CMS-1429-P-1

Submitter : **Graham Barnett** **Date & Time:** **07/28/2004 01:07:03**

Organization : **Graham Barnett**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

Section 305

Your data indicate that approximately 85% of individuals suffering from COPD are smokers; presumably this includes both current and former smokers. While cigarettes may be addictive, the decision to smoke is a CHOICE made by individuals. The detrimental health effects of smoking have been known for more than 50 years. Definitive studies linking smoking to cancer were done in 1950, cigarettes were frequently referred to as "cancer sticks" in the 1950s and by 1960, one could buy a cigarette box in the shape of a coffin with the words "Coffin Nails" engraved on the cover. In this context, it is hard to argue that any form of intelligent life could have failed to realize that smoking has adverse health effects.
In this context, I find it hard to understand why there should is a need for public funding for most support for COPD treatments. If an individual was willing to shell out their own cash to buy cigarettes for a large number of years, why should they not be willing to shell out money to counteract the adverse effects of their CHOSEN behavior? Why should Americans who take care of their health be taxed to pay for the care of those who have treated their bodies with wanton disregard?
To suggest that CMS should cease all reimbursement for COPD treatments might be a little harsh. However, I believe that two adjustments to the current regime are necessary to make the program fair to taxpayers who pay attention to their health:
1) No individual who currently smokes should receive ANY Medicare benefit for the treatment of ANY respiratory condition. If someone continues to indulge in such a self-destructive habit, why should hard-working Americans be forced to pay to pick up the pieces?
2) Any individual who historically smoked "heavily" and receives treatment for respiratory disorders should face an annual deductible equal to the cost of smoking a pack of cigarettes a day. In the spirit of generosity, one might assume that the individual is able to purchase cartons of cigarettes at a duty free store for pricing purposes.

The rapidly escalating costs of caring for the elderly threaten the financial stability of this country. The Medicare benefit must be redesigned in a manner that incentivizes Americans to take care of themselves. The first, and most fair, step in this direction should be to penalize those individuals who so flagrantly ignored the warnings and early ill effects of smoking.

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

CMS-1429-P-2

Submitter : **Mr. William Forster** **Date & Time:** **08/03/2004 03:08:17**

Organization : **American HomePatient**

Category : **Home Health Facility**

Issue Areas/Comments

GENERAL

GENERAL

Regarding the reimbursement cuts to the payment of respiratory medications, there appears to be two main problems, both of which are not new in today's political environment.

First, CMS has taken what was a problem of excessive overpayment and replaced it with excessive underpayment. This, of course creates new problems, including reduced or eliminated access to the approx. one million beneficiaries, the internal costs to the government of "studying" the methodology behind the decision, and the new problem of what type of administrative fee to include to make it worthwhile for the providers to continue providing the medication/therapy.

Secondly, this proves yet again that our policymakers are on the side of whomever is padding their pockets, rather than the individual constituents that elected them. It has been interesting to watch how the MMA has played out. The pharmaceutical industry (deep pockets, large lobby) has been able to increase their profitability, while the home medical industry (shallow pockets, small lobby) will again have to find a way to continue to operate despite seeing another product line vanish. Unlike our own government, we cannot operate at a loss and continue to survive.

As the size of our government continues to increase, the services offered continue to be less beneficial, especially for those of us who have not yet turned forty. My solution...which will never happen...
1) Eliminate both the Democratic and Republican parties, allowing everybody to run independently based on their own merits.
2) Eliminate campaign financing altogether. It is quite difficult for Senator X to push through tort reform and limits on medical malpractice liability when 90% of his campaign funds come from trial lawyers!!
3) Specifically for our issue at hand, FIND A TRUE COST. Establish a fair reimbursement rate for ALL products/services, whether it be respiratory medications or cancer treatment therapies. Then, may the best run company win.

Thank you.

CMS-1429-P-3

Submitter : **Dr. ashok Kumar** **Date & Time:** **08/03/2004 08:08:29**

Organization : **CAncer care of central PA, Selinsgrove PA 17870**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

the reduction in reimbursement for the oncology drugs will have a great impact in the practice of oncology in a rural community like ours. This will not be offset by increase in the administration fee. Many patients will end up sent to the community hospitals and wel may even have to lay off staff.

CMS-1429-P-4

Submitter : **Mr. Matthew McGarvey** **Date & Time:** **08/04/2004 02:08:21**

Organization : **The Center for Rheumatology, LLP**

Category : **Health Care Professional or Association**

Issue Areas/Comments

GENERAL

GENERAL

please see attachment

CMS-1429-P-4-Attach-1.doc

THE CENTER FOR RHEUMATOLOGY, LLP
DIAGNOSIS, CARE & RESEARCH
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Albany, New York 12206-1047
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Norman Romanoff, MD
Joel Kremer, MD
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Dorota Hausner-Sypek, MD
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Victoria Michaels, MD
Mari Kaymakcian, RPA-C

Christine Barr, RN
Lisa Schroeder, RN
Tanya Sommers, RN
Jennifer Funaro, RN
Research Coordinators

Matthew Mc Garvey, MBA
Practice Administrator

Donna Gaffney
Practice Manager

August 4, 2004

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

Dear Mr. McClellan:

We are writing to officially comment on the proposed rule [CMS-1429-P] that has recently been handed c

Our practice of 8 physicians provided approximately 5,100 services to Medicare beneficiaries dur representing 28 percent of our entire practice. Our group collectively forms the largest single specialt upstate of New York, serving patients that encompass a 200-mile radius. Rheumatologists administer c Rheumatoid Arthritis, but those with Osteoarthritis, Osteoporosis, Lupus, Fibromyalgia, Gout, P Syndrome, Lyme Disease, Scleroderma and many other connective tissue and musculoskeletal diseases.

2005 Physician Fee Schedule

We applaud the effort of CMS and Congress to ensure a 1.5% increase in the Medicare conversion annual increases are essential to keep up with the increasing costs of operating physician practices.

In –Office Infusion Administration:

The increase in the reimbursement for infusion administration codes (90780 & 90781) for non-oncolog significant step in the process of reform. Further reductions in overall payments to office-based provider restrictions on patient access to care, especially for a new wave of emerging and highly effective biologic

We are pleased that PRIT and CMS has also recognized the significance of the issue of inequita administration of physician office infusions between oncology and non-oncology specialists.

We have full confidence that the AMA's CPT editorial panel will find that reimbursement be based on that is being administered, rather than the specialty of the physician practice. We also encourag administration codes fairly, and based on the costs of providing such a specialized service. A fave specialists, including oncology, will be necessary in order to preserve access to these drugs that have m on care.

Average Selling Price:

Please answer the following questions, as related to the implementation of an Average Selling Price methodology. Now that a definition of Average Selling Price has been clearly defined, what is the rationale for the payment mechanism being only 6% over the established Average Selling Price? Will CMS be making any recommendations to commercial payors to adopt usage of an ASP system?

We look forward to seeing CMS address our issues swiftly and judiciously in order to preserve access to care for patients and fair reimbursement for providers.

On behalf of the physicians and staff of the Center for Rheumatology, LLP,

Matthew P. Mc Garvey, MBA
Practice Administrator

CMS-1429-P-5

Submitter : **Dr. Neal Greenstein** **Date & Time:** **08/04/2004 02:08:39**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attachment

CMS-1429-P-5-Attach-1.doc

Brian V. Hortz, MS, ATC
Assistant Professor / Head Athletic Trainer
Denison University
200 Livingston Drive.
Granville, OH 43023

August 10, 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 whom the physician deems knowledgeable and trained in the protocols to be administered. As an athletic trainer that is licensed and educated to provide these services, I feel it should be the physician's choice to decide what qualified therapy providers should provide care to their patients based upon the needs of their 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 with how "incident to" services are currently being offered. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services. In fact, a case could be made that there is an anti-trust thrust to this measure. It appears that this is an attempt to be a restraint of an athletic trainers access to the free market of third party reimbursement.

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

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

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

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

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

Sincerely,

Brian V. Hortz

CMS-1429-P-6

Submitter : **Dr. Norman Romanoff** **Date & Time:** **08/04/2004 02:08:30**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attachment

CMS-1429-P-6-Attach-1.doc

CMS-1429-P-7

Submitter : **Dr. Lee Shapiro** **Date & Time:** **08/04/2004 02:08:17**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-7-Attach-1.doc

CMS-1429-P-8

Submitter : **Dr. Joel Kremer** **Date & Time:** **08/04/2004 02:08:58**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-8-Attach-1.doc

CMS-1429-P-9

Submitter : **Dr. Dorota Hausner-Sypek** **Date & Time:** **08/04/2004 02:08:49**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-9-Attach-1.doc

CMS-1429-P-10

Submitter : **Dr. Betsy Fuchs** **Date & Time:** **08/04/2004 02:08:06**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-10-Attach-1.doc

CMS-1429-P-11

Submitter : **Dr. Natalia Veselova** **Date & Time:** **08/04/2004 02:08:37**

Organization : **The Center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-11-Attach-1.doc

CMS-1429-P-12

Submitter : **Dr. Victoria Michaels** **Date & Time:** **08/04/2004 02:08:56**

Organization : **The center for Rheumatology, LLP**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-12-Attach-1.doc

CMS-1429-P-13

Submitter : **Mr. Adam Greenstein** **Date & Time:** **08/04/2004 02:08:21**

Organization : **The Center for Rheumatology, LLP**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-13-Attach-1.doc

CMS-1429-P-14

Submitter : **Ms. Mari Kaymakcian** **Date & Time:** **08/04/2004 02:08:44**

Organization : **The center for Rheumatology, LLP**

Category : **Physician Assistant**

Issue Areas/Comments

GENERAL

GENERAL

see attached

CMS-1429-P-14-Attach-1.doc

CMS-1429-P-15

Submitter : **Mr. Warren Smith** **Date & Time:** **08/04/2004 09:08:17**

Organization : **Pretty Please, Inc.**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 10-19

SECTION 302

While the goal ("...encourage quality care, to mitigate any proliferation of use of these products and ensure that only patients that need items of DMEPOS receive them")proposed by section 302 is an admirable one, the proposed requirement for a face-to-face examination of a member by a physician before provision of an order for all DMEPOS items would appear to be contradictive to the stated goal when applied to situation in which the patients condition is ongoing. While some items requiring a physican order for replacement or continued rental would obviously be determined by the patients current and changing condition, other DMEPOS items require a physician order for replacement even though the patients condition is not expected to change. Such product examples may be found in the External Breast Prosthesis policy of the DMEPOS manual (HCPCS codes A4280 & L8000 - L8039). A face-to-face examination in this instance would actually decrease the quality of care through overutilization of the physicians time, thereby increasing cost in that category. Conversely, altering the physician order requirement in those categories of consistent replacement treating an unchanging condition could aleviate this contradiction of efforts as well.

