CMS-1429-P-201

Submitter : **Dr. David Halverson** **Date & Time:** **08/16/2004 07:08:42**

Organization : **Regional Cancer Specialists**

Category : **Physician**

Issue Areas/Comments

Issues 1-9

SECTION 303

I am a solo private practice Medical Oncologist in a semi-rural area. Your published analysis of the impact of the proposed changes is flawed in many respects. Firstly, your drug data is incomplete and many of the newer most expensive drugs and older least expensive drugs are not accounted for (Erbitux, Avastin, Velcade, Adriamycin, Cytoxan etc...). Secondly, you fail to take into account the impact of uncollected and uncollectable co-payments. Cancer care in this day and age can run anywhere from $10,000 to $500,000 depending on the nature and length of the treatment. The drugs account for the vast majority of this cost. Patients with only Medicare (no co-insurance or other resources) cannot and do not pay their co-pay (ranging from $2,000 to $100,000). This is the reality of the situation. It is not practical to beat this out of widows and orphans. This has only been tolerable in the past because this could be offset by profit on some drugs. A 6% margin will not subsidize this routinely lost revenue, and instantly makes Medicare only patients a non-viable population. In my communiyt, the local hospital does not provide outpatient cancer care. I am faced with requiring them to come up with their co-payments up front, sending them to another community where indigent cancer care is available, or simply refusing to see them. None of these solutions is reasonable or in the interests of cancer care in my community. What would you have me do? It appears to me that these changes are aimed at forcing chemotherapy out of the doctors office and into the hospital outpatient center where dollar savings can be more easily gained but always at the expense of quality and convenience. This does not work in my community where the changes threaten to simply shut me down and leave my patients with no alternative but to travel to larger nearby cities for care. This was the situation before I came here, and many patients were no treated in a timely or quality manner. It would be a shame that the government would turn things back rather than encourage quality care in all settings. I have to maintain a staff of 10 Nurses/LPNs/MOAs in two offices to provide my services. I have to have social work support, nutritional counseling and financial counseling available. This costs alot of money and is not accouted for in the E and M codes and ASP=6%. The old system has its problems, but at least it provided enough reimbursement to allow me to treat everyone who comes through the door and provide quality service to all. The proposed changes will radically change this so that I will have to choose patients on an individual basis as to whether they will cover their costs or not. This will stress patients and families further at a stressful time. CMS MUST recognize that cancer care is unique, it is a life and death struggle with an intesns relationship between doctor and patient. It requires tremendous supportive services. It is NOT just delivery of drugs and an office visit. Why is this so hard to understand? These supoortive services are essential and expensive and NOT covered under the current revisions. Please reconsider this for the reasons above. A reasonable margin needs to be given so that other expenses can be covered. ASP+15% or some such number might be possible. PLEASE help us keep our cancer care system functioning at the highest levels rather than tearing it apart for dollar savings. If your loved one had cancer, you would want the best care no matter what the price. Medicare patients should not be made second class citizens and Medical Oncologists should not have to choose which patients they can treat.
David C. Halverson M.D.

CMS-1429-P-202

Submitter : **Date & Time:** **08/16/2004 07:08:09**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I'm a PT that works in a physician office setting. I am also an ATC (Certified Athletic Trainer), licensed in the state to provide care under the ATC scope of practice. I strongly agree that unlicensed personel should not provide "incident to" care, BUT to eliminate an ATC from this practice setting is wrong!! An ATC's training is excellent and is a vital component in all the practice settings I have observed. As a PT, I am disappointed in my association (APTA) for trying to eliminate ATC's from providing this needed care. Now for the REAL disappointment.....the APTA primary goal is also to prohibit PT's from working in MD practices!! This push nationally is well documented. Does this make any sense?? Push it's members to support having only a PT be able to see Medicare patients "incident to" and at the same time tell PT's that they can't work in these settings? If this isn't a clear effort to prevent MD's from providing ANY care, skilled or not, I don't know what is! Unfortunately this appears more a financial motivation on the APTA's part rather than a care issue when you look at the whole picture. I urge CMS to protect the public consumer, but not restrict their care options to a hospital or a private practice PT. PT's and MD's have worked very well together over the years to provide needed care. Now the APTA wants to throw that away simply to have sole patient control. That's simply wrong! Thank you for your consideration.

CMS-1429-P-203

Submitter : Josh Glood **Date & Time:** 08/16/2004 08:08:58

Organization : Certified Athletic Trainer

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a certified athletic trainer, this looks to me that there is a STRONG push for Physical therapists to become sole providers of medical care on an incident to basis for physicians. The problem with this is that most athletic trainers (70%) have some sort of post graduate degree be it either a masters or even a doctoral degree, which makes them just as qualified as a physical therapist, or even an occupational therapist.
This is why denying athletic trainers would be a huge mistake and only lead to higher costs for anything related to medicine, and put a huge strain on already stretched to the limits physicians and PT's.
To do this in my opinion would be an extremely 'bad call' on the part of CMA.

CMS-1429-P-204

Submitter : **Mr. Theodore Hirschfeld** **Date & Time:** **08/16/2004 08:08:33**

Organization : **Hinsdale Orthopaedic Associates**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attached letter below

CMS-1429-P-204-Attach-1.doc

Ted Hirschfeld, MS, ATC, OTC
Hinsdale Orthopaedic Associates
550 W. Ogden Ave.
Hinsdale, IL 60521

August 16, 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,

Ted Hirschfeld, MS, ATC, OTc

CMS-1429-P-205

Submitter : **Mrs. Melissa Thompson** **Date & Time:** **08/16/2004 08:08:22**

Organization : **Louisiana State University**

Category : **Individual**

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. As an educated and practicing athletic trainer I strongly disagree with the notion that only physical therapists have the education necessary to provide ?incident to? services at the physician?s request. Also, as an educator of athletic training students in a CAAHEP approved athletic training education program I challenge you to look closely at the athletic training curriculum and the skills that athletic training students MUST demonstrate in order to graduate and potentially sit for the Board of Certification exam in athletic training. Upon examination you will find that all athletic training students must go thru a rigorous education program that is rich in subjects such as anatomy, physiology, orthopedic evaluation, rehabilitation, etc. The ramifications of these proposed measures are far reaching and would severely limit the ability the physician to make the best possible decision regarding individual patient health care and the ability of the patient to exercise choice in their potential health care provider. 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.

CMS-1429-P-205-Attach-1.doc

Melissa D. Thompson, MEd, ATC, LAT
Instructor-Athletic Training Concentration
Louisiana State University
112 Huey P. Long Fieldhouse
Baton Rouge, Louisiana 70803

August 16, 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. As an educated and practicing athletic trainer I strongly disagree with the notion that only physical therapists have the education necessary to provide "incident to" services at the physician's request. Also, as an educator of athletic training students in a CAAHEP approved athletic training education program I challenge you to look closely at the athletic training curriculum and the skills that athletic training students MUST demonstrate in order to graduate and potentially sit for the Board of Certification exam in athletic training. Upon examination you will find that all athletic training students must go thru a rigorous education program that is rich in subjects such as anatomy, physiology, orthopedic evaluation, rehabilitation, etc. The ramifications of these proposed measures are far reaching and would severely limit the ability the physician to make the best possible decision regarding individual patient health care and the ability of the patient to exercise choice in their potential health care provider. 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. As the importance of regular physical activity in the delay of aging and prevention of disease pathology becomes more and more evident, the role of the athletic trainer has never been greater. ***Certified athletic trainers specialize in keeping and returning physically active patients to activity and in some circumstances may be the most effective health care provider at keeping Medicare patients active and healthy.***

- ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- 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.***

- 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. 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).

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation will lead to poor outcomes for physicians and patients in the delivery of quality health care.

Sincerely,

Melissa D. Thompson, MEd, ATC, LAT

CMS-1429-P-206

Submitter : **Mr. Corry Karlen** **Date & Time:** **08/16/2004 09:08:46**

Organization : **Texas Sports Rehab**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Corry Karlen ATC, LAT
Texas Sports Rehab
6901 Snider Plaza Ste 100
Dallas, TX 75205

8/16/04

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

Re:Therapy - Incident To

Dear Sir/Madam: I am writing to express my concern over the recent proposal that would strongly effect providers of "incident to" services in physician offices. I understand that if this proposal goes through, it would eliminate qualified health professionals such as athletic trainers to provide these services.

Please consider the following points during your decision-making process:

*Certified athletic trainers are college degreed individuals that have undergone many hours of classroom work and supervised hands-on training in the field of orthopeadic injuries. In order for an individual to be come officially certified and licensed, that person must pass a nationally recognized test and in some states must also pass a test to receive a MEDICAL licensure.

*I understand that "incident to" means that the physicians have the right to decide who and where their patients need to go to for treatment of their othopeadic injuries. This also means that the referring physician is still responsible for that patient and would be beneficial to only refer to a health care professional that they trust. By limiting the treatment options of a physician, the only person that suffers is the patient himself. Medicare has always relied upon the professional judgement of the physician to be able to determine who is qualified to take of their patients.

*To my knowledge, CMS is proposing a change in policy which offers no evidence that there needs to be a change made. By allowing only PTs, OTs, and speech therapists to provide "incident to" services would improperly provide these groups exclusive rights to Medicare reimbursement. This proposal appears to be an incentive by these groups in order to monopolize the market and take another step towards eliminating the profession of athletic training.

*Many athletic trainers have the same quality of service that equals that of a physical therapist. Recent study shows a 97% success rate for services that are provided by a certified athletic trainer.

* Finally, it is a further insult that this docket management comment form is unable to list "certified athletic trainer" as a option on the list your affiliation section. Medicare needs to recognize athletic trainers as a qualified healthcare provider. I'm sure that if CMS would do a little more research into the profession of athletic training, they would find sufficient evidence that would qualify certified athletic trainers as equals to all other "incident to" providers.

Thank you very much for your time. Our profession depends on your cooperation.

Sincerely,

Corry Karlen ATC, LAT

CMS-1429-P-207

Submitter : **Dr. Tamara McLeod** **Date & Time:** **08/16/2004 09:08:11**

Organization : **Arizona School of Health Sciences**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter.

CMS-1429-P-207-Attach-1.doc

ARIZONA
SCHOOL OF HEALTH SCIENCES

Tamara C. Valovich McLeod, PhD, ATC
Assistant Professor
Department of Sports Health Care
Arizona School of Health Sciences
5850 E. Still Circle
Mesa, AZ 85206

August 14, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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.

As an athletic training professor, I can attest to the fact that 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. 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). Graduate Athletic Training Education Programs provide athletic trainers with advanced study in the field of athletic training and are accredited by the NATA.

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.

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,

Tamara C. Valovich McLeod, PhD, ATC

CMS-1429-P-208

Submitter : **Mrs. Tara Gochenour** **Date & Time:** **08/16/2004 10:08:53**

Organization : **Mrs. Tara Gochenour**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a Licensed Athletic Trainer who makes a living by billing for my services and may soon begin working under a doctor to provide quality rehab services out of his office. I ask that you please make sure you understand what an Athletic Trainer is, what we are qualified to do and what our background is. Please make sure you understand the full story before you make any changes to these regulations. Physical Therapists are not the only qualified healthcare professionals who can provide therapy. Certified/Licensed Athletic Trainers are recognized by the AMA as medical providers/healthcare professionals and we have extensive training in all areas of acute care and preventative care as well as rehabilitative care for the active population. We have a minimum bachelors degree with core classes such as anatomy physiology, nutrition, kinesiology, biology, modalities, rehab techniques, injury assessment and many others. We are NOT personal trainers. We are highly trained professionals who provide quality care to a large patient population. I urge you to do your research and understand what services we provide. We are state licensed individuals. We sit for national boards. We must maintain our licenses by aquiring 80 contact hrs of continuing education every 3 years. Many medical doctors such as general practioners, orthopedic surgeons and neurosurgeons seek our skills and knowlege to provide the type of quality care their patients deserve. Again, please do not allow physical therapists and their lobbyists to feed you false information as that would be an injustice to our profession and our patient population.
Thank you,
Tara Gochenour, ATC/L
Gochenour Sports Rehab, LLC
170 Bastille Way Ste C
Fayetteville, Ga 30214

CMS-1429-P-209

Submitter : **Date & Time:** **08/16/2004 10:08:17**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

GENERAL

GENERAL

To: Mark B. McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services

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

Dear Dr. McClellan,

Thank you for your attention on this proposed rule. I am a practicing physical therapist in the state of Washington. I have been practicing for 25 years. I am strongly in support of CMS's propsed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapy programs. The delivery of physical therapy by unqualified personnel is harmful to the public, as it does not guarantee the educational level needed in order to provide safe care. Physical therapists are trained for physical therapy, and physical therapy assistants are trained to work under the supervision of physical therapists. This is a basic standard that is shared with other professionals: that the licensed individual for the state (physician, social worker, counselor, etc.) is someone who has trained for the profession and therefore is held accountable for their care of the patient.

Thank you for your consideration of these comments. I appreciate the time that you are taking to make this informed decision.

CMS-1429-P-210

Submitter : **Miss. Amanda Hallock** **Date & Time:** **08/17/2004 12:08:30**

Organization : **Miss. Amanda Hallock**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

CMS-1429-P-210-Attach-1.doc

Amanda L. Hallock A.T.C.
110 W. State Street
North Aurora, IL 60542

August 16, 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,

Amanda L. Hallock A.T.C.

CMS-1429-P-211

Submitter : **Mrs. Nancy Short** **Date & Time:** **08/17/2004 12:08:07**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a certified athletic trainer (ATC). Like 75% of my counterparts, I have a master's degree in sports medicine. I have countless hours of clinical and educational knowledge to support the fact that I, as well as any certified athletic trainer, am quite capable of providing superlative care to medicare recipients. Physical therapists are well aware of the physiology and anatomy as well as the clinical background that athletic trainers possess. We are highly qualified and highly educated individuals. In the therapeutic realm, athletic trainers provide much needed coverage for high school athletes. We are trained in immediate care, assessment, rehabilitation, and PREVENTION OF INJURIES. (Note: A sprained ankle is a sprained ankle, whether sprained on the field, on the jobsite or walking down a flight of stairs.) Imagine NO medical personnel at a high school football practice when a life theatening injury occurs, because a physical therapist would not work at the pay rate of an athletic trainer, while standing in the pouring rain or freezing snow for hours during practices and games to provide medical attention for an athlete. Personally, like many of my classmates, after obtaining a masters degree, I had to return for a vocational school education, to simply obtain a position in which I could provide therapy to a patient automonously. The true motive of physical therapy is to omit all quality health care providers from competition. Sadly, it boils down to greed on the part of a physical therapist. They don't want to share that medicare dollar. They are threatened by the ATC, as they know that allowing an ATC to provide therapeutic treatment would truly cut expenditures.

