

PTeam Alert Newsletter

APTA's Grassroots Network – August 2008 Edition

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AFTER THE VOTE... Influential Ways to Say “Thank You”

Recent grassroots advocacy efforts by the physical therapy community helped ensure Medicare beneficiaries' access to essential rehabilitation services provided by physical therapists and physical therapy assistants. As with most legislative issues, your vital advocacy role is far from over. It is important to remember that thanking your Members of Congress is a critical communication tool that helps build relationships and improve future advocacy efforts. **Now is the time for you to reach out to your Senators and Representative and thank them for their support in passing the Medicare Improvements for Patients and Providers Act of 2008 (H.R. 6331).**

Here are five great ways to say THANK YOU:

- ❖ **Thank You Letter.** The quickest and easiest outreach you can do is to write a thank you letter. APTA has drafted a template letter for you to use directly or as a guide in crafting your own [letter](#) to your member of Congress.
- ❖ **Volunteer.** Volunteering some of your time is a valuable way to show your appreciation to your Member if they are up for re-election this year. Campaigns are always in need of volunteers to help stuff envelopes, write letters, assemble/deliver lawn signs, make phone calls, and much more. Click here to [access candidate information](#) and find ways to volunteer your time!
- ❖ **Direct Campaign Contributions.** A financial contribution to your Member's campaign is a prominent gesture of thanks for their support on issues affecting the physical therapy community. You can contribute directly to the campaign or work with the campaign office on various fundraising efforts (which may include hosting a fundraiser of your own).
- ❖ **PT-PAC.** You can also contribute to APTA's PT-PAC which allows the physical therapy profession to channel its financial and grassroots support to help elect candidates to Congress. Information on PT-PAC, how to contribute, and pictures of your colleagues promoting the profession can be found online at www.ptpac.org.
- ❖ **Media.** Finally, consider sending an op-ed piece to your local newspaper to thank your lawmaker for supporting H.R. 6331. Whenever members of Congress are recognized, even by brief letter to the editor, they appreciate it—and they tend to take notice of who paid the compliment.

INSIDE H.R. 6331- the Medicare Improvements for Patients and Providers Act (MIPPA)

The following are some of the provisions of H.R. 6331 that will affect physical therapists. To learn more about MIPPA visit [Medicare Updates](#) on APTA's [advocacy](#) website.

Therapy Cap Exceptions Process

MIPPA provides an 18 month extension of the therapy cap exceptions process through December 31, 2009 to ensure access for seniors and persons with disabilities to physical therapy, occupational therapy, and speech-language pathology services.

Medically necessary therapy services in excess of the therapy caps will continue to be paid by Medicare in accordance with the exceptions process. Providers submitting claims using the 837-I or UB-04 for claims exceeding the cap on or after July 1, 2008 should resubmit using the KX modifier. Providers submitting claims using the 837-P or CMS-1500 should request to have their claims adjusted in order to have the contractor pay the claim. If the beneficiary was notified of their liability and subsequently paid out of pocket for medically necessary services exceeding the cap, any such payments should be refunded to the beneficiary.

DMEPOS

The Durable Medical Equipment Competitive Bidding Program, which initially affects only Medicare beneficiaries in traditional fee-for-service in 10 competitive bidding areas, has been delayed for 18 months. Medicare beneficiaries may use any Medicare-approved supplier for Durable Medical Equipment. If a beneficiary changed suppliers when this new program started July 1, 2008, they can either continue to use the new supplier or choose another supplier. The original DME payment rates in effect prior to July 1 are reinstated retroactively. All Medicare beneficiaries in the 10 competitive bidding areas will be notified of this change directly in a letter from CMS.

The DME Competitive Bidding areas are: (1) Charlotte-Gastonia-Concord, NC-SC, (2) Cincinnati-Middletown, OH-KY-IN, (3)

Cleveland-Elyria-Mentor, OH, (4) Dallas-Fort Worth-Arlington, TX, (5) Kansas City, MO-KS, (6) Miami-Fort Lauderdale-Miami Beach, FL, (7) Orlando-Kissimmee, FL, (8) Pittsburgh, PA, (9) Riverside-San Bernardino-Ontario, CA, and (10) San Juan, PR.

Waiving Retroactive Beneficiary Cost Sharing

The Health and Human Services Office of the Inspector General (OIG) has issued a [policy statement](#) that assures Medicare providers, practitioners, and suppliers affected by retroactive increases in payment rates under MIPPA that they will not be subject to OIG administrative sanctions if they waive retroactive beneficiary cost-sharing amounts attributable to those increased payment rates, subject to the conditions noted in the policy statement.

Under MIPPA--which halted DMEPOS competitive bidding July 15 and reinstated the higher reimbursement rates that had been in effect before the bid program started July 1--CMS had said that beneficiary liability for cost-sharing also could increase retroactively.

The federal anti-kickback statute normally prohibits Medicare suppliers from waiving beneficiary cost-sharing amounts, and the OIG can levy civil monetary penalties and exclude providers from Medicare for violating the law. But according to the OIG statement, providers who waive beneficiaries' retroactive liability due to payment increases resulting from MIPPA won't be subject to administrative sanctions.

In Other PT Policy News...

Higher Education Act of 2008 - Congress Passes Legislation to Provide Student Loan Repayment to PTs.