CMS-1429-P-16

Submitter : **Ms. Maryann Roefaro** **Date & Time:** **08/06/2004 03:08:33**

Organization : **Hematology-Oncology Associates of CNY**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 1-9

SECTION 303

The earnest lawmakers may truly believe that the new chemo drug reimbursement from AWP to ASP will help this nation save money but they are tragically mistaken. Doctors and healthcare professionals love their patients and will ensure that they get adequate treatment for cancer. Physicians will not, however, take a significant cut in their pay or render services that lose money. Ultimately, patients will end up in hospitals. Due to COBRA and other laws and regulations, hospitals will not be in position to turn these patients away. They will either provide care to cancer patients as inpatients or they?ll develop outpatient venues that will lose money. It is a fact that the cost associated with providing the SAME service in a hospital based venue as opposed to a physician office is TREMENDOUSLY higher ? politicians do your homework! The ultimate losers are the cancer patients and the community at large. This is a sure way to exacerbate health care costs with intent to save. This is not an uncommon phenomenon since most lawmakers are clueless about how healthcare is really rendered.

CMS-1429-P-17

Submitter : **Ms. Barbara Lawrence** **Date & Time:** **08/06/2004 04:08:24**

Organization : **Ms. Barbara Lawrence**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 1-9

SECTION 612

I am commenting on the proposed coverage for cardiovascular screening tests. The proposal permits screening once every 5 years. This places an unfair financial and paperwork burden upon laboratories. We would need to search each patient's record for the past 5 years and determine for each lipid test whether it was a screening or diagnostic procedure. Even with computerized records this will be difficult, if not impossible, to do on a timely basis because (a) laboratories generally do not have the capacity to store 5 years worth of data on-line and (b) ICD-9 codes may be stored on financial systems which the laboratory may not have access to and which, again, may not have 5 years of data accessible on-line. Of course, all this assumes that within that 5 year period the patient has not had the screening tests done at another facility. So the laboratory would end up doing the testing after having spent an inordinate amount of time to determine that the screening hasn't been done in the past 5 years, and still not get paid for their work.

Here's my solution. Every 5 years, send each Medicare beneficiary a chit good for one lipid profile. The beneficiary turns it in to the laboratory of their choice anytime during the 5 year period and the laboratory turns it in for reimbursement. This same solution would work for the current PSA screening and the proposed diabetes screening benefits.

CMS-1429-P-18

Submitter : **Mrs. Monica Parker** **Date & Time:** **08/06/2004 04:08:44**

Organization : **Sobaks Home Medical**

Category : **Other Health Care Provider**

Issue Areas/Comments

Issues 10-19

SECTION 302

It is not reasonable to require the order signed and dated 30 days after a face-to-face visit. Physicians look at a written order as a waste of their time, because they are not financially responsible for DME. I would say that we get 80% of our orders back within 2-4 weeks. The rest of them are providers out of our area and sometimes they are very difficult about sending these back in an appropriate time line. This would be too costly to the physicians, patients, and DME suppliers. We would have to require a written order before service would be rendered, because you would be taking too much of a risk to service a patient. This would mean the patient would have to wait for their DME equipment. A more reasonable time would be the CMN policy of 90 days.
Also a comment on the face-to-face visits. This is reasonable to a certain point. It is reasonable to require the patients to have a face-to-face visit upon initial settup, but it is not reasonable upon renewal. The patient will have have to pay for an office visit just to get a prescription for a refill order. There should only be certain items that a patient would have to have a visit with the physician.
Also of concern is the issue of physician progress notes. Physicians are not financially liable for DME and yet they are the source for appropriate documentation for the expensive equipment.

CMS-1429-P-19

Submitter : **Mr. Wayne Evancoe** **Date & Time:** **08/06/2004 04:08:12**

Organization : **Hortense and Louis Rubin Dialysis Center, Inc.**

Category : **End-Stage Renal Disease Facility**

Issue Areas/Comments

Issues 10-19

SECTION 623

Good day:

I am writing to request clarification on an issue under "H. Section 623- Payment for Renal Dialysis Services": Our 2 centers, Troy (#332532) and Saratoga Springs(#332557) both submitted Exception Rate requests at great effort and cost, and after intensive CMS analysis, they were granted Exception Rate adjustments to our base Composite Rates, effective 8/2000. The fiscal data submitted and evaluated proving that our caseload was at higher acuity, our staffing was more intensive and resulting costs higher, was from years 1998 and 1999.

Since that "adjustment", our system has been effectively omitted from receiving any further Composite Rate increases(i.e. the combined 2.4% effective 1/1/2001) due to our having been successful in documenting and submitting data clearly showing we had higher justified costs dating back to 1998 and 1999. This is now creating fiscal harm to our ability to maintain our level of services and ultimately, quality of care.

Please specify where in these regulations a Provider such as our independent, not-for-profit is prohibited from benefitting from inflation based adjustments in the future on those "Excepted Rates" previously granted. Our real costs such as surging clinical staff cost as well as supplies and drugs (EPO!) have increased and this forces us into a situation not intended by the exception rate legislation. It is not logical nor equitable in it's negative impact.

I find nothing within this relevant section regarding this anomoly, and ask that this inequity be identifed and corrected to prevent further fiscal damages.

Thanks you in advance for your insight and assistance on this critical matter. I remain available for any further discussion.

Wayne A. Evancoe, CEO
rdc@capital.net
(518)271-0702

CMS-1429-P-20

Submitter : **Dr. James Villier** **Date & Time:** **08/06/2004 05:08:18**

Organization : **Carolinas Healthcare System**

Category : **Physician**

Issue Areas/Comments

Issues 1-9

SECTION 611

CPT code 99387 already defines the work as specified in the proposed new code G0XX2, and the RVU is also already defined (for 2003 - work RVU 2.06 + non-FAC PE 1.89 + MP RVU 0.06 = Total 4.01. The proposed rule code is a surreptitious attempt to reduce physician compensation to accomplish political gain. Internists I communicate with in the Americal College of Physicians are highly opposed to providing this service for such little RVU. Our physician network views this proposal as a sham for patients. No physician will take the time to perform this service, and instead the service if done at all will be relegated to mid-level providers. After that, patients will be directed to return for a real examination by a physician, as a non-covered service. Additionally, patients over 65 generally present with chronic problems or new complaints that need evaluation and monitoring. The provision which prohibits concurrent charge with -25 modifier for anything above level 2 will necessitate having the patient return for an additional exam to address those issues. Current practice is to allow 30-45 minutes for 99387, and address all issues at one time, including the gyn or prostate screens. An RVU assignment similar to 99303 would be worth only 20 mintues of physician time and would preclude performing those tasks. If no physician will perform G0XX2 for the RVU allowed, then your purpose in serving the medicare population will not be accomplished.

CMS-1429-P-21

Submitter : **Dr. David Heimburger** **Date & Time:** **08/06/2004 08:08:39**

Organization : **Dr. David Heimburger**

Category : **Physician**

Issue Areas/Comments

Issues 1-9

CODING-GLOBAL PERIOD

Thank you for allowing me to comment. Regarding the addition of a 90 day global period for radiation therapy treatment management (cpt# 77427), this is unwise in that patients receiving palliative radiation therapy will, not uncommonly, require additional radiation therapy to another site within 90 days. These subsequent treatments should be treated as separate and unrelated courses of treatment. Adding the 90 day global period will esentially eliminate payment for the managment of subsequent courses of radiation therapy and lead to a reduction in availability for this service. It would be more appropriate to restrict the 90 day global period to the follow-up codes (such as 99212-5 and 99261-3) which are frequently used in managing treatment related side effects that should fall within the global period.

CMS-1429-P-22

Submitter : Ms. Joyce Marrs **Date & Time:** 08/07/2004 11:08:54

Organization : ASCO

Category : Nurse

Issue Areas/Comments

GENERAL

GENERAL

Section 303
I am concerned about the proposed changes to the fee schedule for physician serivices and drugs. The change to the ASP in 2005 may create an access to appropriate cancer care issue.
1. Should a physician chose to go with the "brown bag" service of a third party pharmacy to provide drug, there are many issues concerning quality control that have not been addressed.
*Should the drugs be delivered to the patient, is there adequate refrigeration, if needed?
*Should there be an accident with the medication, then there is the enironmental risk of chemotherapy exposure at an individual's home. *Should the drug be delivered to the physician's office, there are storage issues. Who will pay for storing the medications at the physician office until the patient comes in?
*Should the patient not pay for their co-payment to the pharmacy, the drug will not be delivered. For a long time, many patients were billed for the co-pay by the physician and able to pay a little at a time while receiving uninterrupted care. An outside pharmacy will not have that sense of responsibility to the patient and will hold to a bottom line, not sending any further drug until the account is paid in full. This has already happened with a patient using a third-party payor. The patient discontinued potentially curative therapy because they were unable to pay up front for the drug.
2. I believe that a change is needed, however the currently proposed ASP change does not adequately meet the needs of consumers or providers. I recommend that the 2004 changes remain in place until this issue can be resolved to fairly meet all needs, Medicare costs, access to care for the patient, and reimbursement of physicians for cost of drugs.
3. There are many ancillary services that cancer patients need that currently there is no way to get reimbursed for. Education classes, social worker intervention, dietician or nutritional services are imperative in maintaining quality of life for the patient undergoing cancer treatment.
4. We have made great strides in the care of patients with cancer over the past 50 years. The cure rate has gone from 30-35% to over 60%. These proposed changes may change the face of cancer as we know it today as to one with hope back to the dreaded disease that people associate only with dying and one without hope. Please do not allow this to happen!
Sincerely,
Joyce Marrs, MS, RN, OCN

CMS-1429-P-23

Submitter : **Dr. Jane Doe** **Date & Time:** **08/08/2004 04:08:27**

Organization : **San Jose Oncology**

Category : **Physician**

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

test

CMS-1429-P-24

Submitter : **Mr. Michael Pace** **Date & Time:** **08/09/2004 10:08:18**

Organization : **National Athletic Trainers Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

GENERAL

GENERAL

As an Athletic Trainer with 30+ years of expertise. I am shocked that you would allow someone other than the treating physician to decide who is allowed to treat patients.
Athletic Trainers are licensed and certified and have college educations.
Physical Therapist seek to monopolize the market and thereby avoid competition to keep cost down.

