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February 19, 2019

Patrick Shanahan
Acting Secretary
Department of Defense
Attn: RIN 0720-AB72
1400 Defense Pentagon
Washington, DC 20301

Submitted Electronically

RE: TRICARE; Addition of Physical Therapy Assistants and Occupational Therapy Assistants as TRICARE-Authorized Providers [RIN 0720-AB72]

Dear Acting Secretary Shanahan:

On behalf of our more than 100,000 member physical therapists, physical therapist assistants, and students of physical therapy, the American Physical Therapy Association (APTA) is pleased to submit comments in response to the Department of Defense (DoD) Office of the Secretary's proposed rule, TRICARE; Addition of Physical Therapy Assistants and Occupational Therapy Assistants as TRICARE-Authorized Providers. The mission of APTA is to build a community to advance the physical therapy profession to improve the health of society. Physical therapists play a unique role in society in prevention, wellness, fitness, health promotion, and management of disease and disability by serving as a dynamic bridge between health and health services delivery for individuals across the age span. While physical therapists are experts in rehabilitation and habilitation, they also have the expertise and the opportunity to help individuals improve overall health and prevent the need for avoidable health care services. Physical therapists' roles may include education, direct intervention, research, advocacy, and collaborative consultation. These roles are essential to the profession's vision of transforming society by optimizing movement to improve the human experience.

Please find our detailed comments below.

Add Licensed or Certified Physical Therapist Assistants and Occupational Therapy Assistants as TRICARE-Authorized Providers

APTA strongly supports DoD's proposal to add licensed or certified physical therapist assistants (PTAs) and occupational therapy assistants (OTAs) as TRICARE-authorized providers, operating under the same qualifications established by Medicare. (42 Code of Federal Regulations (CFR) §484.115). Services must be furnished under the supervision of and billed by a licensed TRICARE-authorized physical therapist or occupational therapist.

PTA Qualifications

APTA supports DoD's proposal to tie the qualifications of PTAs under the TRICARE program to Medicare's requirements. However, Medicare's requirements for PTA qualifications are codified at 42 CFR §484.115, not §484.4. We strongly recommend DoD revise the reference in final rulemaking to the correct Medicare regulation. Additionally, we recommend that DoD eliminate references to the types of services PTAs perform, as this could potentially be misinterpreted to indicate that these are the only services that PTAs can furnish. The physical therapist is professionally trained to oversee and direct a patient's course of care, and to assign responsibilities to the assistant as they are clinically appropriate. As such, APTA cautions DoD against writing into the final rule what should remain a clinical decision by the physical therapist.

*Codify the Term "Physical **Therapist** Assistant" at 32 CFR §199.6*

DoD references "physical therapy assistants" throughout the proposed rule. The term physical therapy assistant is not accurate; rather the correct term is physical therapist assistant (PTA). The term physical therapist assistant is referenced in 42 CFR §484.115; as such, we strongly encourage DoD to codify the term **physical therapist assistant (PTA)** at 32 CFR §199.6.

PTA Supervision

We support DoD's proposal to match TRICARE's direct and general supervision requirements to Medicare's. However, we strongly recommend that DoD clarify in final rulemaking that direct supervision does **not** require the supervising physical therapist to be in the room with the PTA at the time the service is performed, but rather, **in the office suite**. Pursuant to CMS Publication 100-04, Medicare Benefit Policy Manual, Chapter 15, Section 230.4(B), the supervising physical therapist is present in the office suite at the time the service is performed.¹ Moreover, we urge DoD to clarify in final rulemaking that direct supervision of PTAs is required only in the physical therapist private practice setting and that all other settings, including acute care hospitals, inpatient rehabilitation facilities, home health agencies, and skilled nursing facilities, require only general supervision.

Reimbursement Requirements

APTA supports DoD's proposal to require services provided by the TRICARE-authorized PTA to be billed under the TRICARE-authorized supervising physical therapist's National Provider Identifier (NPI). Within the rule, DoD states that in implementing instructions, it will follow Medicare's requirements as found within Medicare Benefit Policy Manual

¹ Medicare Benefit Policy Manual, Chapter 15, Section 230.4(B). <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c15.pdf>. Accessed December 21, 2018.

Chapter 15.6 Part C and other issuances regarding reimbursement of services provided by PTAs.

However, Medicare Benefit Policy Manual Chapter 15.6 Part C **does not exist**. If DoD intended to refer to Chapter 15 Section 60, we note that this section applies to services and supplies furnished incident to a physician's or/nonphysician practitioner's (NPP) professional service, although a PTA cannot furnish services incident to a physician's services; further, services furnished by a PTA are not discussed in this section of the manual. We recommend that DoD clarify in final rulemaking that it will follow Medicare's requirements as found within Medicare Benefit Policy Manual Chapter 15 Sections 220 and 230, which are applicable to coverage of physical therapy services. Specifically, Section 230.1 Part C discusses services furnished by PTAs.²

Eliminate Reference to Certified Physical Therapists in Final Rulemaking

DoD references in the proposed rule that PTAs may provide physical therapy services when supervised and billed "under a licensed or certified TRICARE-authorized physical therapist." After graduation from an accredited physical therapist program, physical therapists must pass a state-administered national licensure examination. Physical therapists are licensed in all jurisdictions. Further, within 32 CFR §199.6(K)(2)(i), DoD uses the term "licensed registered physical therapist." Therefore, APTA recommends that DoD eliminate any reference to "certified" physical therapists in final rulemaking.

Clarify Referral Definition

APTA recommends that DoD provide additional clarification regarding the updated referral definition referenced within the proposed rule, which reads as follows:

In order to fully implement section 721 of the NDAA for 2018, DHA is updating the definition of referrals to remove the limitation that only physicians can make referrals and to distinguish between necessary referrals for general benefit coverage and referrals required under TRICARE Prime for Prime enrollee care. All referral requirements are provided in the regulations and in the implementing instructions.

We understand this statement to mean that TRICARE-authorized physical therapists and occupational therapists will be able to make referrals under Defense Health Agency's updated definition of referrals. APTA encourages DoD to clarify in final rulemaking the details of this provision.

Finally, to increase access to physical therapy services and enhance beneficiary choice in provider selection, we strongly encourage DoD to promulgate the final rule as soon as possible.

Conclusion

APTA thanks DoD for the opportunity to comment on the Addition of Physical **Therapist** Assistants and Occupational Therapy Assistants as TRICARE-Authorized Providers

² Medicare Benefit Policy Manual, Chapter 15, Section 230.1. <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c15.pdf>. Accessed January 2, 2019.

proposed rule (our emphasis added in reference to the need to correct the term “therapy” to “therapist” in final rulemaking). Should you have any questions regarding our comments, please contact Kara Gainer, director of regulatory affairs, at 703/706-8547 or karagainer@apta.org. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Sharon L. Dunn". The signature is written in a cursive, flowing style.

Sharon L. Dunn, PT, PhD
Board-Certified Orthopaedic Clinical Specialist
President

SLD: krg