CMS-1429-P-212

Submitter : **Mr. William Naquin** **Date & Time:** **08/17/2004 02:08:05**

Organization : **Crescent City Physical Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sirs,
In regards to the inicdent to standards for physical therapy care in physicians' offices these offices should be held under the same standard of care as physical therapist delivering these services. Physical Therapist should at least a Master's Level of education and has extensive training in Anatomy and Biomechanics as well as Pathology and Differential Diagnosis.
I feel it is only far to the Medicare population that the same standard of care be given in all settings. A physician who is providing services in his office should have these services performed by a licensed Physical therapist not by a physician's aid that may not have any formal education. our Medicare recieptant deserve better. The treatments by non-licensed personal only lead to higher cost and weaker outcome than those provided by skilled therapist.
There is also a larger risk of injury when techniques are performed by unlicensed and unsupervised personnel.
Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physician to bill incident to for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must be performed by individuals, who are graduates of accredited professional physical therapist education programs.
Thank you for your consideration in this matter.
Sincerely,
Billy NAquin MBA,PT,OCS

CMS-1429-P-213

Submitter : **Dr. Kelly Sanders** **Date & Time:** **08/17/2004 04:08:12**

Organization : **San Luis Sports Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to comment on the August 5 proposed rule on ?Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.? In the proposed rule, CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physician?s offices. CMS proposes that qualifications of individuals providing physical therapy services ?incident to? a physician should meet personnel qualifications for physical therapy in 42 CFR ?484.4, with the exception of licensure. This means that individuals providing physical therapy must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. Being a physical therapist in private practice, I strongly support this proposal.

Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccaulaureate degree from an accredited education program. All programs offer at least a master?s degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005. Therefore, you can see by the significant amount of education a physical therapist possesses, the importance of only appropriately trained therapists delivering physical therapy services. I beleive that it is necessary to maintain a high level of competence in the profession to insure high levels of patient care and effective outcomes.

Thank you very much for your time and consideration of my comments and perspective.

Respectfully,
K. Sanders, DPT, OCS, ATC

CMS-1429-P-214

Submitter : R. C. **Date & Time:** 08/17/2004 01:08:11

Organization : R. C.

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Therapy-Incident To:

I am a Physical Therapist (PT) and have been practicing primarily in an out-patient environment for 17 years in the State of Texas. I wish to comment on the August 5 proposed rule on Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005. In the proposed rule, CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physicians offices. CMS proposes that qualifications of individuals providing physical therapy services incident to a physician should meet personnel qualifications for physical therapy in 42 CFR 484.4, with the exception of licensure. This means that individuals providing physical therapy must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists.

My comments are intended to strongly support the CMS proposal in the rule that establishes these standards for personnel providing physical therapy services in physicians offices. Individuals providing physical therapy services within physicians offices must be graduates of accredited professional physical therapist programs. The value of licensure as a standard, even though current law prevents the agency from requiring licensure, is that it is the most appropriate standard to achieve the CMS objective. Physical Therapists and Physical Therapist Assistants under the supervision of Physical Therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should NOT be providing physical therapy services.

Physical Therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables Physical Therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries.

The delivery of so-called PT services by unqualified personnel is harmful to the patient. A financial limitation on the provision of therapy services (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a Physical Therapist. Let me provide a specific example of how unqualified personnel providing PT services in physicians' offices negatively impact the healthcare system.

I am aware of several physician and chiropractic offices in my area that employee individuals off-the-street to provide 'PT' services for them. These individuals have no concept of what physical therapy is, therefore they are used to apply passive modalities to patients over extended visits. Being that these passive modality codes are available to all practitioners, and are billed as PT services, the insurance companies count the reimbursement for those codes towards the total annual PT allowance. By the time that the patient reaches a qualified PT for the appropriate purpose of restoring functional deficits and improving ADL capability, the funding resources have been limited with extensive, useless passive modalities. If a qualified PT or PTA under the direct supervision of a PT were to provide the PT services in the physicians offices incident to the physician's services, the passive modalities would be used much more sparingly and the patient would receive the appropriate functional restoration earlier in the recovery period resulting in both a better outcome for the patient and an overall cost-savings through a reduction in the PT visits necessary to guide the patients recovery.

Thank you for your consideration of my comments.

CMS-1429-P-215

Submitter : **Dr. John Schrader** **Date & Time:** **08/17/2004 02:08:18**

Organization : **Indiana University**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Refer to attachment letter

CMS-1429-P-215-Attach-1.doc

CMS-1429-P-215-Attach-2.doc

October 16, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P, P.O. Box 80122
Baltimore, MD 21244-8012.

To Whom It May Concern:

I am writing to express my opposition to the proposed changes to the "incident to" services provided in a physician's office. In fact, I am extremely frustrated to think that as a practitioner of 34 years, who has worked in a physician's office, am potentially to be CLASSIFIED as unqualified to perform the same services that I provided for many years. As a state licensed and nationally certified athletic trainer I am appalled to think that this regulatory change would propose to increase the responsibility of physical therapy assistants, who have basically two years of educational preparation and would remove a physician's ability to utilize licensed healthcare providers like athletic trainers who must have a baccalaureate degree from a accredited program.

Frankly, I believe this proposal is a unilateral attempt by one profession, even though three are mentioned, to simply push out any legitimate health care professionals who have overlap in preparation and training with their profession. This proposal is not about quality care to patients. It is about restricting virtually any other profession from treating patients that could fall under the therapy codes and trying to mandate that they are Physical Therapy. There are many mature citizens of this country who can find benefit from services provided by qualified individuals other than physical therapists and occupational therapists. I would challenge the Medicare office to thoroughly review and contrast the academic requirements of the physical therapist, certified athletic trainer, physical therapy assistant and occupational therapist before making any changes.

In addition, I would like to point out 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.

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. 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.

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

5. 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 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).

6. 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.

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

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

9. 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.

10. 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.

Please reject this proposal as unfair to qualified and licensed practitioners all across the country. Physicians should have the right to direct who they want to care for their patients. Patients should also have the right to choose their health care providers.

Sincerely,

John W. Schrader, HSD, ATC/L
Clinical Associate Professor
Depts. Of Kinesiology and Athletics
1001 E. 17th Street
Indiana University
Bloomington, IN 47408

schrade@indiana.edu
(812)856-4905

October 16, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P, P.O. Box 80122
Baltimore, MD 21244-8012.

To Whom It May Concern:

I am writing to express my opposition to the proposed changes to the "incident to" services provided in a physician's office. In fact, I am extremely frustrated to think that as a practitioner of 34 years, who has worked in a physician's office, am potentially to be CLASSIFIED as unqualified to perform the same services that I provided for many years. As a state licensed and nationally certified athletic trainer I am appalled to think that this regulatory change would propose to increase the responsibility of physical therapy assistants, who have basically two years of educational preparation and would remove a physician's ability to utilize licensed healthcare providers like athletic trainers who must have a baccalaureate degree from a accredited program.

Frankly, I believe this proposal is a unilateral attempt by one profession, even though three are mentioned, to simply push out any legitimate health care professionals who have overlap in preparation and training with their profession. This proposal is not about quality care to patients. It is about restricting virtually any other profession from treating patients that could fall under the therapy codes and trying to mandate that they are Physical Therapy. There are many mature citizens of this country who can find benefit from services provided by qualified individuals other than physical therapists and occupational therapists. I would challenge the Medicare office to thoroughly review and contrast the academic requirements of the physical therapist, certified athletic trainer, physical therapy assistant and occupational therapist before making any changes.

In addition, I would like to point out 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.

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. 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.

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

5. 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 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).

6. 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.

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

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

9. 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.

10. 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.

Please reject this proposal as unfair to qualified and licensed practitioners all across the country. Physicians should have the right to direct who they want to care for their patients. Patients should also have the right to choose their health care providers.

Sincerely,

John W. Schrader, HSD, ATC/L
Clinical Associate Professor
Depts. Of Kinesiology and Athletics
1001 E. 17th Street
Indiana University
Bloomington, IN 47408

schrade@indiana.edu
(812)856-4905

CMS-1429-P-216

Submitter : **John Krug** **Date & Time:** **08/17/2004 02:08:37**

Organization : **ProCare Physical Therapy, PC**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist with > 26 years experience, I have become aware of many areas of potential abuse within the health care system, and rehabilitation therapies in particular. Unfortunately, I have seen private practice physical therapists, including myself, suffer because of some of the abuses that have occurred. When physicians are able to provide "physical therapy" services within their offices, and they benefit financially from this, the potential for abuse is obvious. However, when these services are provided by unqualified, unlicensed personnel (not physical therapists or physical therapist assistants), that seems to border on criminal, at least in the eyes of a licensed physical therapist who has seen his own practice suffer financially because of this abuse. To even imagine that CMS, and the governmental system that I pay taxes to support, would condone and ratify a physician's ability to continue in this manner, is unconscionable to me. Please: physical therapists and physical therapist assistants under the supervision of physical therapists are the only practicioners who have the education and training to furnish physical therapy services. Unqualified personnel should not be providind physical therapy services. I support CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapy programs. However, requiring licensure of these therapists is the only appropriate standard to achieve a quality standard. Finally, I do not believe that physicians should be able to be reimbursed using their provider number for therapy services, because they are not trained in this area; it holds these therapists in servitude to the physician; it hurts the duly licensed and certified private practice therapists next door who are trying to survive; and it provides an avenue for potential abuse.

CMS-1429-P-217

Submitter : **Date & Time:** **08/17/2004 02:08:00**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

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

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

Dear Dr. McClellan,
I am a physical therapist who owns a private practice located in Northeast Ohio. I have been a physical therapist since 1978 and have been in private practice since 1985.

Therapy- Incident to

I would like to comment on the August 5, proposed rule on ?Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.?

As you are aware Medicare beneficiaries may currently receive 'physical therapy' in a physician setting that is billed 'incident to' the physician but is provided by someone other than a physical therapist or physical therapist assistant. The discrepancy in required personnel qualifications between a physical therapy practice and a physician office billing ?incident to? creates different standards of care that may result in unfavorable outcomes or unnecessary care for patients seen in the physician office by someone other than a physical therapist or physical therapist assistant working under the supervision of a physical therapist.

It is my strong belief that CMS should move forward and officially adopt the policy that requires physical therapists working in physician offices to be licensed and be graduates of a CAPTE accredited physical therapy program. Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy service.

It has been my experience that physicians frequently use less qualified staff to provide ?physical therapy? to their patients. During our patient evaluations, I frequently find that have been ?passive? in nature and were for an extended duration.

As a therapist in private practice, I employ, in addition to professional staff, support personnel such as receptionists and aides. The qualifications for the support staff is simply a high school education. It is not unusual during the interview process for applicants to tell me how they were responsible for performing physical therapy for the physician's that they employed by. Further questioning always affirms that they are not properly trained and do not have even the basic knowledge to perform even the simplest therapy procedures.

It is important that CMS protect its beneficiaries from receiving services that may be harmful to them. Physical therapy procedures performed by untrained personnel increases the risk to a patient for serious injury or harm.

Physical Therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccaulaureate degree from an accredited program. This makes the uniquely qualified to provide physical therapy services that will ensure the best possible outcomes for Medicare Beneficiaries.

Thank you for consideration of my comments.

Sincerely,

CMS-1429-P-218

Submitter : **Date & Time:** **08/17/2004 05:08:52**

Organization :

Category : **Individual**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I do not believe physical therapy should be provided by unqualified personnel. That is potentially harmful to the patient. An uneducated person may inadvertantly injure the patient - which could result in more cost to the reimbursement industry. I also believe it would be misleading to bill the patients and their insurance for "Physical Therapy" when is was not administered by a Licensed Physical Therapist. That's like letting a dental hygenist pull your tooth!

CMS-1429-P-219

Submitter : **Chris Hoekstra** **Date & Time:** **08/17/2004 06:08:36**

Organization : **Therapeutic Associates**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapist practicing in the outpatient practice setting. I have also worked in in-patient and long term rehabilitation settings. Physical therapy is a highly specialized field of rehabilitation requiring a specific set of skills and knowledge. I strongly support the requirement that the provision of physical therapy services be provided by a physical therapist whom has graduated from an accredited physical therapy program. Physical therapist are trained at a minimum of the Masters level and many are now trained at a Doctoral level. For patient safety physical therapy should be provided by these highly skilled/educated individuals vs. untrained and unregulated individuals in a medical office. Patient safety and cost containment are only two issues that neessitate skilled intervention and reular reassessment. provision of PT services by untrained and unregulated individuals leaves the patient at risk and makes inefficiient and more costly care more of a possibility as patients are not continuously reasseed as they are by trained physical therapists

CMS-1429-P-220

Submitter : **Mr. Joseph Schreiber** **Date & Time:** **08/17/2004 06:08:28**

Organization : **Mr. Joseph Schreiber**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to comment on the August 5 proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' I strongly support the CMS proposal establishing standards for the providers of physical therapy services in physician's offices. These individuals should be graduates of accredited physical therapy programs. Physical therapists are educated at the post-graduate level and are the only individuals who are qualified to provide physical therapy services. (Physical therapist assistants, under the supervision of a licensed physical therapist, are also qualified to provide these services.) The delivery of so-called 'physical therapy services' by unqualified personnel is potentially harmful and dangerous for medicare beneficiaries. These unqualified personnel lack the knowledge and skills necessary to provide safe and effective physical therapy, thus putting the client at risk for an impaired recovery, and potentially for being harmed.

Thank you for your consideration of my comments.

CMS-1429-P-221

Submitter : **Mrs. Katherine Luoma** **Date & Time:** **08/17/2004 07:08:54**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To whom it may concern:

I would really like to know why I am concidered unqualified to treat Medicare patients? I graduated cum laude with a bachelor of science degree in sports medicine/athletic training from an accredited university. I took a national certification exam that allows me to practice my specialty. I must take continuing education classes to keep my skills up to date. I work in a setting where I am extremely qualified to treat orthopedic sports medicine patients, also my clinic contracts ATC's out to the local high schools to provide athletic training services to the student athletes. Who will take care of the kids when we are no longer able to practice, because who will keep us employed when we can not get reimbursed for our services?

The proposed changes are completely unnecessary for CMS to institute. This CMS recommendation is a health care access deterrent!!! Certified Athletic Trainers are more than qualified to treat medicare patients!!!

CMS-1429-P-222

Submitter : **Mrs. Heather Kennedy** **Date & Time:** **08/17/2004 09:08:14**

Organization : **National Athletic Trainers Association**

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:

? ?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.

I am outraged as a licensed certified atheltic trainer that this issue would even be brought up again. I hope that you will see that we are qualified to provide services under the supervision of a physician.