CMS-1429-P-24-Attach-1.doc

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

Mike Pace ATC, LAT
19206 Candlebrook Circle
Spring Texas 77388

September 15, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Mike Pace
Athletic Trainer

CMS-1429-P-25

Submitter : **Dr. Jacob Bitran** **Date & Time:** **08/09/2004 11:08:59**

Organization : **Oncology Specialists**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

These comments are in regards to Section 303 of CMS 1429-P on the proposed reimbursements of chemotherapuetics based on ASP+6%. Based on the estimated CY 2005 allowance limit, the following drugs cannot be given in our office because the acquistion price is highter than ASP+6%: Aranesp, Aredia (pamidronate), Zoladex, Camptosar, Herceptin, Navelbine, Procrit.
In effecting these proposed changes CMS is dictating medical oncology care in the ambulatory setting. What recourse is there for a medicare receipient who requires both navelbine and herceptin(which is a acknowledged way of treating women with metastatic breast cancer) other than admission to the hospital or utilizing a hospital outpatient facility IF one exists? You have in one pen stroke created a two-tiered health care system.

CMS-1429-P-26

Submitter : Mr. Gerald Schlemer **Date & Time:** 08/10/2004 01:08:16

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

GENERAL

GENERAL

August 9, 2004

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

CMS-1429-P-27

Submitter : **Mr. Perry Esterson** **Date & Time:** **08/10/2004 02:08:56**

Organization : **Mr. Perry Esterson**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Perry Esterson, MS, PT, SCS, ATC
2678 Glencroft Rd.
Vienna, VA 22181

September 15, 2004

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

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my support for the recent proposal that would limit providers of ?incident to? services in physician offices and clinics.
Please see attached letter

CMS-1429-P-27-Attach-1.doc

CMS-1429-P-28

Submitter : Dr. Jeffrey Kaufman **Date & Time:** 08/10/2004 03:08:30

Organization : Vascular Services of Western New England

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Regarding DMEPOS (page 47545). The current complexity of regulations has led to negative feedback: practitioners do not want to file the forms, which are onerous, and which add to overhead, so the beneficiary does not get Medicare to pay for items which should be covered benefits. For example, use bandages: These are often covered, but the reporting requirements are obscure, and many doctors do not have the information at hand to justify reimbursement under the DMEPOS rules. If there is a series of queries from the vendor needed to get the information to allow reimbursement, the physician is increasingly likely to disavow all knowledge and not help the patient. After all, CMS considers this work to be part of the E&M service, and it is not anything special, so there is no fee for filing the papers. The burden of doing this paperwork is not universally shared by all physicians, and those with the expertise and willingness are unduly burdened. Realizing this, the smart doctor simply does not participate in the process, and the patient gets no support.

One realizes this after the first episode of back and forth correction of DMERC forms for a simple wheelchair for an amputee. It is not a logical process.

What is particularly a nuisance is the increasing harassment by vendors of my office to have copies of my office notes to better document the medical necessity under the DMEPOS process. Rather than rely on my prescription and my affirmation that the required information is in the medical record, they want to cover their behinds and have the information in a duplicate file, so that any audit will be easy for them. Yet my office is given no reimbursement for the nuisance of copying, mail, etc.

Ironically, the information and form-filing for DME is not even mentioned in the practice expense RVU calculation for the common cpt codes that engender it. For example, I defy you to show me where the forms are mentioned in the expense calculation for a major amputation of the leg, yet this service is certainly expected within the global period. In terms of DME overall, the costs are not universally verified, which is a violation of the whole process under RBRVS.

Issues 1-9

MALPRACTICE RVUs

The law creates a conflict between the reality of rapidly escalating malpractice premiums and the theoretical construct of a capped budget. Eventually, the reality will trump the theory: In my region of Western Massachusetts, the increase in malpractice premiums has so far outweighed other singular items in the global costs attendant to the provision of care, such that there is no way one can avoid a decrease in physician take-home income. In other words, the premiums can't be countered by an increase in work. Eventually, this takes a toll, causing us to be unable to recruit new physicians or to maintain programs. This is not theoretical: We have glaring gaps in coverage for thoracic surgery because the doctors are older and there is no reason for them to take call, all because the money has dried up. The problem is ultimately the cap, which means that rapid escalation in overhead cannot be reflected in the universal Medicare budget. Any other business but for medical care would be able to pass these types of costs on to their customers. We just take home less income and work longer hours.

CMS-1429-P-29

Submitter : **Dr. Mark Delowery** **Date & Time:** **08/10/2004 11:08:47**

Organization : **Dr. Mark Delowery**

Category : **Physician**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I think it is very important to continue to allow physicians discretion in delegating who can provide physical therapy services to our patients and that certified athletic trainers be among them. See attachment.

CMS-1429-P-29-Attach-1.doc

MARK DELOWERY, DO, MPH
150 S. Independence Mall West, Suite 368
Philadelphia, PA 19106

August 10, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Mark Delowery, DO, MPH

Mark Delowery, DO, MPH

CMS-1429-P-30

Submitter : **Mr. Andrew Graham** **Date & Time:** **08/10/2004 12:08:36**

Organization : **Southeastern Orthopaedic Specialists**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

August 10, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern and extreme opposition 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 and necessary services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

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

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

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

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

Certified Athletic Trainers are highly qualified and 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, trauma and emergency care, kinesiology/biomechanics, nutrition, recognition and evaluation 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. I am a Certified Athletic Trainer. I have received a Bachelors and Masters Degree from CAAHEP approved curriculums. I have additional and advanced training in the field of Industrial Wellness and Ergonomics. The reasoning behind this change does not appear to be one sought with care and concern for the patient. Healthcare today is suffering enough. Taking away the ability and discernment of physicians to utilize who is best suited for their patients will further damage healthcare. 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 healthcare access deterrent.

Andrew Graham ATC/L, CEAS

CMS-1429-P-31

Submitter : **Dr. David Schretlen** **Date & Time:** **08/10/2004 12:08:39**

Organization : **Johns Hopkins University School of Medicine**

Category : **Academic**

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

I am writing in support of the proposal to revise the regulations at 410.32(b)(2)(iii) to permit clinical psychologists to supervise the performance of diagnostic psychological and neuropsychological testing services by ancillary staff. As an academic clinical neuropsychologist with nearly 20 years of experience in the teaching, supervision, and practice of diagnostic psychological/neuropsychological testing, I believe that this is the appropriate level of supervision required to render competent professional service. It also represents the level of supervision endorsed by each of the major relevant professional organizations, namely, the International Neuropsychological Society, National Academy of Neuropsychology, and Division 40 of the American Psychological Association.

CMS-1429-P-32

Submitter : **Mr. William Robbins** **Date & Time:** **08/10/2004 12:08:26**

Organization : **Blackford County Schools**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

Have we lost sight in a professional battle of what is best for the patient?

CMS-1429-P-33

Submitter : **Mr. William Griffin** **Date & Time:** **08/10/2004 01:08:43**

Organization : **Mr. William Griffin**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see my attached comments regarding this proposed rule.

Thank you

CMS-1429-P-33-Attach-1.doc

Tuesday, August 10, 2004

William T. Griffin, MA, ATC-L
4337 Carlys Way
Greensboro, NC 27410-8535

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.

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

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

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

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

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

- 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).

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- 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.***

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

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

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

Sincerely,

William T. Griffin, MA, ATC-L
Licensed, Certified Athletic Trainer

bgriffin@gsoortho.com

CMS-1429-P-34

Submitter : **Mr. Mark Coberley** **Date & Time:** **08/10/2004 01:08:13**

Organization : **Iowa State University**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

See attached letter regarding Therapy -- Incident To

CMS-1429-P-34-Attach-1.doc

August 10th, 2004

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

Re: Therapy – Incident To

To Whom It May Concern:

As the Director of a large university athletic training program and the Chair of the Licensing Board for Athletic Trainers in the State of Iowa, I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. As a licensed health care professional that has performed rehabilitation services to athletes at all levels from youth to professional sports, I am insulted that the federal government does not consider me to be qualified to provide care for our senior population. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services and have a great impact on the health care services delivered to secondary school, collegiate, and professional athletes nationally. 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. This happens daily with the physicians that work directly with our university. 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. Athletes that participate on organized athletic teams would no longer be able to receive rehabilitation and medical care services on-site by medical professionals that are trained and specialized in sports injury rehabilitation and management.

- 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.***

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

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

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

Sincerely,

Mark Coberley MS ATC LAT CSCS
Director of Athletic Training
Iowa State University

CMS-1429-P-35

Submitter : **Mr. Christopher Morris** **Date & Time:** **08/10/2004 02:08:29**

Organization : **Mr. Christopher Morris**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please Read the Attachment

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

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

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

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

CMS-1429-P-36

Submitter : **Mr. Jamey Gordon** **Date & Time:** **08/10/2004 02:08:38**

Organization : **RediMed Physical Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

I am a certified athletic trainer (ATC) and also a physical therapist. In my experience, I have found the expertise of ATC?s to be comparable to physical therapists in the areas of musculoskeletal injury treatment, injury prevention, and injury assessment. It is the area of injury assessment that separates an ATC from a physical therapist assistant. ATC?s are often very adept at devising cost effective means of treating and relating to the physically active. As we all know the American population is not only aging, but attempting to become more physically active. It troubles me to think that the CMS could set a precedent for excluding ATC?s from the healthcare continuum especially since ATC?s are well known for treating such high profile patients as professional athletes and our own military.

