8 years in the field of Physical Therapy. In that time, I have seen many changes in Medicare and Medicaid. I am writing in regards to the proposed personnel standards for Medicare "incident to" physical therapy services. The Physical Therapist and Physical Therapist Assistants that I am associated with have been working long and hard, on the behalf of Medicare and Medicaid recipients, to assure that they are getting the type of quality care that they need and deserve. One of my biggest concerns is that patient's are not being treatment by qualified personnel. I went to an accredited school in order to be trained to properly provide soft tissue modalities in a safe and effective manner. I also had to pass a state board exam in order to be licensed to practice in the state of Texas. I do not feel that sitting in on an inservice qualifies one to administer soft tissue modalities. These modalities are only a very small part of a broader treatment philosophy that a Physical Therapist develops in a Plan of Care. The Plan of Care treats the persons as a whole, not just at a symptom. The Physical Therapist and Physical Therapist Assistant work together to address the causes of the patient's symptoms and teaches the patient ways to resolve these causes. Our respective Practice Acts, Code of Ethics, and regulations hold Physical Therapist and me to higher standards by third party payers. I do not feel that we should let someone bill for the same services and not be held under the same standards. This is why I ask that you support the proposed personnel standards for Physical Therapy services.

Thank You,

Richard G. Crawford PTA

Submitter : Date & Time:

Organization :

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Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please, please do not approve of this policy. It is wrong to control who a physician will refer "incident to" services to. Physical therapists are not the only qualified health care providers.

This is a matter of our freedom of health care choice. All qualified health care providers must be allowed to provide services to patients with a physician's prescription or under the supervision of a physician. I appreciate your consideration.

DeeEtte C. Bruns, LMT, NCBTMB, ABMP
Bangor, Maine

Submitter : Date & Time:

Organization :

Category :

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Save the rights for massage professionals to work with or for medical doctors and chiropractors as massage therapists

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Organization :

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Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