CMS-1429-P-222-Attach-1.doc

Heather Kennedy, ATC/L
National Athletic Trainers Association
2955 Becky Rd. #18
Conway, AR 72034

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,

Heather Kennedy, ATC/L

Heather Kennedy, ATC/L

CMS-1429-P-223

Submitter : **Dr. Gina Meyer** **Date & Time:** **08/17/2004 09:08:13**

Organization : **Humpal Physical Therapy and Sports Medicine Center**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Allowing unqualified individuals to provide services that are billed as physical therapy services in physicians' offices would have a extremely negative impact not only on patients' ability to receive quality care, but also on patients' quality of life in general. Patients who are in need of physical therapy deserve to be treated by someone who has been trained to provide such care. Otherwise, a patient may end up not getting well, as his or her plan of care was inappropriate. Patients like these are often left helpless, with no way to get better, as the unqualified individual has maxed out billing for physical therapy services for the year. It is so very clear that physical therapy should be provided by a licensed PT in order to ensure that patients get the care they deserve and are given the opportunity to get well. Don't take that opportunity away by allowing inidividuals who are not licensed physical therapists to provide care!

CMS-1429-P-224

Submitter : **Mr. Andrew Duncan** **Date & Time:** **08/17/2004 09:08:43**

Organization : **New York State Athletic Trainers' Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see the attached letter addressign concerns relating to limiting incident to services to Physical Therapists.

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-225

Submitter : **Mr. Andrew Duncan** **Date & Time:** **08/17/2004 09:08:07**

Organization : **New York State Athletic Trainers' Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter expressing concerns limiting incident to services to Physical Therapists.

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

The attachment to this document is not provided because:

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

CMS-1429-P-226

Submitter : **Mr. Andrew Duncan** **Date & Time:** **08/17/2004 09:08:25**

Organization : **New York State Athletic Trainers' Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Andrew Duncan, MS, PT, SCS, ATC, CSCS
Director, University Sports Medicine
Strong Memorial Hospital / Strong Health
University of Rochester
President, NYSATA
4901 Lac De Ville Blvd., Bldg D, Suite 110
Rochester, NY 14618
ph: 585-341-9150
fax: 585-340-9745
andrew_duncan@urmc.rochester.edu

August 17, 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
As a resident and current New York State Athletic Trainers' Association President, 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 both a licensed Physical Therapist , and Certified Athletic Trainer working at the University of Rochester in Rochester, New York. 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

CMS-1429-P-227

Submitter : **Mr. Keith Ori** **Date & Time:** **08/17/2004 10:08:32**

Organization : **Orthopedic Rehab Inc.**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am currently in support of the APTA's position regarding these issues. I have worked with athletic trainers in the past as assistants and they have not received the same education as physical therapists, to work with such diverse populations of injured and disabled individuals. There patient population has and will be young athletic individuals and there experience and education does not lend their expertise to Medicare/Medicaid clientele. Please oppose their position.

CMS-1429-P-228

Submitter : **Dr. Mike Brunet** **Date & Time:** **08/17/2004 10:08:13**

Organization : **Louisiana College**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

PT's should not have the idividual rights for Medicare billing. Athletic trainers have the knowledge and skill to perform such tasks under the supervision of an physician. It does not make sense to limit the scope as it will not only take away time from a physician, but limit what athletic trainers have been trained to do. For example, if the clinic is in a rural area and does not have a PT near by, a MD will have to perform the duties normally performed by an athletic trainer. As of now, many more ATC are present in these rural areas vs PT's. If another organization has a problem with what we do professionaly, I think there is a better way to go about this.

CMS-1429-P-228-Attach-1.doc

Dr. Mike Brunet
Louisiana College
1140 College Drive
Pineville, LA 71359

August 17, 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 are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. 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 are 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 Brunet
Program Director, Assistant Professor
Athletic Training Educational Program
Louisiana College

CMS-1429-P-229

Submitter : **Mr. Larry Ohman** **Date & Time:** **08/17/2004 10:08:03**

Organization : **Institute of Physical Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

I strongly feel that physical therapy services should be provided by and billed for serves provide by a liscensed physical therapist or physical therapist assistant. Physical therapy is a profession and not a generic term. When provided by unqualified personnel it does not adequately reflect what PT is and misrepresents the quality of care provided. I am opposed to incident to billing that is not done by a PT or PTA. Others providing hot packs or ultrasound is not PT and does not address the true nature of PT and should not be allowed or paid for. Please evaluate incident to services very carefully and insist that it be provided only by qualified PT and PTA. Thank you.

CMS-1429-P-230

Submitter : **Dr. Mark Hutchinson** **Date & Time:** **08/17/2004 11:08:27**

Organization : **University of Illinois at Chicago**

Category : **Physician**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir,

As a practicing orthopaedic surgeon, fellowship trained in sports medicine, I have the opportunity to work with physical therapists and certified athletic trainers in the care and rehabilation for surgical and non-surgical problems. Indeed many of my best outcomes have been solely rehabilitated by athletic trainers who have, under my supervision, followed specific protocols. I have had more complications from independent minded physical therapists that I have from dedicated athletic trainers who demand that they have a direct relationship with the treating physician.

The knowledge base of the certified athletic trainer clearly encompasses the role of exercise training, rehabilitation, and the application of therapeutic modalities. They are currently performing admirable in thousands of high schools, colleges, and univerities as well as provide these same care and interventions to Olympic and Professional athletes. Their qualifications in these arenas are unquestioned.

I find it surprising.....no, I find it sad....that their qualifications and skills are questioned in other areas of health care service including the doctors office or the physical therapy facility. In many instances, I prefer the athletic trainer over the physical therapist for the intensity and time that they can provide for a patient. The physical therapist may be guided by business interests regarding how many patients they need to see in a give time period to keep the doors open, the certified athletic trainer has no such bias as they are not the business owners but rather (by their own definition) must be supervised by another professional (doctor or physical therapist). Restricting their ability to be duly compensated for these services that they are more then qualified to give, would severely restrict their potential and livelihood opportunities.

Please addend the current plan to continue to allow athletic trainers (under the supervision of defined professionals) to bill for services they are clearly qualified to offer.

Yours sincerely,

Mark R. Hutchinson M.D.
Associate Professor of Orthopaedics and Sports Medicine
Head Team Physician
University of Illinois at Chicago

American College of Sports Medicine, Fellow, Board of Trustees
American Academy of Orthopaedic Surgeons, Fellow

CMS-1429-P-231

Submitter : Mrs. catherine gilbert **Date & Time:** 08/18/2004 12:08:17

Organization : Mrs. catherine gilbert

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I agree with the change to indicate that physical therapy no matter where practiced should be performed by a licensed physical therapist or an assistand supervised by a physical therapist. In order for Medicare to reimburse physical therapy services in other areas of practice this is the requirement. Why should it change in a physicians office? Physicians are trained in many areas but physical therapy is not one of them.

CMS-1429-P-232

Submitter : **Ms. Kathy Blair** **Date & Time:** **08/18/2004 02:08:17**

Organization : **Wind City Physical Therapy**

Category : **Other Health Care Provider**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I wish to comment on the 8/5/04 proposed rule on "Revisions to Payment Policies Under the Physican Fee Schedule for Calendar Year 2005". I am strongly in support of CMS's proposed requirement that individuals providing physical therapy must be graduates of an accredited professional physical therapy program or meet certain grandfathering clauses. Physical therapists and physical therapist assistants are the only practitioners who have the education and training to furnish physical therapy services. Without this requirement, unskilled personnel will still be able to provide physical therapy services. Physical therapists work hard to get their training and the minimal requirement currently is a masters degree. How is it that in one setting this is the requirement, yet in a physican's office the secretary can do physical therapy? We currently have a physician in our state who cannot hire a physical therapist because an ethical therapist will not work for him. He has since given up looking for a therapist and has hired an aide - untrained - to do his post surgical physical therapy. At times he is not even at the office. Over the years we have also been working with and without a cap on therapy services. Most patients do not have the foresight to ask the credentials of the person working with them. We make a point of this at our clinic. Why should a Medicare beneficiary be billed for physical therapy when that is not what they are getting? Why should Medicare pay this? With the costs to Medicare skyrocketing, it should at least be common knowledge that physical therapy can only be provided by a physical therapist or physical therapist assistant under the supervision of a physical therapist. Section 1862(a)(20) of the Social Security Act clearly requires that in order for a physicain to bill "incident to " for physical therapy services, those services must meet the same requirements for outpatient therapy services in all settings. Thus, the services must by performed by individuals who are graduates of accredited professional physical therapist education programs.
Thank you for your consideration of the above comments.

Respectfully,
Kathy Blair, PT

CMS-1429-P-233

Submitter : **Mrs. cari wood** **Date & Time:** **08/18/2004 02:08:27**

Organization : **Oregon Athletic Trainers Society**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached letter

CMS-1429-P-233-Attach-1.doc

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

Cari Wood, ATC/R
Desert Bone and Joint

Specialists

Redmond High School
675 SW Rimrock Dr.
Redmond, OR 97756

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:

- 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**. Every individual should have a choice of which medical professional they would like to provide their care. Professional and Olympic athletes choose Certified Athletic Trainers to provide their care, and the "weekend warrior" should have that same choice.**

- 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.

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

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement

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

Sincerely,

Cari Wood, ATC/R
Certified Athletic Trainer/OATS President
Redmond High School/Desert Bone & Joint
cell phone 541-280-3082

CMS-1429-P-234

Submitter : **Mr. Adrian Simo** **Date & Time:** **08/18/2004 03:08:02**

Organization : **Mr. Adrian Simo**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

This is in response to the recent proposal to limit providers of 'incident to' services to physican and clinics. Certified athletic trainers are trained allied health pracitioners, some with varied previous medical backgrounds. Anecdotally, physicians and physical therapists continually hire ATC's and do so because of the consistently high level of comittment, professionalism, and skill displayed by ATC's. Certified athletic trainers are asked to treat acute/chronic injuries and then rehabilitate the injured areas. Most orthopedic physicians feel comfortable giving a rehabilation prescription to an ATC and expecting the ATC to fully comprehend and follow through with the prescription to achieve an efficient and successful rehabilitation treatment. Physicians realize that sending every athlete to a physical therapy clininc would only flood the already hectic and overcrowded schedules in most clinics. Allowing ATC's to provide physical rehabiltation services is imperative for the rehabilitation community as a whole. For over 50 years ATC's have been providing excellent service at all levels of sports medicine, and most with at degree of higher education. The CMS recommendations will be deeply felt by ATC's and later by physical therpists wishing they could hire ATC's to help with the overwhelming workload. Physicians, not physical therapists should have the right to determine what is best for the patient. The rehabilitation community as a whole desperately needs more willing participants to help the continually ever growing number of patients. Don't reduce the quality of care.

CMS-1429-P-235

Submitter : Mrs. jill gamlin **Date & Time:** 08/18/2004 01:08:04

Organization : apta/nata

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I am both an athletic trainer and a physical therapist. I do not feel that as an athletic trainer that I was qualified to treat medicare patients. In physical therapy school is where I learned to treat patient types covered by medicare. Please do not allow ATCs to bill for their services under medicare. Thank you.

CMS-1429-P-236

Submitter : **Mr. Brent Boudreaux** **Date & Time:** **08/18/2004 01:08:48**

Organization : **NATA**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Please see the attached letter for my concerns regarding restricting access to Athletic Trainers.

CMS-1429-P-236-Attach-1.doc

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

Brent D. Boudreaux, M.Ed., ATC
Acadiana Physical Therapy
816 Harding St.
Lafayette, LA 70503

September 18, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

- 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.

- ***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. To me, this is clearly an attempt by one profession to monopolize all Physical medicine and Rehabilitation health care.***

- 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. I firmly believe that qualified Physicians can and will continue to choose the appropriate health care for their patients, if given the chance.

Please feel free to contact me for any reason via email at: cajunsportsmed@cs.com

Sincerely,

Brent Boudreaux, M.Ed., ATC
Director of Sports Medicine
Acadiana Physical Therapy, Inc.

CMS-1429-P-237

Submitter : **Mr. Steve Mackell** **Date & Time:** **08/18/2004 02:08:13**

Organization : **Mr. Steve Mackell**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I have been a Certified Athletic Trainer since 1985. I have seen tremendous change in the outpatient rehabilitation field. I have never wrote comments like these before but feel I must respond to this issue. It is ludicrous for legislators to believe that PTA's have as much training as a Certified Athletic Trainer (ATC). A PTA goes through two years of schooling, an Certified Athletic Trainer, must have a 4 year degree as well as over 1000 hours of Apprentice time that is unpaid but part of the requirement to be eligible to sit for the National Athletic Trainers Association Certification test and credentials. The sad part of it is that PTA's are paid more in the marketplace than ATC's, becuse of the legislation changes that have been made by the Physical Therapists lobbying association. I plead with you to eliminate this from the CMS regualtions. ATC's are more than qualified to treat the medicare population.

CMS-1429-P-238

Submitter : **Date & Time:** **08/18/2004 02:08:41**

Organization :

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing this as an "other healthcare professional" but I am in fact a "Certified Athletic Trainer", not listed on your data base. I am licensed and regulated by a practice act in the state of Georgia. It just so happens that I am also a Physical Therapist. My comment to CMS is that it is inconceivable to me that ATC's would be excluded from the healthcare team simply because PT's want any physical medicine care as their domain only....even to exclude physicians. I, being both, feel that I have a clear understanding of both professions and have the utmost respect for my ATC peers and confidence in their ability to perform necessary care in their scope of practice. Unfortunately, my concern is that the APTA is using this as "turf battle" and doesn't want to recognize any other caregiver that threatens them financially.....and it is a financial motivation on their part. The national push by the APTA is for PT's to provide autonomous care, independent of physician involvement or referral. But to approach this by eliminating "competition" from a respected profession like Athletic Trainers is not how to improve healthcare in the US . Thank you for considering my opinion.

CMS-1429-P-239

Submitter : **Date & Time:** **08/18/2004 02:08:50**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapist & strongly support CMS's proposed requirement that person's practicing physical thrapy in a physician's office be licensed graduates of an accredited physical therapy program. WE are the only person's qualified to administer physical therapy. In my mind, palliative modalities done without the skilled evaluation & treatment of the movement and or mechanical dysfunction that produces the patients symptoms is unethical and should be illegal. Too many times patients have found their way to my office after receivng so-called 'physical therapy' in a physician's office that was done by an unlicensed & unskilled nurse or aid. Often their benefits for physical therapy services will have been exhausted, their pain remains & they have a large 'therapy' bill to boot. Initially, they will also have un inaccurate view of physical therapy, but will often express amazement when they start receiving skilled care. This provision will protect patients from fraudulant care and the reputation of physical therapists.
Thanks you for your consideration of my comments.
Kim Mazik, PT
PO Box 1693
Hailey, ID 83333

CMS-1429-P-240

Submitter : **Mr. Ron Esteban** **Date & Time:** **08/18/2004 02:08:16**

Organization : **Orlando Orthopaedic Center**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

CMS-1429-P-240-Attach-1.doc

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

Ron Esteban, MS, ATC/L
Sports Medicine Outreach Coordinator
Orlando Orthopaedic Center
100 W. Gore Street, Suite 500
Orlando, FL 32806

August 18, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

- **Certified Athletic Trainers are recognized by the American Medical Association (AMA) as allied health professionals, similar to physical therapists and occupational therapists.**

- 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).