CMS-1429-P-36-Attach-1.doc

CMS-1429-P-36-Attach-2.doc

CMS-1429-P-36-Attach-3.txt

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

Jamey C. Gordon, MS, PT, ATC, CSCS
RediMed Physical Therapy & RediSport
Performance Institute
10313 Aboite Center Road
Fort Wayne, IN 46804

August 10, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

Sincerely,

Jamey C. Gordon, MS, PT, ATC, CSCS

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

Jamey C. Gordon, MS, PT, ATC, CSCS
RediMed Physical Therapy & RediSport
Performance Institute
10313 Aboite Center Road
Fort Wayne, IN 46804

August 10, 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.

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

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

Sincerely,

Jamey C. Gordon, MS, PT, ATC, CSCS

Attention: CMS-1429-P

Jamey C. Gordon,
MS, PT, ATC, CSCS
RediMed Physical Therapy
Fort Wayne, IN 46804
August 10, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services

P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

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

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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.

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

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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,

Jamey C. Gordon, MS, PT, ATC, CSCS

CMS-1429-P-37

Submitter : Rob ert Steele **Date & Time:** 08/10/2004 02:08:23

Organization : National Athletic Trainers Association

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

As an educator I contiually strive to show my students that through their education they are able to provide the best of care, under their physician, to those that are active. If CMS changes the ruling that only physical therapist, speech therapist, etc. can treat active individuals then you are taking away the athletic trainers ability to work in all settings and giving preference to a select group. In my humble opinion this is discrimination.
Please review this plan and talk with the National Athletic Trainers Association to get a better understanding of what services athletic trainers can perform based on a very thorough education.
It is very likely that someone in your immediate family/friends have had the services of athletic trainers, please talk with them. I am sure that they would express the fact that athletic trainers provide a great service.

CMS-1429-P-38

Submitter : **Mr. Corey Littel** **Date & Time:** **08/10/2004 03:08:32**

Organization : **Naval Air Warfare Center, U.S. Navy**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

CMS-1429-P-38-Attach-1.doc

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

LT Corey J. Littel, MS Ed, ATC
Naval Air Warfare Center
Code 4.6.3.3
Bldg 2187, Suite 1240-G3
48110 Shaw Rd, Unit 5
Patuxent River, MD 20670

August 10, 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.

The issue of only allowing physical therapists to provide therapy services "incident to" physicians, desperately needs closer examination. I have worked with, and for, over 25 physical therapists with degrees from 17 different Colleges and Universities around the country. In addition, I have served my country as an Aerospace Physiologist within the Medical Service Corps in the United States Navy for the past 7 years. In that time I have worked alongside Aircraft Carrier Senior Medical Officers, Flight Surgeons, Diving Medical Officers, Aerospace Medicine Specialists, Internal Medicine Specialists, Certified Athletic Trainers, Physical Therapists, Occupational Therapists, and Navy Hospital Corpsman. It is with this vast range of medical experience that I feel extremely confident in stating that both the level of education and the practical experience with acute injury recognition, treatment and rehabilitation that Certified Athletic Trainers posses, far outweighs that of the vast majority of physical therapists in practice within the United States and abroad. It is my strongest recommendation to continue to allow physicians to chose who they feel are most qualified to provide therapy services to their patients.

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.

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

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

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

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Very respectfully,

Corey J. Littel,
LT MSC USN

CMS-1429-P-39

Submitter : **Stacy Walker** **Date & Time:** **08/10/2004 03:08:42**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

See attached file

CMS-1429-P-39-Attach-1.doc

CMS-1429-P-40

Submitter : **Miss. Maegen Straight** **Date & Time:** **08/10/2004 03:08:27**

Organization : **NATA**

Category : **Other Practitioner**

Issue Areas/Comments

GENERAL

GENERAL

Re: Therapy ? Incident To

CMS-1429-P-40-Attach-1.doc

Stacy E. Walker, PhD, ATC, LAT
Assistant Professor
Ball State University
School of Physical Education, Sport,
and Exercise Science
Muncie, IN 47306
765 759 7720

August 9, 2004

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

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

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

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

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

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

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

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

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

of therapy services.

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

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

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

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

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

Sincerely,

Stacy E. Walker

CMS-1429-P-41

Submitter : Mr. Lawrence Lasky **Date & Time:** 08/10/2004 04:08:33

Organization : Emerald Coast Orthopaedic & Star Sports Medicine

Category : Other Practitioner

Issue Areas/Comments

GENERAL

GENERAL

Lawrence Lasky A.T;C./L
Emerald Coast Orthopaedics
Pensacola, FL. 32514

August 10, 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 dismay 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.

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 hamper the physician's abililty 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 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.
Limiting to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves; their workloads are
full as it is.
? Certified 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. The 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,

Lawrence M. Lasky A.T;C./L

CMS-1429-P-42

Submitter : **Mr. Jason Durocher** **Date & Time:** **08/10/2004 04:08:25**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Jason Durocher
Hastings College
800 N. Turner
Hastings, NE 68901

August 10, 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. I am currently the head athletic trainer at a small private college in rural Nebraska. When I consider the implications of a proposal of this magnitude I am incensed at the ignorance of a few who would choose to put many at risk and out of touch with quality health care for their own benefit.

The face of health care in the past decade has grown tremendously, as a result, specialization in medical care has become the norm not the exception. In order to meet the demand, numerous qualified professionals are necessary to provide specific specialized care to treat a variety of conditions, illnesses and injury. Certified athletic trainers (ATC?s) represent such a professional and it is reprehensible for CMS to even consider removing the states rights to license and regulate allied health care professions such as ATC?s in order to appease the interest of single professional group that seeks to be the sole provider of therapy services. Before making such a decision I ask you to specifically consider the implications for certified athletic trainers who are highly trained, highly educated, and who are in many cases better able to meet the specific needs of not only an exploding segment of society but also a more health conscious active elder population. CMS, in proposing this change has offered little evidence suggesting that there is a problem in need of fixing. This is especially disconcerting since a wealth of 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.
Before making any decisions please consider that 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 quality services to a Medicare beneficiary 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,

Jason Durocher

CMS-1429-P-43

Submitter : **Mr. Daniel Getahun** **Date & Time:** **08/10/2004 06:08:12**

Organization : **Mr. Daniel Getahun**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attachment.

CMS-1429-P-43-Attach-1.doc

Daniel Getahun
1528 India St. #102
San Diego, CA 92101

August 10, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Daniel Getahun

CMS-1429-P-44

Submitter : **Mr. Josh Bernstein** **Date & Time:** **08/10/2004 06:08:12**

Organization : **Texas Sports Rehab**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

Re: Therapy--Incident To

Physical medicine is fast becoming a bureaucracy instead of a service. At what point did CMS become more qualified than a physician when referring patients for care? Your proposal would serve only to limit the resources available to a treating physician.

I am a certified and licensed athletic trainer. I have worked as a physician extender for 7 years and feel I am more than qualified, under the scope of my state practice act, to follow physician's orders. If an athlete sustains a fracture during a basketball game, I am required to evaluate the injury, provide care, educate the athlete regarding their injury, and refer for appropriate follow-up care. In many cases, this athlete returns to me with specific instructions for a comprehensive rehabilitation program. If a non-athlete with a similar condition appears in a physician's office where I am employed, the contention of CMS and "Incident To" is I am unqualified to continue the care of this person when ordered to do so if my profession is not listed as a qualified provider. The very notion that I am qualified to treat an athlete with a fracture and unqualified to treat an elderly person with the same fracture is ridiculous. The language of "Incident To" will fuel this debate.

If CMS arbitrarily assigns status to a certain provider as unqualified, you damage that profession, limit the physician's ability to delegate their authority, and reduce services available to their patients. Instead of legislating who a physician can and can't refer to, trust that physician to delegate responsibility to the appropriate personnel. If you are the patient, do you want to see a provider the government deems appropriate or the provider your physician knows and trusts?

Please consider the possible results of the "Incident To" decision. To dictate who doctors can refer to creates wasted administrative time, confusion amongst patients and providers, and erodes working relationships between doctors and the providers they trust.

Kind regards,

Josh Bernstein M.Ed, ATC/L

Texas Sports Rehab
6901 Snider Plaza, Suite 100
Dallas, TX 75205

CMS-1429-P-44-Attach-1.doc

CMS-1429-P-45

Submitter : **Mr. Robert OMalley** **Date & Time:** **08/10/2004 08:08:51**

Organization : **Philadelphia University**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

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

Re: Therapy ? Incident To

Dear Sir/Madam:

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

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

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

? 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 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).
See attachment for full text of letter.

CMS-1429-P-45-Attach-1.pdf

August 11, 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.***

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

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

Sincerely,

Robert C. O'Malley

Robert C. O'Malley, M.Ed., ATC
Philadelphia University
Athletic Department
4201 Henry Ave
Philadelphia, PA 19144

CMS-1429-P-46

Submitter : **Ms. Stephanie Rosehart** **Date & Time:** **08/10/2004 08:08:35**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

I would like to voice my concern over this proposal. Please see attached letter.

CMS-1429-P-46-Attach-1.doc

Stephanie Rosehart
University of South Carolina
Blatt PE Center
1300 Wheat Street, Rm#218
Columbia, SC 29208

August 10, 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:

The purpose of this letter is to voice my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. Certified athletic trainers are imminently qualified to treat and rehabilitate athletes, from the junior high student athlete to the "weekend warrior," to the collegiate and professional athlete. Yet the CMS would propose, in the same breath, that we are NOT qualified to continue assisting in the care of our senior population. Are the demands and needs of our seniors so different than athletes in terms of rehabilitation? Are you saying the care I provide on a daily basis for Track Olympians and Olympic-hopefuls here at the University of South Carolina is not good enough for your grandfather or dear "Aunt Edna?" If adopted, this proposal would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

I would ask that 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.***

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

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

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent. I would hope that you will reconsider this proposal as it is a bad idea for all concerned.

