

October 18, 2013

The Honorable Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Orrin Hatch
Ranking Member
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Hatch:

Representing the interests of patients, consumers and health care providers, the undersigned organizations urge Congress to address a long-term solution for the outpatient therapy cap as it considers repeal of the Sustainable Growth Rate (SGR). We feel this year is an opportune time to seek a long-term strategy that would alleviate the pattern of yearly extensions that put patient access to medically necessary therapy services at risk.

Some 931,000 Medicare beneficiaries¹ per year require the therapy cap exceptions process to ensure timely access to outpatient rehabilitation services. While passage of the therapy cap exceptions process has helped to reduce the risk of these services being discontinued it does not provide a permanent solution for policy makers or those who utilize outpatient therapy to remain functional in their daily lives. Including a long-term therapy cap solution in the larger SGR package will ensure that Medicare beneficiaries will continue to have access to these vital services.

Efforts to address the therapy cap must encompass reforms to a number of existing flawed policies, including the manual medical review process. In an effort to identify consensus on the key policy items that collectively represent a comprehensive solution to the cap our organizations have identified a number of key areas of agreement on the topic of manual medical review (MMR).

As you know, The American Taxpayer Relief Act (ATRA) extended a provision from previous legislation that established a manual medical review process for outpatient therapy services exceeding \$3700. Unfortunately, providers, patients and consumers are encountering numerous challenges with regard to implementation of the MMR. When Medicare patients exceed \$3700 in outpatient therapy services, providers are experiencing major delays in the MMR process, overly burdensome additional documentation requests (ADRs), loss by the contractors of medical records submitted by providers, insufficient rationale for denials, and backlogs in the appeals process. As a result, patient access to medically necessary outpatient therapy is being increasingly threatened, potentially resulting in more complications and creating uncertainty about whether to proceed with patient care.

With this in mind, the undersigned organizations recommend the following policy revisions to MMR in order to better manage this process for the providers and the Medicare beneficiaries needing therapy services:

- Develop an electronic mechanism for the submission, confirmation of receipt, and tracking of MMR requests;

¹ Calculation based on MedPAC's June 2013 report

- Require CMS to standardize, simplify, and make uniform forms, documentation requests, and determination letters;
- Establish an enforcement mechanism for compliance with the required 10 business day turnaround of MMR requests (e.g. financial penalties for contractors not performing the review in the required timeframe) and automatic approval of claims if 10 days is exceeded;
- Require a GAO or similar report to monitor the process. This should include metrics such as cases approved or denied, number of reviews when the 10 day turnaround was exceeded and number of successful appeals;
- Place a time limit on Medicare contractor issuance of ADRs (e.g. within one business day of receipt of claims exceeding \$3700); and
- CMS should review MMR data to determine if targeted medical reviews of outliers above \$3,700 is more appropriate than broad, burdensome, blanket reviews. Outlier factor selection shall be data driven, transparent, and involve stakeholder input to assure appropriate access to patient populations with more extensive therapy needs.

We appreciate your leadership on this issue and willingness to assist in improving this process which will result in stable access to critical rehabilitation services.

Sincerely,

American Academy of Physical Medicine and Rehabilitation
American Health Care Association
American Heart Association/American Stroke Association
The ALS Association
American Medical Rehabilitation Providers Association
American Occupational Therapy Association
American Physical Therapy Association
American Speech-Language-Hearing Association
Arthritis Foundation
Brain Injury Association of America
Easter Seals
LeadingAge
National Association of Rehabilitation Providers and Agencies
National Association for the Support of Long Term Care
The National Multiple Sclerosis Society
National Stroke Association
Parkinson's Action Network
Private Practice Section, American Physical Therapy Association
PTPN (Nationwide network of private PT, OT, & SLP providers)
United Spinal Association