- **Compared to other AMA allied health professionals (such as Physical Therapists), certified athletic trainers have the most demanding continuing education requirements that help to ensure that certified athletic trainers stay well-educated and well-informed even after they have passed board certification.**

- 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,

Ron Esteban, MS, ATC/L
Sports Medicine Outreach Coordinator
Orlando Orthopaedic Center

CMS-1429-P-241

Submitter : **Dr. Dean Paret** **Date & Time:** **08/18/2004 02:08:02**

Organization : **Senior Connections**

Category : **Individual**

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

First, I would like to thank CMS for expanding the role of psychologists and their supervision authority. Thank you very much for dialoguing with APA.
Second, I am writing in response to the request for comment on the proposed revision to the regulation at 42 CFR Section 410.32. My comments concern language in the preamble of the proposal that I believe may unintentionally lead to confusion regarding the authority of psychologists to perform and supervise diagnostic testing.
I am a licensed psychologist in the State of Texas with ten years of licensed experience and nearly twenty three years of mental health experience including the use of testing procedures. I am an active member of the APA and the Texas Psychological Association. My content area of study in my Ph.D. program was 'counseling psychology'. I took additional course work in selection, administration, and interpretation of psychological tests and test measurement and development, psychometric theory, specialized psychological assessment techniques, statistics, and the psychology of behavior. I have provided supervision of other mental health providers in testing administration and interpretation.

I wish to direct your attention to the preamble language on page 47553 of the August 5th Federal Register, which states that 'Program instructions define an independently practicing psychologist as an individual who is not a clinical psychologist and practices independently of an institution, agency, or physician's office. Examples include, but are not limited to, educational psychologists and counseling psychologists.'

By singling out educational psychologists and counseling psychologists as being among those who might fall into the category of 'independently practicing psychologists', the preamble may mislead people into concluding that psychologists holding a doctoral degree in these areas cannot qualify as 'clinical psychologists' under Medicare. Such an interpretation would be inconsistent with current Federal Medicare regulations.
A 'clinical psychologist', as defined at 42 CFR section 410.71(d), is one who (1) holds a doctoral degree in psychology, and (2) is licensed or certified, on the basis of the doctoral degree in psychology, by the State in which he or she practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals. The regulation does not require that the doctoral degree be specifically in clinical psychology. A variety of psychologists with doctoral degrees, including educational psychologists and counseling psychologists, meet the requirements for being a 'clinical psychologist' under the Medicare program.
To avoid potential confusion, I am recommending that any discussion of the final version of the proposed revision say something like: 'This supervision authority extends solely to 'clinical psychologists' as defined in Code of Federal Regulations 42 CFR Section 410.71 (d), for the purpose of the Medicare Program.'

Thank you for your consideration in this matter.
Sincerely,

Dean K. Paret, Ph.D.
Licensed Psychologist

CMS-1429-P-241-Attach-1.doc

TO Whom It May Concern: Diagnostic Psychological Test
Re: File Code 1429-P

First, I would like to thank CMS for expanding the role of psychologists and their supervision authority. Thank you very much for dialoguing with APA.

Second, I am writing in response to the request for comment on the proposed revision to the regulation at 42 CFR Section 410.32. My comments concern language in the preamble of the proposal that I believe may unintentionally lead to confusion regarding the authority of psychologists to perform and supervise diagnostic testing.

I am a licensed psychologist in the State of Texas with ten years of licensed experience and nearly twenty three years of mental health experience including the use of testing procedures. I am an active member of the APA and the Texas Psychological Association. My content area of study in my Ph.D. program was “counseling psychology”. I took additional course work in selection, administration, and interpretation of psychological tests and test measurement and development, psychometric theory, specialized psychological assessment techniques, statistics, and the psychology of behavior. I have provided supervision of other mental health providers in testing administration and interpretation.

I wish to direct your attention to the preamble language on page 47553 of the August 5th *Federal Register*, which states that “Program instructions define an independently practicing psychologist as an individual who is not a clinical psychologist and practices independently of an institution, agency, or physician’s office. Examples include, but are not limited to, educational psychologists and counseling psychologists.”

By singling out educational psychologists and counseling psychologists as being among those who *might* fall into the category of “independently practicing psychologists”, the preamble may mislead people into concluding that psychologists holding a doctoral degree in these areas cannot qualify as “clinical psychologists” under Medicare. Such an interpretation would be inconsistent with current Federal Medicare regulations.

A “clinical psychologist”, as defined at 42 CFR section 410.71(d), is one who (1) holds a doctoral degree in psychology, and (2) is licensed or certified, on the basis of the doctoral degree in psychology, by the State in which he or she practices, at the independent practice

level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals. The regulation does not require that the doctoral degree be specifically in *clinical* psychology. A variety of psychologists with doctoral degrees, including educational psychologists and counseling psychologists, meet the requirements for being a “clinical psychologist” under the Medicare program.

To avoid potential confusion, I am recommending that any discussion of the final version of the proposed revision say something like: “This supervision authority extends solely to “clinical psychologists” **as defined in Code of Federal Regulations 42 CFR Section 410.71 (d), for the purpose of the Medicare Program**.

Thank you for your consideration in this matter.

Sincerely,

Dean K. Paret, Ph.D.
Licensed Psychologist

CMS-1429-P-242

Submitter : **Date & Time:** **08/18/2004 02:08:36**

Organization : **Shenandoah University**

Category : **Academic**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing today to show my support for the proposal of personnel standards for Medicare "Incident to" physical therapy services. I am a graduate student going into my final year of a doctoral PT program. This summer of 2004 I spent my time during an internship in an acute hospital. While I was there I would witness the nursing staff walking the patients around the hospital. They would need 2 people and they wouldn't have a gait belt on the patient for safety or correct them with proper gait instructions to help the patient ambulate more efficiently. These patients would be the same ones that we would be working with throughout the day trying to get them teach them proper techniques. The nursing staff was doing a great job at keeping the patients up and moving throughout the day, I don't have any problems with that. The only problem I had was when I was told they were billing those walks under PT services. I don't believe they were giving PT services by just getting the patient up and moving. There are many more things involved then just walking around. Besides the instructions to let the patients know what they are doing wrong, safety was the main concern in my eyes. While I was at this hospital I even gave a transferring in-service and noticed the nursing staff doesn't use gait belts for transfers or while walking around with the patients. In my eyes this was a safety problem because how are you going to keep a patient from getting hurt while you are walking around and they lose their balance and they are only wearing a hospital gown? The nurses, whom again were doing a great job at this hospital, should not be able to just bill PT services for what they were doing because it takes away the credibility of what PT services really are.

CMS-1429-P-243

Submitter : **Mr. Kevin Lehmann** **Date & Time:** **08/18/2004 03:08:52**

Organization : **St. Joseph's/Candler Sports Medicine**

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. Also, if adopted this will severely limit the ability of a Allied Heath Care Professional that is recognized by the American Medical Association to practice while giving one group a monopoly. It is my opinion that by limiting/restricting access to particular allied health care professionals CMS will only decrease access, but increase cost to the consumer. I know of very few areas of the economy that have improved by limiting those who may in engage in a particular industry.

Please also consider that many of our country's greatest athletes and sports teams rely everyday on the care rendered by Certified Athletic Trainers. Injuries in elite athletes are not at all different than those suffered by all age groups performing the same sports. Tennis injuries are tennis injuries whether the athlete is a professional or a 65-year-old that is playing to stay active. Why would CMS consider limiting the 65-year-old to the type of allied health care professional that they may see while in the physician's office? I find this highly insulting to think that federal government would not consider my qualifications high enough to treat our senior population. I also find it very insulting that the federal government would allow professions with less training to care for our seniors.

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.

Thank You for your consideration and time regarding this vital issue.

CMS-1429-P-244

Submitter : **Mr. thomas hoye** **Date & Time:** **08/18/2004 03:08:19**

Organization : **Mr. thomas hoye**

Category : **Individual**

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

I feel that CMS-1429-p is extremely unfair to Certified Athletic Trainers, health care professionals that have put in a tremendous amount of time in schooling and training, much like our brethren physical and occupational therapists. We are not message therapists or personal trainers, but we are highly trained individuals who work with a specific population, the athlete. As an athletic trainer for 12 years I often work hand and hand with physical therapists, OT's and MD's. We do not receive certifications via a weekend course or online, but we earn real bachelor and master degree's in our chosen field of sports medicine. Just to sit for our national boards we must have at least a bachelors degree, go through a specific certified program, and complete at least 800 hours of practical supervised experience. Please do not take away the opportunity to earn a livelyhood. We are not looking to compete with other allied health professionals only work with the population that we were trained for. Thank you for your time.

CMS-1429-P-245

Submitter : Mr. Brad Mountcastle **Date & Time:** 08/18/2004 03:08:00

Organization : Johns Hopkins University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Dear sir/ madam
I am concerned about this propsed revision that would limitproviders fo " incident to" services in physician offices and clinics. This revision would eliminate the ability of qualified and valuable health care providers to provide healthcare to a very diserving population. This revision would also take away the ability for physicians to utilize the resources that they believe are most appropriate for their patients. You must leave the decision making regarding patient care in the hand of the physicians. Limiting the physician in this case would cause an increased burden on the patient. If the physican's ability to determine and provide the best options to their patients is limited than the patient will suffer. Not allowing a patient to recieve the most appropriate care will ultimately result in higher healthcare cost because the patient's helathcare will suffer if the best care is not offered. I appretiate you hearing my concerns and hope you consider them.

CMS-1429-P-246

Submitter : **Mrs. Tricia Ashton** **Date & Time:** **08/18/2004 03:08:55**

Organization : **Ashton Physical Therapy Center**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See below. too often patients find out after the fact that they ahve not been treated by a licensed PT in a physician's setting. Having worked for an orthopedist my first 5 years in practice, I can guarentee that they are no more involved or "supervising" patient care than in my own private practice where I contac the physician with questions or problems if they arise. I beleive that we private practitioners are more diligent because we have accepted the repsonsibility of treating patients without a physician around and feel the "buck stops here" with regards to attention to detail, thoroughness of treatment and appreciation of insurance limitations.

THERAPY STANDARDS AND REQUIREMENTS

Too often in my 31 years of practice I have had patients who had therapy in a physicians office only to discover that an aide or receptionist was doing the massage or ultrasound. This is unconscionable.

CMS-1429-P-247

Submitter : **Mrs. Bobbie Hurt** **Date & Time:** **08/18/2004 04:08:35**

Organization : **Physical Therapy Services**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Attachment to follow

CMS-1429-P-247-Attach-1.doc

PTS

PHYSICAL THERAPY SERVICES

BOBBIE HURT, PT JERRY HURT, PT YVETTE BOOKER, PT LUCY GLENN, PT MADELEINE BAKER, PT DOROTHEA EVERETT, PT JO ANN TOMBERLIN, PT

August 18, 2004

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

RE: Revisions to Medicare Physician Fee Schedule Payment Policies for Calendar Year 2005, therapy incident to provision

I am a licensed physical therapist of 32 years. I own a private outpatient physical therapy clinic in Galveston, Texas. I employ two additional fulltime physical therapist, one physical therapist assistant and four part-time physical therapists. We are a participating Part B Medicare provider. Approximately 50% of our patients are Medicare recipients.

My comments are in support of the August 5th proposed rule on "Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.", standards for personnel providing physical therapy services under the incident to provision in physician offices. My understanding of your proposal is that all providers of therapy services would have to meet the standards established in 42 CFR §484.4, with the exception of licensure, i.e., be graduates of an accredited professional physical therapist program, be grand-fathered in or meet the educational requirements for foreign trained physical therapists. Although, I do not believe any other profession should be billing physical therapy as "incident to" their own profession, I support this proposal and believe the majority of my Medicare patients do as well. Physical therapists and physical therapist assistants under the supervision of a physical therapist are the only professionals who should be performing and billing for physical therapy.

I must take a minute to tell you the experience I had yesterday afternoon when I first heard about this proposal from an OT colleague's e-mail. I went to our gym area to treat a patient and began discussing the proposal with several elderly patients. Without any prompting one of the patients said, "That's exactly what happened to me!" The "that" was treatment by a non-licensed person in the side room of a previous physician's office. He went on to say that his lack of "therapy progress" was part of the reason he changed doctors. Additionally, he stated that the previous "therapy" he had received for his knee was, "nothing like what he was getting here". He really could not believe the difference. He went on and on about how, "at the other place", he had, "a bunch of machines put on his knee" while he did nothing and here, in our clinic, he "sweats". He had the old ladies all laughing but agreeing with him.

There are numerous reasons why physical therapy should be provided only by qualified physical therapists but this gentleman expressed the most important reason. If we are going to rehabilitate elderly patients to their maximum potential in the most efficient manner possible with the least amount of financial expenditure, it takes SKILL. Skills that are acquired from education in both normal and abnormal anatomy and physiology, knowledge of disease and injury processes, and hands on experience in touching human beings to translate what one feels and what one knows into what is happening below the patient's skin. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccalaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT) degree by 2005. Physical Therapy is NOT gym class for the elderly. Physical Therapy is not Medicine or a branch of Medicine. Physical Therapy is a highly skilled, independent profession that serves patients, our traditional team oriented medical delivery model and the Medicare system best when it's delivery is placed squarely in the hands of the professionals educated in it, licensed physical therapists and physical therapist assistants.

Thank you for your time and the opportunity to comment.

Respectfully,

Bobbie S. Hurt, PT
Owner, Physical Therapy Services
1810 Tremont, (23rd St.)
Galveston, TX 77550

CMS-1429-P-248

Submitter : **Mr. Marcus Holliday** **Date & Time:** **08/18/2004 05:08:19**

Organization : **Carolina Orthopaedic Center**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please reconsider the recent proposal to limit providers of 'incident to' services in physician offices and clinics. This proposal systematically eliminates the ability of me as an allied health professional to provide an important service to Medicare beneficiaries. I strongly feel that the quality of health care for Medicare patients is going to be reduced, while ultimately increasing the costs associated with this service. Please do not limit my ability to provide medical care in my community. Please do not allow lobbyists for the Physical Therapy Association to unduly influence you in making a poor decision, negatively affecting the care of your Medicare beneficiaries.

CMS-1429-P-248-Attach-1.doc

August 18, 2004

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

RE: Therapy--Incident To

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 my ability as a qualified, educated, regulated allied health professional to provide these services in my current work environment. In turn, it would reduce the quality of health care for our Medicare patients, while concomitantly increasing the costs associated with this service and place an undue burden on the health care system.