Thank you for your time.

Sincerely,

Stephanie A. Rosehart

CMS-1429-P-47

Submitter : **Ms. Rochel Rittgers** **Date & Time:** **08/10/2004 08:08:01**

Organization : **National Athletic Trainers Association**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

August 10, 2004

Rochel Rittgers, MA, ATC, LAT
Illinois Athletic Trainers' Assoc. President
NCAA Drug Education & Drug Testing Subcommittee Chair
Director of Sports Medicine Services, Augustana College
639-38th St
Rock Island, IL 61201

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.

CMS-1429-P-48

Submitter : **Mr. David Cassidy** **Date & Time:** **08/10/2004 08:08:51**

Organization : **Jewett ortho Clinic**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

Please reference the attached letter regarding the Therapy - Incident To, proposal. I can not believe that the Federal Government would restrict a person's ability to earn a living who is qualified to work in a field that they are trained for. These individuals have completed college with the related knowledge to make a difference in the allied health field. Many Athletic Trainers 70% have earned a Masters Degree of which I am one. We are qualified to work with the specific population in question and a specific population that most need our expertise. In all of my year with the Philadelphia Flyers and Seventy Sixer Sports organizations not to mention that I have been with the Orlando Magic Basketball Organization in some form or capacity since its inception, has a single person making millions of dollars a year expressed a single concern of my skills to treat their injuries. When the World Cup Soccer 94 came to the United States the local authorities in Orlando turned to me to coordinate all medical services for the Orlando Venue. Never did I receive a single complaint From Brazil, Ireland, The Netherlands, or the United States about my care for their injuries. Two years later in 1996 when the Olympics came to the United States and Orlando was selected to host Soccer qualifying rounds the local authorities again turned to me to assist in the medical coordination of all medical services. Again not a single complaint for any of the participants. By now you can certainly see where this email is going. I have been practicing my profession (Athletic Training) at the Jewett Orthopaedic Clinic since 1988. The Jewett Orthopaedic Clinic is a multi-specialty Orthopeadic Practice with 24 Physicians. We see over 120,000 patients visit a year. I would venture to say that if you were to look at the total population the clinic interacts with, Sports Medicine patients would be a small percent. It is the Senior population that need most of our attention. Please look at this proposal closely and evaluate what ripple effect your actions would create if this "Therapy - Incident To" proposal succeeds

David C. Cassidy MEd. ATC/L, CSCS
Director of Marketing
Jewett Orthopaedic Clinic
1285 Orange Avenue
Winter Park, Florida. 32789
(407)-643-1237 Office
(407)-247-4578 Cell
(407) 643-1300 Fax
dcassidy@jewettortho.com

CMS-1429-P-48-Attach-1.wpd

September 10, 2004

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

Re: Therapy – Incident To

To Whom It May Concern:

I am writing to express my displeasure 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.

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- 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.

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

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

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

Sincerely,

David C. Cassidy
Director of Marketing
Jewett Orthopaedic Clinic, P.A.
1285 Orange Ave.
Winter Park, Florida. 32789
dcassidy@jewettortho.com

CMS-1429-P-49

Submitter : **Ms. Rochel Rittgers** **Date & Time:** **08/10/2004 08:08:31**

Organization : **National Athletic Trainers Association**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

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.
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? Of the 28,000 Athletic Trainers nationwide, over half are currently employed in clinical settings and may be handling the care of Medicaid and Medicare patients. This precedent setting decision could deny patients such as those access to appropriate rehabilitative care.

? To allow only physical therapists, occupational therapists, and speech and language pathologists to provide ?incident to? outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide ?incident to? outpatient therapy in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

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

? 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.
Please encourage opposing votes to the upcoming proposal for "Incident To" changes.
Thank you for your attention to this very important matter.

CMS-1429-P-50

Submitter : **Mr. Jason Cobb** **Date & Time:** **08/10/2004 09:08:58**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

There are qualified and licensed personnel that physicians utilize to accomplish the best patient care. One of the personnel is the certified athletic trainer. Let physicians utilize the personel that they choose to find the best treatment for their patients. It is good for the patient and ultimately the community and the country from a socio-economic standpoint. Equal in treatment services, best for the patient.

CMS-1429-P-51

Submitter : **Mr. Jon Romkema** **Date & Time:** **08/11/2004 12:08:10**

Organization : **Hackley Hospital**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please attached letter of concern regarding CMS-1429-P Re: Therapy 'Incident To'.

CMS-1429-P-51-Attach-1.doc

CMS-1429-P-51-Attach-2.doc

August 10, 2004

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

Re: Therapy – Incident To

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

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- These issues may lead to more hospitals and physician practices to 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,

Jon P. Romkema
Hackley Hospital
1700 Clinton St.
Muskegon, MI 49445

August 10, 2004

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

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Sincerely,

Jon P. Romkema
Hackley Hospital
1700 Clinton St.
Muskegon, MI 49445

CMS-1429-P-52

Submitter : **Date & Time:** **08/11/2004 02:08:18**

Organization :

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please view the following attachment regarding opposition to the proposed legislation. Thank you.

CMS-1429-P-52-Attach-1.doc

CMS-1429-P-52-Attach-2.doc

Lance Harper
112 Murray Estates Drive
Murray, KY 42071

September 15, 2004

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

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Lance Harper, MESS, ATC

Lance Harper
112 Murray Estates Drive
Murray, KY 42071

September 15, 2004

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

Sincerely,

Lance Harper, MESS, ATC

CMS-1429-P-53

Submitter : **Date & Time:** **08/11/2004 02:08:16**

Organization :

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please view the attached file regarding opposition to the proposed legislation. Thank you.

CMS-1429-P-53-Attach-1.doc

Lance Harper
112 Murray Estates Drive
Murray, KY 42071

September 15, 2004

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

Re: Therapy – Incident To

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Lance Harper, MESS, ATC

CMS-1429-P-54

Submitter : Mr. Larry Collins **Date & Time:** 08/11/2004 12:08:16

Organization : Florida Orthopaedic Institute

Category : Physician Assistant

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

If adopted, this proposal 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.

?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, physician assistants and nurse practitioners) 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 their 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 out therapy treatments elsewhere, causing a significant increase in expense and inconvenience to the patient.

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CMS-1429-P-54

Submitter : Mr. Larry Collins **Date & Time:** 08/11/2004 12:08:16

Organization : Florida Orthopaedic Institute

Category : Physician Assistant

Issue Areas/Comments

Issues 20-29

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CMS-1429-P-55

Submitter : **Laura Decoster** **Date & Time:** **08/11/2004 02:08:05**

Organization : **Laura Decoster**

Category : **Comprehensive Outpatient Rehabilitation Facility**

Issue Areas/Comments

GENERAL

GENERAL

RE: therapy - incident to

Please see my attached letter of concerning regarding proposed changes to Medicare.

CMS-1429-P-55-Attach-1.doc

CMS-1429-P-55-Attach-2.doc

Laura C. Decoster, ATC
HealthSouth Sports Medicine
29 Kosciuszko Street
Manchester, NH 03101

August 11, 2004

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

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Laura C. Decoster, ATC

Laura C. Decoster, ATC
HealthSouth Sports Medicine
29 Kosciuszko Street
Manchester, NH 03101

August 11, 2004

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

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

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

Sincerely,

Laura C. Decoster, ATC

CMS-1429-P-56

Submitter : **Mr. Lee Knox** **Date & Time:** **08/11/2004 02:08:25**

Organization : **Mr. Lee Knox**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

I submit that you do NOT change the sections concerning 'INCIDENT TO' billing of outpatient therapy services.

The Athletic Training profession is comprised of highly qualified individuals that meet exacting educational requirements to perform rehabilitation services and other services that the proposed changes will exclude them from performing on a vast cross-section of this country's populace.

There are numerous demographic regions and citizens that could be adversely affected if this proposed change is allowed. Many small towns in Texas, as well as in the other 49 states, are lucky to have ANY access to ANY medical care, let alone someone whom is willing to spend the time to help them rehabilitate their condition, that this proposed change could place undo hardship upon. Citizens may have to make an extended drive to a larger city that in some areas of Texas is 2-3 hours away. This is a dangerous situation when the patient is in the 'senior citizen' category.

I feel that this proposed change is not being established to ensure a quality control, but is an attempt at establishing a 'closed shop' for Physical Therapists, which will give them exclusive access to a captive population and allow them to drive up medical costs. I know many Athletic Trainers whom can give quality rehabilitation services at a level equal to or greater than the requirements.

For the citizens of The United States of America I strongly support the NATA's position that you NOT make changes!!!

Thank you for your consideration of this matter.

CMS-1429-P-57

Submitter : Mrs. Melissa French **Date & Time:** 08/11/2004 02:08:33

Organization : OrthoNeuro

Category : Health Care Industry

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system. During the decision making process, please consider the following:
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*These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

CMS-1429-P-58

Submitter : **Mr. Chuck Kimmel** **Date & Time:** **08/11/2004 02:08:33**

Organization : **Mr. Chuck Kimmel**

Category : **Individual**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter.

CMS-1429-P-58-Attach-1.doc

August 11, 2004

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

Re: Therapy - Incident To

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

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- 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. Although I have the greatest respect for those that might continue to be on the "menu" for care, it is also important that all practitioners who are qualified to provide care, are given that opportunity. Excluding competent professionals, with no scientific basis for doing so, appears

to run counter to what has made our system great.

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

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

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

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

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

Sincerely,

Chuck Kimmel, ATC/L
Assistant Athletic Director
Austin Peay State University
Post Office Box 4515
Clarksville, TN 37044
Phone: 931/221-6110
Fax: 931/221-1365
Cell: 931/624-3339

Let's Go Peay!

CMS-1429-P-59

Submitter : **Mrs. Venita Prudenti** **Date & Time:** **08/11/2004 03:08:33**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

CMMS
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 ATCs) 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 isn't qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

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

?Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all ATCs have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including PT, OT, RN, 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 PTs, OTs, and speech/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 doctors? 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 ATCs is equal to the quality of services provided by PTs.

?There is no evidence that there is a problem that is in need of fixing. By all appearances, this proposal is being made to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

THERAPY STANDARDS AND REQUIREMENTS

CMS-1429-P-60

Submitter : **Mr. jason watson** **Date & Time:** **08/11/2004 03:08:10**

Organization : **Mr. jason watson**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

please read attached

CMS-1429-P-60-Attach-1.doc

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

John Smith
Shifting Sands Medical Association
123 Main Street
Springfield, MO 56789

September 15, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

Jason Watson, ATC

CMS-1429-P-61

Submitter : **Mr. William McDonald** **Date & Time:** **08/11/2004 04:08:15**

Organization : **National Athletic Trainers Association/ALATA**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I have been a Certified Athletic Trainer for 35 years and a Licensed
Athletic Trainer for 20 years in two states. My credentials are
recognized by national accrediting groups as much as physical therapists. I am appalled that someone would place athletic training in the same category as a non-qualified 'high school student or another individual with no training anatomically or other techniques to furnish services'. I beleive that many physical therapists employ physical therapy assistants that are in that category but
they still treat patients and the therapists bill for their services.Certified and Licensed Athletic Ttainers have been and will
be[based on current certification processes] educated in all and more of the above mentioned categories. I hope that CMS will carefully study and evaluate closely the policy relative to the delivery of outpatient services. Thank you. Bill McDonald;
University of Alabama, Tuscaloosa, AL 35487.

CMS-1429-P-62

Submitter : **Date & Time:** **08/11/2004 04:08:51**

Organization :

Category : **Other Practitioner**

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 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 physicians 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 physicians 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.

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, toseek exclusivity as a provider of therapy services.

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

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

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,

CMS-1429-P-63

Submitter : **Mr. Michael Anderson** **Date & Time:** **08/11/2004 04:08:46**

Organization : **Mr. Michael Anderson**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

In regards to the proposal to restrict the "incident to" clause, please see attachment.

CMS-1429-P-63-Attach-1.doc

Michael B. Anderson, ATC
Research Assistant
Brigham Young University
3285 West 550 South
Provo, Utah 84601

August 10, 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.

As a certified athletic trainer I have been able to work in a variety of settings including: high school, collegiate, and clinical. In these settings I have treated individuals ranging from 8 to 99 years old, and feel confident that I provided them with quality rehabilitation services. I am currently a Master's degree seeking student at Brigham Young University, where I am working side-by-side with some of our Nation's leading researchers in therapeutic modalities. I feel this experience only enhances my ability to provide rehabilitation services for individuals of all ages and activity levels. I am appalled at the decision of the CMS to restrict the "incident to" clause without researching all allied healthcare professionals capable of providing these services.

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

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

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

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

- 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 rehabilitation services.

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

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

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

Sincerely,

Michael B. Anderson, ATC

CMS-1429-P-64

Submitter : **Mr. Sean Roach** **Date & Time:** **08/11/2004 05:08:56**

Organization : **NATA/self**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would oppose the APTA's proposed objection to ATC's billing for service. The way I see the proposal the APTA would disqualify ATC's from billing for service, but still allow a PTA to do so. In order to be A PTA you must get an associates degree and get certified, thats it, you never learn special test, you simply do as you are told by the PT. As an ATC you must receive a bacholors degree, minimum, Get at 700(in most cases 1500) hours hands on and then get nationally and state certified. Just becuase the APTA is threatened by ATC's doesn't mean we can't work together. If anythinfg I suggest that ATC's be granted the ability to bill for services and we disqualify PTA's for lack of education.

CMS-1429-P-65

Submitter : **Mr. Jon Jungwirth** **Date & Time:** **08/11/2004 06:08:54**

Organization : **Dickinson County Hospital**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

1) 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).

2) 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.
3) 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.

4) ?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. And finally,

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

Thank you for your time and understanding. I know you will make the right choice for our profession--the Certified Athletic Trainer.

Sincerely,

Jon Jungwirth, MS, LAT, ATC

CMS-1429-P-65-Attach-1.doc

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

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

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

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

CMS-1429-P-66

Submitter : Ms. Russell D. Fiore Fiore **Date & Time:** 08/11/2004 06:08:41

Organization : Brown University

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

?nIncident 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 physicians 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 physicians 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.

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, toseek exclusivity as a provider of therapy services.

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

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

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

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

CMS-1429-P-66-Attach-1.doc

CMS-1429-P-66-Attach-2.txt

Russell D. Fiore
Head Athletic Trainer
Brown University
Providence, RI 02912

August 11, 2004

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

To Whom It May Concern:
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 physicians 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 physicians 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.***

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

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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, toseek exclusivity as a provider of therapy services.***

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

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

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,

Russell D. Fiore

Attachment #0066 (2 of 2)

Russell D. Fiore
Head Athletic Trainer
Brown University
Providence, RI 02912

August 11, 2004

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

To Whom It May Concern:
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:

ðIncident 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 physicians 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 physicians 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.

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.

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

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

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

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

Sincerely,

Russell D. Fiore

CMS-1429-P-67

Submitter : **Mr. Mark Phillips** **Date & Time:** **08/11/2004 06:08:43**

Organization : **National Athletic Trainer's Association**

Category : **Other Health Care Provider**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

? 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).

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

Sincerely,

Mark L. Phillips, MS, LAT, ATC

Head Athletic Trainer
Northbrook High School, Houston, Texas
phillipm@springbranchisd.com

CMS-1429-P-68

Submitter : **Dr. David Carr** **Date & Time:** **08/11/2004 07:08:50**

Organization : **National Athletic Trainers Association**

Category : **Individual**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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CMS-1429-P-68-Attach-1.doc

August 11, 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.

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- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).
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- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

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

Sincerely,

W. David Carr, PhD, ATC

Please do not allow the Physical Therapy group to determine the future of another equally qualified profession to provide Medicare services to the US public.

CMS-1429-P-69

Submitter : **Mrs. Sarai Yates** **Date & Time:** **08/11/2004 08:08:55**

Organization : **National Athletic Trainers Association**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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During the decision-making process, please consider the following:
1)"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.

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

Sarai Yates, ATC

CMS-1429-P-70

Submitter : **Laura White** **Date & Time:** **08/11/2004 08:08:38**

Organization : **National Athletic Trainer Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir or Madam,

Certified Athletic Trainers work tirelessly to ensure that individuals can return to work or sport efficiently. Professional athletes, factory workers, performing artists, and active senior citizens have all benefited from the services of Certified Athletic Trainers. To restrict access to this is to deny a high level of care to our Medicare patients. While not every injured person requires the services of a Certified Athletic Trainer, it should be the physician?s choice, not the choice of any government agency which patient receives these services.

I ask you to please read the attached Word document as further commentary on the danger of restricting therapy incident-to services. Quality patient care should be the goal of all health care providers, not the exclusion of providers who can provide quality care.

Sincerely,

Laura White, MPAS, PA-C, ATC/L

CMS-1429-P-70-Attach-1.doc

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

Laura White
21239 Hawthorne Avenue
Port Charlotte, FL 33954

August 11, 2004

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

Re: Therapy – Incident To

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Sincerely,

Laura White, MPAS, PA-C, ATC/L
Certified Athletic Trainer
Physician Assistant

CMS-1429-P-71

Submitter : **Dr. Sandra Shultz** **Date & Time:** **08/11/2004 09:08:00**

Organization : **University of North Carolina at Greensboro**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See Attached Letter

CMS-1429-P-71-Attach-1.doc

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

Sandra J. Shultz PhD, ATC, CSCS
Assistant Professor and Director
Graduate Programs in Athletic Training and
Sports Medicine
PO Box 26170
Greensboro, NC 27402

August 11, 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.

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Sincerely,

Sandra J. Shultz PhD, ATC, CSCS

CMS-1429-P-72

Submitter : **Ronald W. Deamer** **Date & Time:** **08/11/2004 10:08:35**

Organization : **Ins. Coding & Billing Instructor**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

Re the proposal to create a G code for hospice consultations...

Why do you want to create new codes and further confuse the coding and billing processes ? You already have the coding and reporting capability in the CPT system by use of existing consultation codes (99241-99245) coupled with the Place of Service code 34 for Hospice designation. Of course, this assumes everyone understands what constitutes a "Consultation" in the definition of the industry - and this includes those who are proposing a new code. If it is not a consultation, but approaches preventive medicine/counseling services, CPT refers you to the office or other outpatient service codes 99201-99215. Preventive medicine is not quite appropriate in a hospice setting !

Creating additional HCPCS codes will only compound the confusion that already exists in the coding systems, especially in the E & M coding which everyoine is struggling with. I submit this with over 45 years experience in healthcare coding and billing.

CMS-1429-P-73

Submitter : **Mr. Paul Culina** **Date & Time:** **08/11/2004 10:08:32**

Organization : **University of Maine**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

Sincerely,

Paul J. Culina, MEd, LATC
Head Certified Athletic Trainer
5747 Memorial Gym
University of Maine
Orono, ME 04469-5747

CMS-1429-P-74

Submitter : **Mr. Joseph Przytula** **Date & Time:** **08/11/2004 10:08:39**

Organization : **Elizabeth Public Schools**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Joseph Przytula
C/O Elizabeth High School/Halsey House
600 Pearl Street
Elizabeth, N.J. 07202

CMS-1429-P-74-Attach-1.doc

CMS-1429-P-74-Attach-2.doc

Joseph Przytula
C/O Elizabeth High School/Halsey House
600 Pearl Street
Elizabeth, N.J. 17202

August 11, 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.***

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

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

Sincerely,

Joseph Przytula

Joseph Przytula
C/O Elizabeth High School/Halsey House
600 Pearl Street
Elizabeth, N.J. 17202

August 11, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

Sincerely,

Joseph Przytula

CMS-1429-P-75

Submitter : **Mr. Mark Badurak** **Date & Time:** **08/11/2004 10:08:46**

Organization : **University of Maine**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

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, toseek exclusivity as a provider of therapy services.