Please consider that 'Incident to' has been utilized by physicians, particularly the physicians in my orthopaedic practice, to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician, particularly an orthopaedic surgeon as in my case, should have the right to determine who is best to provide these services for his patients, whether they are provided by a physical therapist or certified athletic trainer, both allied health professionals. In our office, while the physicians have access to both physical therapists and certified athletic trainers, they choose to have the certified athletic trainer provide these 'Incident to' services since he feels this allied health professional is better able to provide the service to his patients.

It is important that you remember that certified athletic trainers are highly educated, well-respected allied health professionals. All certified athletic trainers must have a bachelor's or master's degree from an accredited college/university, while **nearly 70% have a master's degree or higher.** The coursework in these programs is comparable to similar allied health professionals including physical therapy, nursing, and other similar mid-level health care providers.

Certified athletic trainers are vital to the healthcare team and have always had strong, productive relationships with physicians. Certified athletic trainers are the provider of choice for professional athletic teams and colleges/universities across the United States. They are charged with **preventing, assessing, treating and rehabilitating** injuries incurred by these high level participants. Certified athletic trainers will also be the primary medical provider to athletes in this year's Olympic Games. **It is beyond reason to think that these same healthcare providers are not considered adequate to provide treatment, under the supervision of their local physician, to a Medicare beneficiary.**

Please do not limit the ability of a certified athletic trainer to provide 'Incident to' services under the direct supervision of a physician to Medicare recipients. **Do not allow a single professional group (the APTA) to influence your decision-making in regard to this issue, lending to their ability to become the *exclusive* provider of therapy services to Medicare recipients.** It is not necessary to attempt to remedy a problem that is in no need of repair, as independent research has clearly shown that the quality of services provided by a certified athletic trainer is equal to the quality of services provided by physical therapists. To allow only physical therapists, occupational therapists, and speech therapists to provide 'Incident to' outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. In my opinion, it is better to allow the individual states to regulate whether or not an allied health professional is deemed as qualified and appropriate to provide health care services.

It is imperative that physicians continue to be allowed to make decisions in the best interests of their patients. By instituting the proposed changes, CMS will be limiting the ability of its beneficiaries to get quality, affordable healthcare of their choice.

Truly,

Marcus A. Holliday, MA, ATC
Certified Athletic Trainer
Operations Manager
Carolina Orthopaedic Center, P.C
209 Patewood Dr., Ste. 200
Greenville, SC 29615

CMS-1429-P-249

Submitter : **Ms. Jennifer Beardslee** **Date & Time:** **08/18/2004 05:08:18**

Organization : **Miami University Sports Medicine Dept.**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concerns over the recent proposal that would limit providers of 'incident to' services in physician offices and clinics. If this proposal is adopted the quality of health care for Medicare patients will be compromised, health care costs will rise and our current system will be tremendously hampered. Since the inception of the Medicare System (1965), 'Incident to' has allowed physician's to allow users, under the direct supervision of the physician, to provide quality services as an adjunct to the physician's professional services. A trained individual, such as a physician, has the right to delegate the care of his/her patients to trained individuals (including Certified Athletic Trainers) whom the physician feels is an educated and trained health care provider in the protocols to be administered. I find it appalling that the CMS has not done their homework on the educational background, Certification and Licensure/Registration requirements of the Certified Athletic Training Profession. Certified Athletic Trainers are required by the National Athletic Trainers Association(a nationally/worldwide health care professional association) to receive a minimum of a bachelor's degree from an accredited college or university. Seventy percent of the profession has received a master's degree or higher. Our education is based on human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design and exercise physiology. I implore you to take the time to look at the big picture for the health care system. If you deny Certified Athletic Trainers the ability to work with Medicare and Medicaid patients, then you are putting the health and well being of your mother, father, grandmother, and/or grandfather at risk. Your family members will have to suffer delays in health care, incur greater costs and lack local and immediate treatment. Also, asking the physicians to decrease their referral network will cause them to perform procedures they are not trained to do and increase their already heavy work load. Please understand that if CMS mandates that only physical therapists, occupational therapists, and speech/language pathologists to provide 'incident to' outpatient therapy in physicians' offices that 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. Again, I would like CMS to reconsider making an unnecessary mandate of physicians, states and more importantly citizens in need of quality health care.

Respectfully,

Jennifer M. Beardslee MEd. ATC/L
Sr. Assistant Athletic Trainer
Miami University Sports Medicine Department

CMS-1429-P-250

Submitter : **Mr. Paul Cacolice** **Date & Time:** **08/18/2004 05:08:43**

Organization : **Mr. Paul Cacolice**

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:

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

?To allow only physical therapists, occupational therapists, and speech and language pathologists to provide ?incident to? outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. 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. If you take some time to explore the staff of all professional sports teams in the four major sports, you?ll find these highly valuable athletes-commodities being treated daily by Certified Athletic Trainers versus any of the other allied health professionals mentioned above.
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.

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

The attachment to this document is not provided because:

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

CMS-1429-P-251

Submitter : **Mr. Devon Taylor** **Date & Time:** **08/18/2004 05:08:02**

Organization : **National Athjletic trainers association**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a certified athletic trainer we are trained to recondition and rehabilitate orthopedic injuries. Whether the patient is an athlete or non-athlete the care they would recieve from a certfied athletic trainer is quality care and our knowledge is equal to any other health profession that works mainly with orthopedic injuries. I take it as a slap in my face, when athletic trainers are not considered qualified to treat patients. If athletic trainers are the main care providers for millon dollar athletes then treating anyone should be the same.

CMS-1429-P-252

Submitter : Mrs. Dawn Gabrich **Date & Time:** 08/18/2004 06:08:38

Organization : Kosciusko Community Hospital

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

My name is Dawn Gabrich and I am a Certified Athletic Trainer practicing in Indiana. I am very proud of my education of a Bachelor's of Science degree in Exercise Science and my Master's degree in Sport Administration. I am also very proud of my profession and the countless lives athletic trainers have saved and positively affected.
Please consider educating yourselves further on our profession and the strict standards that we hold ourselves to. Athletic trainers are such a highly qualified resource for physicians, physical therapists, and countless patients.
It is vitally important to the health care industry that you not blatantly exclude such a large, highly educated group of health care providers from billing.

Thank you for taking the time to read my comments. Please reconsider this ill-planned proposal. Please educate yourselves on our qualifications. Please include "Athletic Trainer" in your information field at the beginning of this site. Thank you again

CMS-1429-P-253

Submitter : **Mr. Timothy Lengle** **Date & Time:** **08/18/2004 07:08:11**

Organization : **Rider University**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter.

CMS-1429-P-253-Attach-1.doc

August 18th, 2004

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

Re: Therapy- Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified healthcare professionals to provide the important services. In turn, it would reduce the quality and accessibility of healthcare for Medicare patients and costs of these services would increase.

Having worked with and under the supervision of many physicians in my career as a Certified Athletic Trainer, I believe that the physician should retain the right to delegate the care of his or her patients to individuals who they deem capable. Limiting the practitioners that a physician can choose limits their ability to decide upon and provide the best care on patient to patient basis. Restriction of who can provide "incident to" services may severely limit the care that can be provided to certain patients who may not be able to seek separate physician and therapy appointments in separate locations.

In a time when our country is facing a shortage of qualified healthcare providers, it is doesn't make any sense to limit a physicians ability to use provider that they believe to be capable. This limitation could create a larger shortage for individuals in rural areas resulting in increased recovery time and associated costs. This proposal could also cause physicians to limit the number of Medicare patients that they accept and the services they provide to those patients.

Athletic training is a profession which has established high educational standards. All Certified Athletic Trainers must have at least a bachelor's degree from an accredited college or university, and over 70% of all athletic trainers have a master's degree or higher. All athletic trainers are required to pass a national exam prior to becoming certified and must complete a designated number of continuing education credits each year.

By allowing only physical therapist, occupational therapists, and speech and language pathologists to provide "incident to" services is unfairly shutting out other healthcare providers from Medicare reimbursement. In essence this decision will make reimbursement for any other healthcare providers by any healthcare management organization or health insurance group impossible. This improperly provides the above mentioned providers with exclusive rights to Medicare reimbursement. This proposal seems motivated to appease the interests of a single profession who is attempting to establish themselves as a sole provider of therapy services.

In conclusion, this proposal is unnecessary and limiting to health care access.

Professionally Yours,

Timothy R. Lengle, MA, ATC, CSCS
Head Athletic Trainer
Rider University
2083 Lawrenceville Rd.
Lawrenceville, NJ 08648-3099

CMS-1429-P-254

Submitter : **Date & Time:** **08/18/2004 08:08:03**

Organization :

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.

Please see the attached document to fully comprehend the detrimental effects this revision would have on Medicare and my Athletic Training profession.

Thank you,
Erin Strong, ATC

CMS-1429-P-254-Attach-1.doc

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 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,

Erin Strong, ATC

CMS-1429-P-255

Submitter : Mr. Scott McCall **Date & Time:** 08/18/2004 08:08:18

Organization : Carolinas HealthCare System

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I wanted to comment on the limit of PT/OT and ST being able to treat Medicare patients. I think it is in the best interest to allow the physician to determine who is the best health care professional to provide care for his/her patient. Certified Athletic Trainers are highly educated individuals that can care for many of the conditions that medicare patients may be experiencing. Cerfified athletic trainers are usually present at senior atheltic events, not PT's OT's or ST's. Please allow physicians to determine the care of their patients. One of the most common complaints of HMO's is that physicians do not have control at times of his/her patients. Do not let medicare go to that as well.

CMS-1429-P-256

Submitter : **Ms. Kathryn Kelly** **Date & Time:** **08/18/2004 09:08:42**

Organization : **UNC Wellness Center at Meadowmont**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Kathryn Kelly
26 Mulberry Lane
Chapel Hill, North Carolina 27516

August 18, 2004

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

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these services. It would reduce the quality of health care for our Medicare patients and 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 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. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

? Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service.

? 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 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.

? Limiting to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of busy physicians, 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 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 the Commission on Accreditation of Allied Health Education Programs via the Joint Review Committee on educational programs in Athletic Training.

? To allow only physical therapists, occupational therapists, 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 people may provide ?incident to? therapy would improperly remove the states? right to license and regulate the allied healthcare professions deemed qualified to provide health care services.

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

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

Sincerely,
Kathryn Kelly, MA, ATC/L

CMS-1429-P-257

Submitter : **Dr. Joseph Bradley** **Date & Time:** **08/18/2004 10:08:08**

Organization : **Bradley PT Clinic**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please support limiting reimbursements for Physical Therapy services to only licensed Physical Therapists. This will protect the patients from receiving treatment from unqualified and state licensed PT's.

Thank You

CMS-1429-P-258

Submitter : **Dino Chambers** **Date & Time:** **08/19/2004 12:08:38**

Organization : **Dino Chambers**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

As presently defined, these proposed rules would bar credentialed and qualified personnel an opportunity to compete in the rehabilitation workplace under the terms of the Scopes of Practice of the Council on Professional Standards for Kinesiotherapy, those allowed by the National Athletic Trainer's Association for trainers and Exercise Physiologists as represented by the American College of Sports Medicine and the American Society of Exercise Physiologists. All three professions (kinesiotherapy, athletic training and exercise physiology) are also accredited by the Commission on Accreditation of Allied Health Education Programs.

Let the Physicians and the American consumer decide who can provide the "incident to" rehabilitation services, not the American Physical Therapy Association.

CMS-1429-P-258-Attach-1.doc

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

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

Your Name
Your Address

September 15, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

- 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,

Your Name, RKT

CMS-1429-P-259

Submitter : **Mr. Sean Monteyne** **Date & Time:** **08/19/2004 03:08:08**

Organization : **NATA**

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 Box 8012
Baltimore, MD 21244-8012

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

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

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 m 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 (CAAHBP) 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.

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.

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,
Sean J. Monteyne MS., ATC/L.

CMS-1429-P-259-Attach-1.doc

Sean J. Monteyne MS., ATC/L.
3707 9th Street
East Moline, IL 61244
Phone (309) 755-8621

August 18, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P 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 m 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 (CAAHBP) 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,

Sean J. Monteyne MS., ATC/L.

CMS-1429-P-260

Submitter : **Mr. Arthur Baudendistel** **Date & Time:** **08/19/2004 04:08:48**

Organization : **Baudendistel Physical Therapy**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Mark McClellan, MD, PhD
Administrator
Centers for Medicare and Medicaid Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Medicare program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005

Hello Dr. McClellan,
I am Arthur Baudendistel, a 48 year old private practicing physical therapist, (PT). I went to college for 7 years to become a PT, culminating at Univ of Cal, @ San Francisco. I worked in a hospital setting, then 15 years in a private orthopaedic practice owned by a different PT, then bought my own privated practice nearly 6 years ago. I have done sporatic home health PT, as well as sub at any private practice, nursing home, or acute care hospital monthly. I am an elected board member for our local American Physical Therapy Association here in northern Calif. I have take 60 continued education classes the past 22 years that typically last 3 days. I have taken a long term (1 Year)weekly PT class. Last year I got Certified through our National Association as an Orthopaedic Certified Specialist (OCS). I also got certified as a Certified Orthopaedic Manual Therapist (COMT) last year. I am not alone; most PTs go through hundreds of hours of professional journal studying and weekend or long term study classes. Our profession knows that on going education is a life time commitment.
My practice is a small practice. I have one office manager, one physical therapist assistant, one half time receptionist and no aides. I don't utilize any unlicensed personnel other than PT student interns to treat my patients. I take one hour minimum to evaluate a new patient and I schedule only 2 existing patients per hour. I feel I and my licensed assistant give excellent quality care.
I stated all of the above to show there probably is a large contrast between the education, quality of care, and committment of a PT to a non physical therapist employee of a MD, DC, or DDS who is treating a patient in the doctor's office and billing it out as physical therapy. I therefore believe that any individuals who furnish outpatient PT services in a doctor's office should only be a licensed PT or a licensed PTA (who is working only with direct supervision of a PT).
I feel the quality of care and safety of the patient is obviously far superior when care is provided by a PT or PTA than from a MD personnel that doesn't share the education and committment of my professional peers. Please dissallow doctors from hiring low payed, far less educated, unlicensed (in PT)personnel to treat patienst who have movement dysfunctions. I believe the doctors due this primarily for financial gain, and not for quality of care. In 99% of the time, there likely is a committed, licensed PT in the area that would love to treat the patient.
Thank you for your time. Please feel free to contact me if more information or clarification would be helpful in your decision making of this extremely important personnel standard.