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

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

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,

Mark Badurak, MS.Ed, ATC
Assistant Athletic Trainer
5747 Memorial Gym
University of Maine
Orono, ME 04469-5747

CMS-1429-P-76

Submitter : **Mr. Brian Ball** **Date & Time:** **08/12/2004 12:08:08**

Organization : **Chicago White Sox Baseball Club**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Athletic Trainers are very qualified as health care professionals have extensive educational backgrounds. Many have masters' degrees and have had extensive training in the prevention, assessment, treatment and rehabilitation of injuries.

Certified Athletic Trainers are employeed by nearly every college and university in the United States and we are in charge of the health care delivery system of those athletes on a day to day basis. Athletic Trainers are employeed by every professional sports organization in the US and are in charge of all of their health care. We are asked to preside over athletes that make well into the millions of dollars and there is never any questions that the players are getting the best care possible. Certified Athletic Trainers are utilized to for medical coverage at many state, county and city sponsored events such as; fun runs, walks and other sporting events. In these various events the Certified Athletic Trainers are there to keep the 72 year old lady who sprained her ankle from going to the emergency room for ice and a outrageous medical bill.

If the Certified Athletic Trainer is pushed out of the medicare system then more and more physicians will refuse to see Medicare patients, thus limiting the healthcare offered to those you are trying to protect.

There is no grounds for not allowing the Certified Athletic Trainer out of re-imbursement when numerous studies have shown that patients feel they were treated and rehabilitated better by the Athletic Trainer over the physical therapist.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.

In closing, I find it disheartening that the government, chosen by the people, for the people would limit the health care it would allow for its people. In the days of higher medical bills and continual rising costs, I would think that the CMS would be looking for alternative ways to help the elderly get better health coverage. The Certified Athletic Trainer is one of the best Allied Health professionals to help keep these costs contained. If CMS would work with the National Athletic Trainers Association (NATA) rather than against us, programs could be aimed toward the prevention of injuries and illnesses through education. I have never seen the physical therapy lobby try to prevent patients from needing their costly services by trying to educate the general public.

If you would like to discuss any of these topics further, I would really like to hear from you. You can email me at BBall@chisox.com

Thank you for your time and consideration on this matter.

Brian Ball, MS, ATC/L
Assistant Athletic Trainer
Chicago White Sox Baseball Club

CMS-1429-P-77

Submitter : michael byers **Date & Time:** 08/12/2004 02:08:48

Organization : michael byers

Category : Other Practitioner

Issue Areas/Comments

GENERAL

GENERAL

"Incident to" billing.

CMS-1429-P-77-Attach-1.doc

Michael Byers, MPAS, ATC, PAC
3 Bent Twig Lane
Charleston, SC 29407

August 11, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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In summary, it is not necessary nor advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Michael Byers, MPAS, ATC, PAC

CMS-1429-P-78

Submitter : **John Wator** **Date & Time:** **08/12/2004 02:08:23**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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Independent research has demonstrated that the quality of services provided by the certified athletic trainer is equal to the quality of services provided by the physical therspists.
Atheltic trainers are responsible for the preventon, assessment , treatment, and rehabilitation of our world class athletes in the Olympic Games, professional athletics, collegiate athletics and our high school athletic programs. For it to be suggested that the athletic trainer is not qualified to provide these same services to a Medicare beneficiary who becomes injured as a result of an athletic activity and is seen by his his physician for treatment is outrageous to say the least.
Currently there is no problem to repair. Why eliminate the athletic trainer from the choices a physician has to provide the care he feels is needed by his patient.

CMS-1429-P-79

Submitter : **Ms. Michelle Coelho** **Date & Time:** **08/12/2004 02:08:52**

Organization : **Ms. Michelle Coelho**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Michelle Coelho
RPT/Skyline High School
1126 Elgin Av.
Salt Lake, UT 84106

September 15, 2004
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

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Sincerely,

Michelle Coelho

CMS-1429-P-79-Attach-1.doc

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

Michelle Coelho
RPT/Skyline High School
Head Athletic Trainer
1126 Elgin Av.
Salt Lake, UT 84106

September 15, 2004
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

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

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

Sincerely,

Michelle Coelho

CMS-1429-P-80

Submitter : **Ms. David Green** **Date & Time:** **08/12/2004 03:08:34**

Organization : **National Athletic Trainers' Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

SEE ATTACHED LETTER

CMS-1429-P-80-Attach-1.doc

CMS-1429-P-81

Submitter : **Mr. Wes Keller** **Date & Time:** **08/12/2004 03:08:04**

Organization : **National Athletic Trainers Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

GENERAL

GENERAL

Please accept my personal opinion for review during your decision making process.

CMS-1429-P-81-Attach-1.doc

CMS-1429-P-82

Submitter : **Ms. Carla Baker** **Date & Time:** **08/12/2004 04:08:01**

Organization : **National Athletic Trainers' Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

Please read the attached letter

CMS-1429-P-82-Attach-1.doc

CMS-1429-P-83

Submitter : **Mrs. Michelle Sito** **Date & Time:** **08/12/2004 08:08:47**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please review the following letter. It is an outrage this new proposed change.

CMS-1429-P-83-Attach-1.doc

CMS-1429-P-84

Submitter : **Mr. Cory Barton** **Date & Time:** **08/12/2004 01:08:27**

Organization : **Mr. Cory Barton**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Cory Barton, ATC
M-3 Maple Hollow Townhouses
Duncansville, PA 16635

August 12, 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:

1. 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 majority of practitioners who hold advanced degrees are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

2. 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. Athletic trainers understand that physical therapists are trying to preserve their profession by not allowing "anybody" to provide therapy services that generally would have been performed by a physical therapist. However, physicians have always used their professional judgment on who is or who is not qualified to provide a particular service.

3. CMS does not have the statutory authority to restrict who can and cannot provide service "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.

4. 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. Some of these athletes had the privilege to treat during the Tour de'Toona, which is the largest race in the nation. 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 thier 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,

Cory Barton, ATC

CMS-1429-P-85

Submitter : **Mr. Rober S.** **Date & Time:** **08/12/2004 01:08:14**

Organization : **Mr. Rober S.**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This is an outrage to the Athletic Training PROFESSION. It's discrimination against a profession that is more than qualified to provide quality care to patients, especially Medicare patients. Over the years there has been an ensuing battle against 2 professions, Certified Athletic Trainers (A.T.C.) and Physical Therapist. The main argument is that A.T.C.s are not qualified. The quality of education and training that an A.T.C. receives is outstanding. A.T.C. are recognized as an allied health care professionals (Medicare refuses to recognize that. On the web comment form I had to enter OTHER HEALTH CARE PROFESSIONAL). The question is why? In the State of Pennsylvania, A.T.C.s work under the direction of a physician. They are working with physically active patients. It doesn't matter if they are 8 or 80 years old. If they are physically active, they can benefit from the skills and services an A.T.C. can provide.
If this revision goes through, it would demonstrate: 1) Medicare's ignorance to the Athletic Training PROFESSION. 2) Medicare's discrimination against the Athletic Training PROFESSION. 3) Medicare's unwillingness to allow access to a service/ profession to which it 's patients can receive competent and quality care. 4) The inequities that a government agency can create when it lacks the proper information and is steered by a small group.

Athletic Trainers are highly skilled PROFESSIONALS who undergo training and education from accredited programs (Athletic Training not Physical Therapy) that have training in anatomy, physiology, therapeutic modalities, therapeutic exercise, neuromuscular reeducation, and other techniques to furnish services in a physician's office.

To exclude Certified Athletic Trainers from incident to services is to discriminate.

CMS-1429-P-86

Submitter : **Mr. Cory Barton** **Date & Time:** **08/12/2004 01:08:17**

Organization : **Mr. Cory Barton**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-86-Attach-1.doc

CMS-1429-P-87

Submitter : **Randy Schmitz** **Date & Time:** **08/12/2004 02:08:51**

Organization : **University of North Carolina Greensboro**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter

CMS-1429-P-87-Attach-1.doc

CMS-1429-P-87-Attach-2.doc

CMS-1429-P-88

Submitter : **Mr. Jim Mackie** **Date & Time:** **08/12/2004 03:08:29**

Organization : **National Athletic Trainers Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Re: Therapy ? Incident To

Dear Sir/Madam:

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

Personally, I believe this proposal to be detrimental and harmful to my profession and the public I serve. I have been a Certified Athletic Trainer for 29 years and have worked under the supervision of a Board Certified and Licensed Physician. I have personally along with others worked to successfully obtain licensure for Athletic Trainers in the state of Florida. The educational qualifications of the Athletic Trainer are outstanding and are on par or above that of other health care professionals as 70% of Certified Athletic Trainers possess advance degrees. It is wrong for any professional group to attempt to limit or exclude where others may practice their profession. It is also hypocritical to allow a two year community college degree trained physical therapy assistant to treat and charge for services under a physical therapist and then to seek to deny others who possess a higher degree ie: Bachelors, Masters, and PhD the opportunity to provide services.

Physicians are more than capable to determine whom to employ to assist them in their practice as long those they employ posses the education and skills to prevent, assess, treat, and rehabilitate. It is imperative that Physicians continue to make decisions in the best interest to their patients.

I urge you to cease in this attempt to mandate or remove the states? rights to license and regulate the allied health care profession and those deemed qualified, safe, and appropriate to provide health care services.