Sincerely,
Arthur Baudendistel, PT, OCS, COMT
3609 Mission Ave, Suite C
Carmichael, Ca. 95608
(916)487-4681

CMS-1429-P-261

Submitter : **Dr. robert kelly024140** **Date & Time:** **08/19/2004 12:08:22**

Organization : **resurgens**

Category : **Physician**

Issue Areas/Comments

GENERAL

GENERAL

Eliminating ACTs from the therapy loop will only add to the overall cost of health care, regardless of who owns the facility.
You've initiated this "incident to" program, selectively removing it seems serves no purpose than to be punitive. Let the "free" market dictate the course of therapy.

CMS-1429-P-262

Submitter : **Mr. Trevor Bates** **Date & Time:** **08/19/2004 01:08:50**

Organization : **Decatur Memorial Hospital**

Category : **Other Practitioner**

Issue Areas/Comments

GENERAL

GENERAL

CMS-1429-P-262-Attach-1.doc

Trevor M. Bates, MS, ATC/L
Decatur Memorial Hospital
102 West Kenwood
Decatur, IL 62522

August 19, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy – Incident To
Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this 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:

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

- To allow PT assistants and OT assistants to provide services to Medicare patients and not allow Certified Athletic Trainers to is an insult to the Allied Health Care Profession. Allowing lesser educated, experienced and skilled individuals to provide care to Medicare patients is unjustifiable.

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

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

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

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,

Trevor M. Bates, MS, ATC/L
Decatur Memorial Hospital
102 West Kenwood
Decatur, IL 62522

CMS-1429-P-263

Submitter : **Mr. Frank Black** **Date & Time:** **08/19/2004 03:08:49**

Organization : **APTA**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to make a comment in regards to certified athletic trainers performing therapy services on Medicare patients. The skills an athletis trainer has are very good and I believe the education and background are equal to if not better in many aspects of a physical therapist. To take them out of the equation to perform therapy or physical medicine on Medicare patients would hinder all of the professions including physical therapists!

CMS-1429-P-264

Submitter : Mr. Jon Tripod **Date & Time:** 08/19/2004 03:08:55

Organization : Arkansas Methodist Medical Center

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

My name is Jon Tripod and I am a physical therapist employeed by a community hospital as the Director of Physical Therapy. I am writing to comment on the proposed revision to the physician fee schedule for 2005 in specific regards to the establishment of requirements for individuals who provide physical therapy services. I have been a practicing clinician for 12 years. During my years of practice, I have seen patients who have recieved what they described as Physical Therapy at their Physician's office. This treatment however has been substandard in most cases with nurses providing the care. Physical Therapists are the only professionals educated in the unique science of physical therapy. Each physical therapy intervention has specific indications and contraindications for treatment. If these treatments are not provided in the appropriate manner, it can not only be of no benefit but very harmful to the patients. Physical Therapists are highly educated professionals who graduate with at least a masters degree from accredited colleges and universities and are required to maintain their knowledge in the specialized field of physical therapy through continuing education. In fact, the profession is currently transitioning to a doctorate level only profession. Nurses, physicians, and any other health care professionals do not have the specialized training in physical therapy that is required to provide effective and safe treatments. Therefore I strongly support CMS proposed policy to establish requirements for the individuals who provide physical therapy in physician's offices. Thank you for your consderation.
Sincerly,
Jon Tripod, P.T.

CMS-1429-P-265

Submitter : **Ms. Sue Finkam** **Date & Time:** **08/19/2004 04:08:18**

Organization : **Ms. Sue Finkam**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam: I am writing to you regarding incident to services provided in physician offices and clinics. Your recent proposal, if adopted, will unfairly limit physician choice of provider in managing patient outcomes; greatly reduce patient access to physical medicine services; significantly drive up CMS costs for physical medicine services provided; and, unfortunately result in a loss in quality care provided for Medicare patients. Additionally, this proposal unilaterally benefits the American Physical Therapy Association and is absolutely 100% anti-competitive in nature. I am concerned about the assumption by CMS whereby athletic trainers are unqualified as providers of incident to physical medicine services. Where has CMS done studies to determine this to be true? Does CMS really know and understand the educational background and preparation that the athletic trainer is exposed to? Does CMS really care, or is it solely focused on limited other providers in order to benefit the physical therapy profession? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to or better than the quality of services provided by physical therapists. With the US experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas, this proposal makes no sense. Patients will suffer delays in health care and will experience a lack of local care available. In summary, this proposal is unimaginably unfair in limiting the provision of incident to services by athletic trainers. It is neither advantageous nor necessary for CMS to institute the changes proposed, therefore, I hereby recommend it is NOT adopted. Thank you for your consideration of these comments.

CMS-1429-P-266

Submitter : **Miss. Lori Howard** **Date & Time:** **08/19/2004 04:08:55**

Organization : **Valdosta State University**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached letter

CMS-1429-P-266-Attach-1.doc

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

Lori Howard
Valdosta State University
Valdosta, GA 31698

August 19, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

- Athletic Trainers are employed by hospitals, rehabilitation clinics, and industrial corporations prevent, treat, assess, and rehabilitate **active** persons who have become injured at work, at home and though a variety of non-athletic situations.

- 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,

Lori Howard

CMS-1429-P-267

Submitter : **Mrs. Edie Benner** **Date & Time:** **08/19/2004 05:08:34**

Organization : **Advanced Rehabilitation**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a licensed physical therapist that graduated from an accredited physical therapy program and own a private physical therapy practice in Mantua, Ohio. It is a detriment to the consumer and to our profession when a patient comes to my office stating that they had physical therapy previously and it didn't help. When in reality, it was just an ultrasound treatment performed by the secretary, an unlicensed, untrained person in a doctor's office or when someone thinks they had physical therapy and it was just exercise instruction by a personal trainer who did not do a thorough physical therapy examination or make a physical therapy diagnosis before instructing the person in exercises.

CMS-1429-P-268

Submitter : **Stacey Walters** **Date & Time:** **08/19/2004 05:08:00**

Organization : **Valdosta State University**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Please consider the following letter.

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-269

Submitter : **Mr. Philip Villacci** **Date & Time:** **08/19/2004 07:08:25**

Organization : **Resurgens Orthopaedics**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Your confusion in identifying qualified personnel indicates to me that the APTA's clamour is more a restraint of trade rather than quality of services. Your proposal would limit therapy service by a select few who are at best, physician extenders. Doing so would limit pateint access to care. In addition, Certified Athletic Trainers, licensed in the state of Ga. would need to find other work as although Medicare does not allow the services to be provided by an ATC other payers usually follow suite. The AMA has unique CPT codes referencing coverage by an ATC. I am opposed to this review, you are wasting money considering it, you are limiting patient access, you will be adding to unemployment licesed professionals. You have to realize that it is the physician who is ultimately responsible for the patient's care without access you can be certain that some one will file a lawsuit becasue the MD could not get them therapy and it caused them irrrepairable harm. The patient will not sue the APTA for limiting this access but the MD for failing to provide access.

CMS-1429-P-270

Submitter : **Dr. Linda Bobo, ATC, LAT** **Date & Time:** **08/19/2004 08:08:06**

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-270-Attach-1.doc

CMS-1429-P-270-Attach-2.doc

CMS-1429-P-270-Attach-3.txt

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,

John Smith

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,

John Smith

Attachment #0270 (3 of 3)
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,

John Smith

CMS-1429-P-271

Submitter : **Mr. Andrew Duncan** **Date & Time:** **08/19/2004 08:08:34**

Organization : **New York State Athletic Trainers' Association**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached letter with concerns over the implementation of this proposal.

CMS-1429-P-271-Attach-1.doc

Andrew Duncan, MS, PT, SCS, ATC, CSCS
Director, University Sports Medicine
Strong Memorial Hospital / Strong Health
University of Rochester
President, NYSATA
4901 Lac De Ville Blvd., Bldg D, Suite 110
Rochester, NY 14618
ph: 585-341-9150
fax: 585-340-9745
andrew_duncan@urmc.rochester.edu

August 17, 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 or Madam:

As a resident and current New York State Athletic Trainers' Association President, 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 both a licensed Physical Therapist , and Certified Athletic Trainer working at the University of Rochester in Rochester, New York. 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,

Andrew Duncan, MS, PT, SCS, ATC, CSCS
Director, University Sports Medicine
Strong Memorial Hospital / Strong Health
University of Rochester
President, NYSATA
4901 Lac De Ville Blvd., Bldg D, Suite 110
Rochester, NY 14618
ph: 585-341-9150

fax: 585-340-9745
andrew_duncan@urmc.rochester.edu

CMS-1429-P-272

Submitter : **Mr. David Henze** **Date & Time:** **08/19/2004 08:08:55**

Organization : **University of Alabama - Birmingham**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to express my concern over the recent proposal that would limit providersof "incident to" services in physicians offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. There have never been any limitations or restrictionsplaced upon the physician in terms of who he/she can utilize to provide "incident to" service. Because the physician accepts legal responsibility for the individual under his/her supervision, Medicare and private payors have always relied on the professional judgement of the physician to be able to determine who is or is not qualified to provide a particular service for them. This is quite evident right now, as dozens of certified athletic trainers are in Athens with the USOC providing care to America's top athletes vying for Olympic gold.

This proposed change appears to appease the interests of single professional group, who would seek to establish themselves as the sole providers of "incident to" services. That decision should be made by the physician. Please do not accept these changes.

Sincerely,
David Henze MS ATC/L

CMS-1429-P-273

Submitter : **Mr. Stephen Cina** **Date & Time:** **08/19/2004 10:08:53**

Organization : **Integrative Orthopedics**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

8/19/04
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy ? Incident To
Dear Sir/Madam:
I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.
During the decision-making process, please consider the following:
? Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
? There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
? In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
? This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
? Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
? Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.
? To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide ?incident to? services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

SEE THERAPY STANDARDS AND REQUIREMENTS FOR CONTINUATION OF TEXT

THERAPY STANDARDS AND REQUIREMENTS

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

? CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
? Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
? These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.
In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.
Sincerely,

Stephen Cina LATC, Lic. Ac.
Integrative Orthopedics
237 Highland Avenue
Needham, MA 02494
(617) 251-3743
Stephen@integrativeorthopedics.com

CMS-1429-P-274

Submitter : **Ms. Patricia Patane** **Date & Time:** **08/20/2004 12:08:38**

Organization : **Vermont Sports Medicine Center**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

321 Bentley Ave.
Poultney, VT 05764

August 19, 2004

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

Re: Therapy ? Incident To

Dear Sir or 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 proposal would eliminate the ability of qualified health care professionals to provide these important services.

I feel as though I have a unique perspective in regards to this situation. I am an NATA certified athletic trainer, a licensed athletic trainer in the state of Vermont, a certified athletic trainer in the state of New York, and I was formerly a registered athletic trainer in the state of New Jersey. In addition, I am also a licensed physical therapist in the states of Vermont and New York. I received both my BS and MS degrees in athletic training, followed by an additional BS degree in physical therapy. I am presently employed full-time as a physical therapist.

Having a background in both athletic training and physical therapy, I can tell you first-hand, that an individual who earns the credential of NATA ?certified athletic trainer? is an allied health care professional of the highest caliber. All athletic trainers must possess a minimum of a bachelor?s degree, with a very high percentage possessing a master?s degree. The educational background of an athletic trainer is quite grueling, including foundation courses in anatomy, physiology, kinesiology/biomechanics, exercise physiology, nutrition, prevention and care of athletic injuries, and statistics and research design. A candidate to take the NATA certification examination must also log hundreds of practical hours before sitting to take a three-part examination. The standards in an athletic training curriculum are stringent, the dedication level of the candidate must be quite high, and the individuals who earn the credential of ?ATC? (Athletic Trainer, Certified) are typically high quality, well-respected professionals.

Athletic trainers are employed by the vast majority of professional sports teams and colleges/universities, in addition to growing numbers of secondary schools. Athletic trainers play a vital role in the care of our Olympic athletes currently competing in Athens, Greece, and have also become valued professionals in such settings as physician offices, physical therapy clinics, and in industrial settings.

By limiting providers of ?incident to? services in physician offices and clinics, we are doing a disservice to our senior population. A certified athletic trainer who has been trained to provide prevention, care, and rehabilitation of athletic injuries to high-level athletes is more than qualified to provide same services to senior citizens. It is highly insulting and a quite misinformed attitude to believe otherwise. Having a certified athletic trainer on-site, provides our seniors with immediate access to information on injury preventative techniques, appropriate care strategies, and exercises designed to assist them in maximizing function.

In summary, the proposed changes are unnecessary and potentially harmful to the care of our patients. Again, speaking from the perspective of an individual who has extensive experience in the fields of athletic training and physical therapy, a certified athletic trainer is more than qualified to

provide such ?incident to? services.

Thank you for your concern with this matter.

Cordially,
Patricia Patane, MS, ATC, PT, CSCS
Physical Therapist / Athletic Trainer
Vermont Sports Medicine Center

CMS-1429-P-274-Attach-1.rtf

321 Bentley Ave.
Poultney, VT 05764

August 19, 2004

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

Re: Therapy – Incident To

Dear Sir or 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 proposal would eliminate the ability of *qualified* health care professionals to provide these important services.

I feel as though I have a unique perspective in regards to this situation. I am an NATA certified athletic trainer, a licensed athletic trainer in the state of Vermont, a certified athletic trainer in the state of New York, and I was formerly a registered athletic trainer in the state of New Jersey. In addition, I am also a licensed physical therapist in the states of Vermont and New York. I received both my BS and MS degrees in athletic training, followed by an additional BS degree in physical therapy. I am presently employed full-time as a physical therapist.

Having a background in both athletic training and physical therapy, I can tell you first-hand, that an individual who earns the credential of NATA "certified athletic trainer" is an allied health care professional of the highest caliber. All athletic trainers must possess a minimum of a bachelor's degree, with a very high percentage possessing a master's degree. The educational background of an athletic trainer is quite grueling, including foundation courses in anatomy, physiology, kinesiology/biomechanics, exercise physiology, nutrition, prevention and care of athletic injuries, and statistics and research design. A candidate to take the NATA certification examination must also log hundreds of practical hours before sitting to take a three-part examination. The standards in an athletic training curriculum are stringent, the dedication level of the candidate must be quite high, and the individuals who earn the credential of "ATC" (Athletic Trainer, Certified) are typically high quality, well-respected professionals.

Athletic trainers are employed by the vast majority of professional sports teams and colleges/universities, in addition to growing numbers of secondary schools. Athletic trainers play a vital role in the care of our Olympic athletes currently competing in Athens, Greece, and have also become valued professionals in such settings as physician offices, physical therapy clinics, and in industrial settings.

By limiting providers of "incident to" services in physician offices and clinics, we are doing a disservice to our senior population. A certified athletic trainer who has been trained to provide prevention, care, and rehabilitation of athletic injuries to high-level athletes is more than qualified to provide same services to senior citizens. It is highly insulting and a quite misinformed attitude to believe otherwise. Having a certified athletic trainer on-site, provides our seniors with immediate access to information on injury preventative techniques, appropriate care strategies, and exercises designed to assist them in maximizing function.

In summary, the proposed changes are unnecessary and potentially harmful to the care of our patients. Again, speaking from the perspective of an individual who has extensive experience in the fields of athletic training *and* physical therapy, a certified athletic trainer is more than qualified to provide such "incident to" services.

Thank you for your concern with this matter.

Cordially,
Patricia Patane, MS, ATC, PT, CSCS
Physical Therapist / Athletic Trainer
Vermont Sports Medicine Center

CMS-1429-P-275

Submitter : Mr. Devin Healy, ATC, CPT **Date & Time:** 08/20/2004 12:08:41

Organization : Mr. Devin Healy, ATC, CPT

Category : Health Care Provider/Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am surprised that we are being considered "unqualified" professionals. Our education is vastly superior to that of a Physical Therapy Assistant and yet they are considered a professional. Too many times we see PT's spending 5-10 minutes with the patient. Athletic Trainers are the professionals that actually progress and take care of the patient and spend the other 45 minutes with them.
It is obvious that CMS does not understand the qualifications and education that Certified Athletic Trainers possess. Certified athletic trainers are highly qualified medical professionals educated in preventing, recognizing, managing and rehabilitating injuries that result from physical activity. Athletic trainers can help you avoid unnecessary medical treatment and disruption of normal daily life.
Athletic Training Curricula
? Assessment and Evaluation
? Acute Care
? General Medical Conditions and Disabilities
? Pathology of Injury and Illness
? Pharmacological Aspects of Injury and Illness
? Nutritional Aspects of Injury and Illness
? Therapeutic Exercise
? Therapeutic Modalities
? Health Care Administration
? Professional Development and Responsibilities
? Psychosocial Intervention and Referral
Athletic training is recognized by the American Medical Association (AMA) as an allied healthcare profession, and the AMA recommends certified athletic trainers in every high school to keep America?s youth safe and healthy. Specifically, the certified athletic trainer has demonstrated knowledge and skill in six practice areas or domains:
Athletic Training Practice Domains
? Prevention
? Recognition, Evaluation & Assessment
? Immediate Care
? Treatment, Rehabilitation & Reconditioning
? Professional Development & Responsibility
? Organization & Administration
As part of a complete healthcare team, the certified athletic trainer works under the direction of a physician and in cooperation with other healthcare professionals, athletics administrators, coaches and parents. The certified athletic trainer gets to know each patient/client individually and can treat injuries more effectively.

There are also many more reasons that this incident-to should not go through;

? ?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.
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.

Please take all of this into consideration
Sincerely,
Devin Healy, ATC, CPT

CMS-1429-P-276

Submitter : **Mr. George Potter** **Date & Time:** **08/20/2004 01:08:57**

Organization : **Seymour High School**

Category : **Other Practitioner**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I feel that this recommendation unfairly attacks the education, training, and certification requirements of certified athletic trainers who currently provide incident to services in physician offices. It also attacks the professionalism and judgement of licensed physicians who utilize certified athletic trainers to provide these services. To allow a professional group to use CMS to obtain exclusivity of incident to therapy is unjustified, short-sighted and outrageous.

CMS-1429-P-276-Attach-1.rtf

George Potter
Seymour High School
1350 W. Second St.
Seymour, IN 47274

August 19, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- The American Medical Association has recognized that certified athletic trainers (ATCs) are highly qualified to provide rehabilitative therapy, and have recommended that all high schools have certified athletic trainers on staff to provide treatment and rehabilitative services to high school athletes. For the AMA to say that ATCs are qualified to care for our nation's youth, but at the same time CMS suggests that ATCs are unqualified to provide these services ***under a physician's supervision*** to Medicare beneficiaries indicates that CMS has a poor understanding of certified athletic trainers education, certification and licensure requirements.

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,

George Potter, LAT, ATC

CMS-1429-P-277

Submitter : **Ms. Denise Starner** **Date & Time:** **08/20/2004 01:08:21**

Organization : **Ms. Denise Starner**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

RE: "Therapy Incident To"-

I am a licensed physical therapist and board certified geriatric specialist. I have practiced in the state of PA for 18 years in various settings: Hospital, Extended Care, Rehab Centers, Outpatient and Home Health.

I am writting to support CMS's proposal to establish standards for personnel providing physical therapy in physicans' offices. I fully support this requirement as it would mean that individuals providing physical therapy must be graduates of an accredited professional physical therapist program or must meet certain grandfathering clauses or educational requirements for foreign trained physical therapists. I support this, as physical therapist and physical therapists assistants under the supervision of a physical therapist are the only practitioners qualified (through education and training) to provide physical therapy services.

I would also recommend that a requirement for current licensure also be included. Licensure not only serves as a competency assessment, but also protects the public through each state's practice act.

Unqualified personnel should NOT be providing and billing for so-called "physical therapy services" as this is harmful to the patient. As a former Rehab Director in a community hospital, I received numerous calls from local physican offices regarding the proper application of therapeutic modalities such as ultrasound and electrical stimulation. These calls were made by office staff who had no medical training and were attempting to learn how to apply these interventions. They ran the risk of harming the patient as they had no understanding of the physiologic effects, indications and contraindications for proper therapeutic use of these modalities. Potential risks are numerous and could be life threatening, such as pacemaker disruption.

Medicare's requirement for qualifications of practitioners should be consistent over all settings that receive reimbursement for physical therapy services. CMS's proposal will help ensure beneficiaries receive proper evaluation, diagnosis and treatment of their problem by a qualified physical therapist in all health care settings.

Thank you for the your consideration.

Sincerely,
Denise Starner, PT GCS

CMS-1429-P-278

Submitter : Mrs. Kathleen Corpora **Date & Time:** 08/20/2004 05:08:28

Organization : Mrs. Kathleen Corpora

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of incident-to services in physician clinics. If adopted, this would eliminate the ability of qualified healthcare 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.

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.

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

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

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

Independent research has demonstrated that the quality of services proprovided 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 running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

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

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

CMS-1429-P-279

Submitter : **Mr. James Pratt** **Date & Time:** **08/20/2004 11:08:59**

Organization : **Mr. James Pratt**

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 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.

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

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

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

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

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

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

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

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

CMS-1429-P-280

Submitter : Mr. Marty Mabry **Date & Time:** 08/20/2004 11:08:27

Organization : NATA

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a Certified Athletic Trainer, I have my Master's Degree in Athletic Training. I chose to get my degree and have my credentials based on my love for helping physicially active individuals, regardless of there age, orgin, sex, race, etc.
I find what CMS proposed changes would harm my ability as a qualified healthcare provider, to help older individuals who are trying to stay active and live healthier longer lives. Some might even call this age discrimination (allowing one population of people to aquire healthcare services "physical medicine" from an ATC, but not the older CMS populations)! Especially the elderly who are covered under Medicare. It seems to me this could open up a can a worms that CMS would not be able to back pedal fast enough on.
Why is it that CMS wants to propose a change in this area relating to Certified Athletic Trainers? Certified Athletic Trainers are governed in most state with a license (considering them a Allied Healthcare Provider) and considered under the same governing education standards of Physical Therapy and Occupational Therapy (CAAHEP). So why take us out of the equation to provide therapy services to CMS patients. Seems to me this would be a bad move on your part!
Sincerely
M. Mabry

CMS-1429-P-281

Submitter : **Mr. Daniel Watson** **Date & Time:** **08/20/2004 11:08:06**

Organization : **University of Delaware**

Category : **Health Care Professional or Association**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

How can you discount athletic trainers when we are usually the first line of health care for athletes ranging from your sons and daughters recreational teams to athletes at the highest levels of high school, collegiate, professional and olympic sports. Not only do we evaluate and treat initial injuries, but we focus on prevention and rehabilitation of all injuries. We provide an invaluable service to literally millions of athletes (on all levels) across the United States and worldwide. The world looks to us as the cutting edge in research and revolutionary techniques for treating athletes. Your proposal is closed minded and poorly researched.
Please feel free to contact me.
Daniel J. Watson, MEd, ATC
Assistant Athletic Trainer
University of Delaware
O: (302) 831-8857
H: (732) 940-8802
dwatson@udel.edu

CMS-1429-P-282

Submitter : **Mrs. Jennifer Bridges** **Date & Time:** **08/20/2004 12:08:23**

Organization : **NATA**

Category : **Individual**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I feel that as a licensed certified athletic trainer with my Master's, who currently treats patients up until they start medicare insurance, that it is unfair to me and to the patients to say that they cannot be seen by us. Does the rehab process all of the sudden change on the day that they turn 65 or start medicare? What we learn in school is how to treat the body as a whole and to taylor an individual's rehab program based on their current limitations and goals they want/need to obtain. I currently work in a physician owned practice and due to the recent issues regarding this, our company has a policy to where ATC's do not see medicare patients. As a result of this, I have seen patients up to their birthday when they began medicare and then had to turn them over to a PT. The patients that I have worked with think that it is unfair to them since we are equally qualified in treating them and have gotten them to the point they are at in their rehab process. They often begin to have a negative attitude towards medicare when we begin to explain the issue. If this ruling passes, this trend will only continue to grow when we have the educational background to treat these patients.

CMS-1429-P-282-Attach-1.doc

Jennifer Bridges
3104 H Spring Hill Pkwy
Smyrna, GA 30080

August 20, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible healthcare. 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 healthcare 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 are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide “incident to” outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. 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,

Jennifer Bridges, A.T.C.

CMS-1429-P-283

Submitter : **Mrs. Leslie George** **Date & Time:** **08/20/2004 02:08:50**

Organization : **Athletic Training**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

See attachment

CMS-1429-P-283-Attach-1.wpd

MILLENNIUM HIGH SCHOOL

EXCELLENCE THROUGHOUT THE MILLENNIUM

Sandra Haiflich
Principal

William McMillan
Assistant Principal

Dennis Runyan
Assistant Principal

George Helmstetler
Athletic Director

HOME OF THE TIGERS

Receptionist (623) 932-7200
Fax (623) 932-7204

MAILING & PHYSICAL ADDRESS
14802 W. Wigwam Blvd.
Goodyear, AZ 85338

August 19, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

Leslie George

Leslie George, ATC, MS
Millenium High School
12802 W. Wigwam Blvd
Goodyear, AZ 85355

CMS-1429-P-284

Submitter : **Mrs. Kari Rau** **Date & Time:** **08/20/2004 04:08:02**

Organization : **Mrs. Kari Rau**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Therapy--Incident To

CMS-1429-P-284-Attach-1.doc

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 or Madam:

I am writing to express my deep 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 am deeply concerned that CMS would consider proposing this change because there is no evidence that there is a problem. It appears that actions is only being taken to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services. 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.

As a health care professional, I am outraged and insulted by the actions CMS is considering in restricting who can and cannot provide services "incident to" a physician office visit. If this action is to take effect, it would have a huge impact on other qualified allied health care professionals, including certified athletic trainers, providing medical care. Certified or licensed athletic trainers are highly educated individuals that hold at a minimum a bachelor's degree from an accredited college or university. Seventy percent of all athletic trainers hold 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, 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 provide services to the most elite athletes in the country. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified. In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kari M. Rau, MPA,LAT,ATC
Assistant Athletic Trainer Drake University
Des Moines, Iowa

CMS-1429-P-285

Submitter : **Date & Time:** **08/20/2004 05:08:10**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am currently a physical therapist student and I strongly support CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs. I believe that this requirement will protect patients by offering them quality treatments from well trained therapists. I am just about to begin my second year of physical therapy school. Having already completed one year of school, I know that the educational requirments of physical therapists are quite high. All accredited physical therapy programs are currently at the post-baccaulaureate level and by 2005 the majority of the programs will offer a doctor of physical therapy degree. The programs are very rigorus and only dedicated students can succeed. The information that we learn is very extensive and I cannot imagine trying to practice physical therapy without a sound educational background in the field. All physical therapists graduating from professional accredited schools will have an extensive background in anatomy, physiology, neuorolgy related to physical therapy, biomechanics of the human body, differential diagnosis, and evaluation and treatment of musculoskeletal conditions, geriatic and pediatric disorders, and neuologic problems. Additionally, these programs include many hours of clinical experience to ensure that students are experienced clinicians when they enter into the field after graduating from their program. Thus, educated physical therapists have a very broad understanding of the body and its functions, enabling them to effectively evaluate and treat patients. Requiring all persons who practice physical therapy to be educated in an accredited professional physical therapist program can only be good for the patients, offering them the highest quality of care possible.

CMS-1429-P-286

Submitter : **Date & Time:** **08/20/2004 05:08:38**

Organization :

Category : **Academic**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a physical therapy student, just about to begin my first year in an accredited doctoral physical therapy program. I am also in the process of becoming a certified athletic trainer. I work in a private physical therapy clinic and have spent many hours in other clinics as an athletic training student volunteer. I am in favor of CMS?s proposal in the rule that establishes specific standards for personnel providing physical therapy services in physicians? offices. I believe that the knowledge and skills that physical therapists encompass cannot be duplicated by another individual without the special training received in an accredited physical therapy program. It has been my experience that only licensed physical therapists can provide these physical therapy services. While other health care professionals have knowledge of the human anatomy, physical therapists have an applied knowledge including anatomy, physiology, biomechanics, and the comprehensive patient care experience. Section 1862(a)(20) of the Social Security Act requires that in order for a physician to bill ?incident to? for physical therapy services, those services must meet certain requirements for outpatient therapy services in all settings. In order for those services to be consistent across the various settings, they must be performed by a graduate from an accredited physical therapy program. Thank you for your consideration of my comments.

CMS-1429-P-287

Submitter : Ms. **Date & Time:** 08/20/2004 07:08:58

Organization : Ms.

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a physical therapist, I cannot provide or bill for services that are chiropractic, dental, podiatric or otherwise in nature. I can only provide and thus bill for PHYSICAL THERAPY because I am a physical therapist trained in an accredited physical therapist program and licensed by my state to practice physical therapy. It would be detrimental for patients to receive 'therapy services' by anyone other than a licensed physical therapy professional.

CMS-1429-P-288

Submitter : **Mrs. Ernestine Reeder** **Date & Time:** **08/20/2004 09:08:17**

Organization : **Individual**

Category : **Individual**

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

Regarding Medicare payment for cancer treatment. Please provide funding for patients to receive the best cancer treatment available as prescribed by their physicians. Many patients will not receive the treatment they need to improve their chances of living a better quality of life with reduced pain if Medicare does not pay for it.