Sincerely,

Jim Mackie, M.Ed., ATC/L
Secretary, NATA District 9 / SEATA

CMS-1429-P-89

Submitter : **Ms. Stephanie Terry** **Date & Time:** **08/12/2004 03:08:52**

Organization : **Athletic Trainer Certified**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Stephanie Terry, ATC
sterryatc@yahoo.com
808 Gardens Place
Hoover, AL 35216

August 12, 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. This would inhibit Physician?s choices of referrals, increase expenses and be non-beneficial to patient, physician, and CMS in general. In the meantime questioning the education and certification of Certified Athletic Trainers.

I am a recent graduate of an Athletic Training accredited institution. 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). I have spent the past four years studying athletic training, with hands-on experience and book knowledge. A few of the courses required to graduate with an Athletic Training degree include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Graduating from an accredited college is only the beginning. A person can not legally be an athletic trainer until they are certified. To be certified the student Athletic Trainer must graduate from an accredited institution with 800 observations hours to be considered to sit for the National Athletic Training Association Board of Certification test, which is a strenuous six hours in length. Once a person has passed all three parts (oral practical, written simulation, and written) of the National Athletic Training Association Board of Certification test, only then are they certified and legally allowed to do their job. More than half of Certified Athletic Trainers attain their Masters, choosing to continue their education while working in their field.

I am frustrated to know the four years I spent in school and the hundreds of dollars spent to become a Certified Athletic Trainer are for naught. I feel I am equally knowledgeable and experienced to handle those patients, which the physicians choose to refer to me. The Physicians have been able to direct their patients to the professionals they deem appropriate. Why should this change? What is the purpose of narrowing the options of professionals an outpatient may see?

Why would CMS wish to increase the cost upon themselves and the patient by making the Physician seek other professionals; and overlooking the quick access of a Certified Athletic Trainer? The Physician is held responsible for those professionals whom he delegates his outpatients to. A Physician, unable to send him to a nearby Certified Athletic Trainer, may have to increase the expense of the patient through travel; or through increasing his own workload. This is not beneficial to the Physician, the Certified Athletic Trainer, the outpatient, or CMS.

Certified Athletic Trainers work in a wide variety of settings based on the needs of athletes, children, and the elderly. Athletic Trainers can be

found in professional sports, college sports, high school sports, clinical settings (for children, young adults, and elderly), big corporations, and the Olympics. We are dedicated workers driven to prevent, assess, and rehabilitate injuries. Our hours are never ending. Our dedication to injured individuals leads Certified Athletic Trainers to work long hours Sunday to Saturday. It is this dedication, experience, and availability, which causes Physicians to seek the profession of Certified Athletic Trainers everywhere. There is no benefit in taking the Certified Athletic Trainer out of the picture.

Sincerely,

Stephanie Terry

CMS-1429-P-90

Submitter : Ms. Cindy Naylor **Date & Time:** 08/12/2004 03:08:01

Organization : UAB Sports Medicine Clinic

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This is in response to the revisions to Medicare and Medicade that are being proposed. In the sports medicine field, I believe a certified athletic trainer is just as qualified as a physical therapist, if not more so, to perform rehab after surgury. To become a certified athletic trainer many qualifications must be met. The curriculum required is very strenuous, not to mention the 800 hour minimum that must be put in observing and working in the field in order to sit for the National Boards. These boards, put out by the National Athletic Trainers Association Board of Certification, are written to ensure that the most qualified students become certified.

As a certified athletic trainer(ATC), I have spent many hours working with athlets, learning their mindset. I have learned how important a quick recovery is, as well as how important it is to let them go as they can. I know how an athlete needs to feel like he is part of the team even when recovering from an injury. I feel that due to the rigorous training it takes to become a certified athletic trainer, we as a whole are better equipped to rehab athletes.

If this change is made to CMS, I feel that the patient will be the one who is the most inconvenienced. Due to the physician not being able to turn to an ATC for rehab purposes, his services will become less readily available. This in turn makes the clinic less useful, and seeing a doctor a big hassle.

In closing I would just like to say how frustrating it is to successfully complete an accredited athletic training program as well as pass the National Boards, and my services not be useful.

Thank you for your time,

Cindy L. Naylor, ATC
808 Gardens Place
Hoover AL 35216
cindyloowho17@yahoo.com
employed by UAB Sports Medicine

CMS-1429-P-91

Submitter : **Miss. Lauren Castillo** **Date & Time:** **08/12/2004 04:08:15**

Organization : **NATA**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I have attached a letter stating my position on this matter.

CMS-1429-P-91-Attach-1.doc

CMS-1429-P-92

Submitter : **Lori Johnson** **Date & Time:** **08/12/2004 06:08:53**

Organization : **Global-Med**

Category : **Health Care Professional or Association**

Issue Areas/Comments

GENERAL

GENERAL

This new proposal regarding the need for face-to-face physician visits could present issues for homebound and rural patients who may have difficulty arranging physician office visits. We provide pressure relief mattresses for home-care patients who suffer from pressure ulcers. 99% of our patients are evaluated at home by a visiting wound care nurse.

Also, this rule presents an nteresting dichotomy. It supports the role of the physician as a "gatekeeper" for DME. Why then does CMS give no weight to the [certificate of medical necessity] in this process? The rules require [a physician] examination, re-establishing the physician's role as gatekeeper, but when [the DMERC] reviews the claim, [it] devalues the physician and the physician-signed CMN."

CMS-1429-P-93

Submitter : **Mr. Michael Steinagel** **Date & Time:** **08/12/2004 06:08:31**

Organization : **The Athletic Training Room**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

Michael C. Steinagel ATC
671 Pin Oak Circle
Grand Island, NY 14072

August 12, 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" Therapy Standards and Requirements

Dear CMS Docket Management Team;

I am writing to express my concern over the recent proposal related to therapy services that would limit health care providers of ?incident to? services in physician offices and clinics. If the proposed language is 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 additional undue burden on the health care system.

It is hard for some to keep a clear focus on real concerns in times of continuous improvement. Every health care professional who has the best interest of their patients in mind will agree that some changes encourage growth and provide services more economically and other proposals for change would hamper such growth.

Athletic trainers are qualified, competent professionals with a true sense of helping others succeed in reaching their goals. This proposed language, as the profession of athletic training is pointing out, detracts from the ability of physicians and other qualified health care professionals as well as the general public to choose health care that provides great outcomes with the desire and track record to achieve success. Thank you for your time and consideration.

Sincerely,

Michael C. Steinagel

CMS-1429-P-94

Submitter : **C. Collier** **Date & Time:** **08/12/2004 06:08:19**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

see attached file

CMS-1429-P-94-Attach-1.doc

CMS-1429-P-95

Submitter : **Dr. Jolene Henning** **Date & Time:** **08/12/2004 08:08:54**

Organization : **National Athletic Trainers Association**

Category : **Other Health Care Provider**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:
I am writing to express my concern over the recent proposal that would limit providers of 'incident to' services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the
costs associated with this service and place an undue burden on the health care system. 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. Seventy (70)percent of all athletic trainers have a master?s degree or higher.
-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. Sincerely,
Dr. Jolene M. Henning, ATC

CMS-1429-P-96

Submitter : **Date & Time:** **08/12/2004 09:08:32**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

GENERAL

GENERAL

As a Physical Therapist in private practice, I have observed and seen the effects of the so called Physical therapy treatments in physician-owned offices from several of my previous and current patients. Most of them reported PT modalities that are applied by unqualified and unlicensed personnel who could not even explain the rationale for getting such treatment other than the fact that the "doctor" ordered it. Treatments are often palliative and with no objective goals of treatment. Treatments are also administered without regard of precautions and contraindications for the administration of modalities e.g. 1.)Ultrasound applied directly to the spine, 2. TENS unit applied to patients with pacemaker, etc.

CMS-1429-P-97

Submitter : **Jane Worley** **Date & Time:** **08/12/2004 09:08:10**

Organization : **Jane Worley**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapist and practice in both Wisconsin and Minnesota. I have been in practice since 1989. I strongly support the CMS's proposed requirement that PTs and PT assistants working in physicians offices be graduates of accredited PT or PTA programs. These are the only practitioners who should be providign physical therapy services and who have the appropriate training to do so. Unqualified personnel without the appropriate training may harm patients.

Thanks you for your consideration of my comments.

Jane Worley, PT, MS

CMS-1429-P-98

Submitter : **Mr. Peter Rigby** **Date & Time:** **08/12/2004 10:08:44**

Organization : **Northwest Hospital**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached.

CMS-1429-P-98-Attach-1.doc

CMS-1429-P-98-Attach-2.doc

CMS-1429-P-99

Submitter : **Dr. Dennis O'Connell** **Date & Time:** **08/12/2004 10:08:58**

Organization : **Dr. Dennis O'Connell**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

Unfortunately for several patients I have met in Abilene, TX, they have received physical therapy in a physician's office by non-physical therapists. It is my belief that this is fraud.
In another instance, a physician contacted my colleague, Marsha Rutland, PT (who worked at an independently owned rehab facility) and asked her to provide protocols so that her staff could use them with her clients. Of course, she refused! The request by the physician supports the fact that the therapist was extremely effective in treating the physicians' patients. Unfortunately, because the physician had a physician-owned practice, she wanted to make money and self-refer - using an unqualified provider - she could save expenses and increase her profit margin!!!
In Texas, it is my understanding that no one can claim to be a physical therapist unless they have graduated from an accredited professional physical therapist education program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. The fact that physicians can bypass this LAW, hire any bozo, have them exercise a patient and bill it is as physical therapy is dangerous and absurd. It is ludicrous and should not be allowed. Would you want your wife, husband, child, mother or father being provided physical therapy by an individual that had inadequate training? I think not! That is why THE PUBLIC is protected through licensing of physical therapists!!! To circumvent the law is dangerous.
I implore you to act appropriately and prevent non-physical therapists (and this includes physicians and their designates) from providing physical therapy.
Thank you for your time and consideration.
SIncerely,
Dennis G. O'Connell, PT, Ph.D., FACSM
TX license #1099430

CMS-1429-P-100

Submitter : Miss. Rachael Baiorunos **Date & Time:** 08/12/2004 11:08:55

Organization : Miss. Rachael Baiorunos

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support the wording in the proposed personnel standards for medicare incident to physical therapy services.