CMS-1429-P-289

Submitter : **Mr. John Townsend** **Date & Time:** **08/20/2004 10:08:58**

Organization : **Montana State University - Billings**

Category : **Other Health Care Professional**

Issue Areas/Comments

GENERAL

GENERAL

Please see attached file

CMS-1429-P-289-Attach-1.doc

Montana State University - Billings
Athletics Department
1500 University Dr.
Billings, MT 59101
(406) 657-2375

August 20, 2004

In regards to: Therapy -- Incident To

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

Dear Sir or Madam:

I am writing this to express my disapproval of the upcoming proposal regarding the treatment of patients on Medicare or Medicaid. The implication that Certified Athletic Trainers are not qualified to treat patients is ludicrous. The implication that a patient's personal physician does not know what treatment is best for his or her patient is equally absurd. By allowing this proposal to pass, that is exactly what CMS would be inferring.

Certified Athletic Trainers are trusted world-wide with the prevention, assessment, evaluations, initial treatment, continued care and rehabilitation of musculoskeletal injuries. For the better half of a century, our profession has worked side-by-side with orthopedic surgeons, physical therapists, occupational therapists, and many other medical professionals to see that patients receive the best possible care.

I, personally, have worked alongside physical therapists and have seen skills which they lack where athletic trainers excel. Examples of such skills are: acute evaluations and treatments of musculoskeletal injuries, psychological understanding of athletes' mental injuries, returning patients quickly to highly competitive levels of activity, and decisions in regards to returning to competition.

The previous four examples are merely a sample of specialty skills which athletic trainers possess. Just as speech therapists are specialists with assessment and rehabilitation of speech pathologies, athletic trainers are specialists in assessment and rehabilitation of athletic and musculoskeletal injuries.

Physicians trust athletic trainers with the care of their patients and hire them to work in their clinics. State governments trust athletic trainers and license them as allied health professionals and hire them in their school and university systems. The federal government trusts athletic trainers by accrediting our educational programs. More importantly, our patients and athletes trust us as the best source of medical care available to them. Who at CMS is qualified to say that we can not be trusted to provide quality care in a field of our specialty?

Please revise your "incident to" proposal and either leave the decision of care to the physician or include certified athletic trainers in the category of approved medical providers for patient therapy.

Respectfully,

John D. Townsend, ATC
Graduate Assistant Athletic Trainer
Montana State University-Billings

JT

CMS-1429-P-290

Submitter : Mrs. Kimberly Competelli **Date & Time:** 08/21/2004 02:08:37

Organization : Mrs. Kimberly Competelli

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To Whom it May Concern: I am writing in response to the limitations of physical therapy charges to other healthcare professionals working under a physician. I am both an athletic trainer and physical therapist. So I am fortunate enough to see both sides of this picture. My ATC organization would like me to be against this policy, however I would have to say I agree with it. As a physical therapist I have undergone extensive training to treat the musculoskeletal system as well as nervous and cardiopulmonary systems. This makes me an ideal person to be performing physical medicine on all medicare patients. As an athletic trainer, who would fall into the category of incident to, I received extensive training on athletic injuries, prevention and rehabilitation to return to play. Currently I work in a CORF and see primarily medicare patients. I can say objectively that an athletic trainer does not receive the training to work with the geriatric population, I received that training as a physical therapist. I would not expect a physical therapist to work on the athletic field, because they do not have the knowledge of onsite evaluation and emergency procedure. I find it a great dis-service to the medicare population to allow untrained professionals to perform rehabilitation when there is an entire field of qualified professionals to do so. An Atheltic trainer, massage therapist, exercise specialist receive no training on pulmonary rehabilitation, cardiac rehabilitation, or CVA's; not to mention the numerous effects of medications and co-morbidities that many of the elderly face that effect physical therapy. I may add that the results achieved by a physical therapist may greatly change not only the quality of life of those patients, but the cost of health care by prevention of further problems. Other healthcare professionals have important roles in healthcare, just not in providing physical therapy services. I appreciate your time and hope that I have been able to make an objective point by being both a physical therapist and athletic trainer.
Sincerely,
Kimberly Competelli, MPT, ATC/L

CMS-1429-P-291

Submitter : **Date & Time:** **08/21/2004 07:08:04**

Organization :

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a licensed physical therapist in Kansas and Missouri and have enjoyed practicing as an active physical therapist for the past 26 years. Also, I am a co-owner of a private practice physical therapy practice serving out-patient physical therapy patients. We are completing our 26th year of providing care.

My comments concern the August 5th proposed rule on 'Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005.' In the proposed rule, CMS discusses establishing requirements for individuals who furnish outpatient physical therapy services in physician's offices. CMS proposes that individuals providing physical therapy must be graduates of an accredited professional physical therapist program and be duly licensed to provide these services. Being licensed as a physical therapist or physical therapist assistant, gives value to the status of licensure and provides a standard that the public knows what type of care to expect.

BRAVO, BRAVO, BRAVO!!!!!!!!!!!!!!!!!

Unqualified personnel should NOT be providing physical therapy services. Physical therapists (P.T.) and physical therapist assistants (P.T.A.), under the supervision of a physical therapist, are the only practitioners who have the education and training to furnish physical therapy services. Physical therapist and physical therapist assistants are professionally educated and have received significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed coomprehensive patient care experience. This education and training is particularly important when treating Medicare beneficiaries.

The delivery of so-called 'physical therapy services' by unqualified personnel is harmful to patients. If an elderly patient has a condition referred to as 'spinal stenosis' and you place this patient on the same 'standard protocul' of low back exercises given to an middle age or young person, you will do further damage. The complications arising from a stroke and the critical rehabilitation that follows can only be determined by a licensed physical therapist.

In Missouri, our state law does not allow for physicians to own a physical therapy clinic. This has prevented an abuse of self-referral and hs eliminated unnecessary treatments from being conducted thus providing improved quality care and elimination of fraud especially within the Medicare system.

In Kansas, physicians are allowed to provide physical therapy servies within the 'walls of their practice.' We have been informed from patients who have specifically REQUESTED going to another private practice clinic and the physician tells the patients 'it is best to stay within my practice as I can monitor your progress in rehabilitation.' This monitoring NEVER happens! All of the patients that have visited us following these incidents state they NEVER saw the physician during rehabilitation and the tech provided all of the care. This is fraud and patients are too scared to question the physician. Give patients a choice and the peace of mind that they will be treated by a licensed physical therapist or physical therapist assistant.

A financial limitation on the provision of therapy servies (referred to as the therapy cap) is scheduled to become effective January 1, 2006. Under the current Medicare policy, a patient could exceed his/her cap on therapy without ever receiving services from a physical therapist. This will negatively impact patient's outcomes. If a total knee patient does not have the neuromuscular control, functional strength, balance, and coordination to accomplish stairclimbing, within their cap, they become a non-functional individual who cannot perform their normal ADL. Also, it cost our medical system to care for these individuals.

Thank you for opportunity to deliver my comments.

CMS-1429-P-292

Submitter : **Mrs. Elizabeth Childress** **Date & Time:** **08/22/2004 07:08:57**

Organization : **Mrs. Elizabeth Childress**

Category : **Individual**

Issue Areas/Comments

GENERAL

GENERAL

Wish to object to the new restrictions on Medicare funding for cancer drugs.

CMS-1429-P-293

Submitter : **Mrs. Carolyn Bloom** **Date & Time:** **08/22/2004 07:08:49**

Organization : **Mrs. Carolyn Bloom**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Bloom & Associates Therapy
1045 SW Gage Blvd.
Topeka, KS 66604 785.273.7700
2223 Louisiana St.
Lawrence, KS 785.865.3737
924 Locust
Eudora, KS 66025 785.542.3333

Mark B. McClellan, MD, PhD
Administrator, CMS
US Dept. of Health and Human Services
Attention: CMS-1429-P
Baltimore, MD

I am a physical therapist working in outpatient clinics in Topeka, Lawrence and Eudora, Kansas so I see patients in rural and more urban areas. I have treated patients from both areas who have told me they received 'physical therapy' treatment that didn't help them before being referred to my clinic. When I asked more questions, almost always the patient received ultrasound or electrical stimulation only for over 15 to 20 treatments without exercises, education on self care, body mechanics, etc. The 'treatment' was provided in the MD's or DO's office by a staff member who was not a physical therapist.

Fortunately, this was within the recent months when the $1590 per year Medicare Rehab. cap moratorium was in place, so another physician referred the patient to my clinic and all the rehabilitation funds were not 'exceeded'. Using proper physical therapy evaluation and treatment/education techniques, I was able to improve these patients to a point of self care with five to six treatments. The prior 'treatments' elongated the time of the patient's symptoms and pain and cost the insurance company and patient money without benefit. However, this process gives a distorted view to the patient of what is really 'physical therapy'and who can provide it.

The MDs and DOs were not providing the in-office treatment due to a physical therapist being unavailable to the patients in the area, because my clinics are available. The other physical therapists and I in these areas also go to the patient's homes to provide treatment when the patient has no transporation or unable to travel well. The MDs and DOs staff do not provide this service because it does not pay as well as giving a modality treatment by on-the-job trained staff, or other non physical therapists in the office.

Physical Therapists are educated to treat patients with pathology, either orthopedic and/or neurological, to return them to the highest functional level and train them to be able to attain a program of self wellness activities. Athletic trainers are educated to care for healthy persons in an athletic endeavor; thus their name.

Patients and third party payors benefit from having the properly educated health care providers available to the patients. Services provided in an MD/DO/Chiropractor office should meet all the regulations and requirements of care provided in a Physical Therapist's clinic.

Thank you, Dr. McClellen, for your consideration of my comments.

Sincerely,

Carolyn Bloom, PT

CMS-1429-P-294

Submitter : **Mr. Glen Cooper** **Date & Time:** **08/23/2004 02:08:32**

Organization : **Penn-Trafford High School**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please allow the physicians to have the autonomy to decide which health care professional best fits their patients needs.

CMS-1429-P-294-Attach-1.doc

Glen L. Cooper, ATC
Penn-Trafford High School
Box 530, Route 130
Harrison City, PA 15636-0530

August 23, 2004

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

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

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

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

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

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

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

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

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

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

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

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

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

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers 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.

- ***Physicians should have the autonomy to choose which health care professional that will best serve their patient.***

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,

Glen L. Cooper, ATC

CMS-1429-P-295

Submitter : **Joseph Neczek** **Date & Time:** **08/23/2004 01:08:00**

Organization : **American Kinesiotherapy Association**

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 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.

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

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

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.

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

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

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

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

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-296

Submitter : **Dr. Gregory Woods** **Date & Time:** **08/23/2004 01:08:28**

Organization : **Hays Orthopaedic Clinic, P.A.**

Category : **Physician**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attached Word Document

CMS-1429-P-296-Attach-1.doc

Gregory A. Woods, M.D.
Hays Orthopaedic Clinic, P.A.
2500 Canterbury Dr.
Hays, KS 67601

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 know that I am just an orthopaedic surgeon in a rural area. But I have to try to take care of 1 college and 14 high schools along with 46% of my patients being Medicare. 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. I have the right as a physician to delegate the care of my patients to trained individuals (including certified athletic trainers, nurses, ect.) whom I deem 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. There are not enough physical therapists in our area to provide this care. We have to resort in traveling therapists who come in and barely provide the necessities in some of my rural areas. My patients would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient. Often my patients travel hours to see me and if I had to separately have the patient see a physical therapist there would be undue expense and ultimately patients would just not seek the care they need because it has been made too difficult for them to arrange transportation from family.

- 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. The average time to see an initial patient in our area is 7-10 days. That may not sound too bad but the first week or two after an injury or after surgery is critical in determining the outcome. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care. I am already having to limit the number of patients that I can see and I am working an average of 70 hours per week.

- 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,

Gregory A. Woods, M.D.
Hays Orthopaedic Clinic, P.A.
2500 Canterbury Dr. Suite 112
Hays, KS 67601

785-628-8221

CMS-1429-P-297

Submitter : **Anthony Gambill** **Date & Time:** **08/23/2004 03:08:48**

Organization : **Anthony Gambill**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am a Certified Athletic Trainer and I am writing to defend our practice of caring for those patients who are cared for through medicare. Please see the attached file.

CMS-1429-P-297-Attach-1.wpd

Re: Therapy – Incident To

Dear Sir/Madam:

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

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

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician’s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician’s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent,

assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

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

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

Sincerely,

Anthony W. Gambill

CMS-1429-P-298

Submitter : **Mr. Scott Nye** **Date & Time:** **08/23/2004 04:08:04**

Organization : **Orland Therapy Specialists, Ltd.**

Category : **Physical Therapist**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support CMS's proposal that individuals who furnish physical therapy services in physician offices must be licensed physical therapists and graduates of an accredited professional physical therapy program.

Licensed PT's, and PTA's under the supervision of PT's, are the only health care providers who have the requisite training, education and legal state licensing to provide physical therapy services.

Delivery of therapy services by unqualified person has great potential to cause harm to patients, and to be rendered in a manner that is not cost effective or outcome oriented.

CMS-1429-P-299

Submitter : **Mrs. Julie Warren** **Date & Time:** **08/23/2004 04:08:58**

Organization : **Personal Rehabilitation Center, PC**

Category : **Physical Therapist**

Issue Areas/Comments

GENERAL

GENERAL

I would like to add my full support to the CMS proposal that individuals who provide physical therapy services in a physician's office must meet the standards of the profession of physical therapy including licensure and accredited educational requirements.

Regulatory and licensure boards are in place to primarily protect the healthe care consumer in two ways:

1. To insure quality of service.
2. To prevent misrepresentation by other non-qualified professionals that their services are equivalent to more highly trained/skilled professionals.

The field of physical therapy and the scope of practice are not well understood by the laymen. It would be easy for someone seeking care to believe they were recieving qualified and professional care without these proposed guidelines in place.

Physical therapists possess skills that not only include the percription of therapeutic exercise, but the foundation of training and understanding that provide the rationale for understanding why an exercise would be beneficial or harmful.

As an example, knowing how to stretch your hamstring does not qualify you to perscribe it to someone. Knowing why you would or would not stretch it, or what effect it has on muscular balance or pelvic and spinal position or nervous tissue tension, as a licensed and trained physical therapist does, is necessary to protect the consumer.

As administrators it is your responsibility to fully verse yourself with the scope of training and practice of Physical Therapists. If you yourselves are unaware of this, imagine the general public and health care consumers. Your job is to protect their interests in health both physically and fiscally.

Thank you for your consideration. Please feel free to contact the American Physical Therapy Association for practice guidelines that may help you understand the full scope of training and service licensure in this profession.

Sincerely,

Julie Warren, PT

CMS-1429-P-300

Submitter : **Mr. Joe Schmitz** **Date & Time:** **08/23/2004 05:08:13**

Organization : **HealthTracks**

Category : **Other Health Care Professional**

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Joe Schmitz ATC, R
HealthTracks Sports Training Center
4331 S. Fremont
Springfield, MO 65804

August 23, 2004

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

Re: Therapy ? Incident To

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

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

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,

Joe Schmitz
Certified Athletic Trainer, Registered
HealthTracks Sports Training Center