On July 31, Congress overwhelmingly passed legislation to expand an existing program under the [Department of Education](#) that will provide eligibility for student loan repayment for physical therapists that practice with children, adolescents, or veterans. This provision was part of a comprehensive reauthorization of the Higher Education Act. Reauthorization is the process by which Congress prescribes changes, additions, and deletions to meet evolving needs of current programs (such as education). The [Higher Education Opportunity Act \(HR 4137\)](#) also includes extensive provisions that impact student loans, accreditation of physical therapy education programs, and other programs for universities and graduate schools. This legislation is currently pending the President's signature before it becomes law.

Please note - application for loan repayment is not yet available. Once this provision becomes law, the Department of Education will issue regulations that will provide physical therapists with the eligibility to apply and compete for student loan repayment up to \$2,000 per year for up to 5 years. The legislation specifies that the physical therapist must practice in an identified area of need and with children, adolescents, or veterans. This will be a competitive process with a number of other professionals eligible for this program. This is one step in APTA's comprehensive legislative agenda to provide physical therapists with student loan repayment opportunities and separate from the [Physical Therapists Student Loan Repayment Eligibility Act \(HR 1134 / S. 2485\)](#), which would provide student loan repayment for service in the National Health Service Corp.

This was a significant legislative victory for APTA and its advocates. In early 2007, APTA worked with the [US House Committee on Education and Labor](#) to add physical therapists to this section of the legislation to reauthorize the Higher Education Act. Congressman Joe Sestak (D-PA) offered the addition of physical therapists to this section of HR 4137 on the floor of the US House, and this amendment passed on unanimous consent. Representative Sestak represents suburban Philadelphia, a district with a high number of physical therapist students and faculty from education programs in Pennsylvania and Delaware. Representative Sestak felt so strongly about the need for student loan repayment as a tool for the recruitment and retention of physical therapists that he highlighted the issue in an interview with the *Philadelphia Inquirer*. The Senate did not include a specific listing of professions in its version of the legislation, so APTA advocated for inclusion of the House provision in the House-Senate conference report. In mid July, the final conference agreement included the House provision.

Medicare Fee Schedule Proposed Rule

The Centers for Medicare and Medicaid Services (CMS) released the [2009 Medicare Physician Fee Schedule Rule](#) on June 30, 2008. In addition to a discussion of the conversion factor update and the therapy cap exceptions process, CMS proposes several new policies which would have implications for rehabilitation agencies, comprehensive outpatient rehabilitation facilities (CORFs), home health, and Medicare provider enrollment. For 2009, CMS stated in the proposed rule that there would be a negative 5.4% update in the conversion factor for 2009 and no exceptions process without congressional action. After the proposed rule was released, Congress passed the Medicare Improvements for Patients and Providers Act (MIPPA) which increased the conversion factor for 2009 by 1.1% and extended the therapy cap exceptions process through December 31, 2009. In addition, CMS proposed 175 quality measures for the 2009 Physician Quality Reporting Initiative (PQRI). Subsequently, MIPPA increased the PQRI incentive payment from 1.5% to 2.0% for the 2009 reporting period.

Of further interest to physical therapists are proposals that would have implications for provider enrollment and many of the practice settings in which they practice. CMS proposes to change the Medicare enrollment process by ensuring that the effective date of a provider's enrollment in Medicare is accurate. The agency outlines two proposals for refining the process of determining a provider's effective date and is soliciting comments on both proposals. Additionally, CMS proposed to eliminate burdensome requirements for rehabilitation agencies regarding on-call physicians for emergency care and social vocational services. However, the proposed rule fails to reconcile differences in certification of the plan of care for rehabilitation agencies to be consistent with the recent changes that extend recertification period for therapy services from 30 to 90 days in most outpatient settings. In the proposed rule CMS suggests that the recertification of the plan of care for rehabilitation agencies will remain at 30 days. For a complete analysis of the proposed rule and its implications for physical therapists, please visit the [APTA website](#).

Comments on the proposed rule will be accepted until August 29, 2008, and APTA will be submitting extensive comments on the provisions. The final rule will be published before November 1, 2008.

Medicaid Outpatient Rule

In the past year, the Bush Administration issued seven sets of regulations that would have resulted in deep cuts to Medicaid school-based rehabilitation and case management services, as well as limiting the ability of states to impose taxes on health care providers. A supplemental appropriations bill (HR 2642) that was signed into law June 30 included provisions suspending six of the seven controversial Medicaid regulations until April 2009.

However, the Medicaid moratorium failed to block a proposed rule that could dramatically affect coverage of Medicaid services in many states including: CA, CT, IL, LA, MD, MI, MO, NJ, NY, OK, PA, SD, TN, UT, VT, WA, WI. A significant portion of outpatient physical therapy services in those states are covered by the Medicaid hospital outpatient benefit. Regulations proposed last September would effectively eliminate Medicaid coverage of outpatient physical therapy services in states that do not provide a separate outpatient PT benefit to cover services in other outpatient settings, in addition to the outpatient hospital setting. APTA opposed the proposed policy in [comments](#) last year, urging the agency to withdraw its proposal and not issue final regulations reflecting this new policy. Due to the failure to include the proposed rule in the current legislative moratorium, further regulations regarding the Medicaid outpatient hospital benefit could be published in the Federal Register before the end of the year. Due to the controversial nature of this provision, it is unclear whether the Centers for Medicare and Medicaid Services (CMS) will publish these regulations in final form or allow providers and other stakeholders additional opportunities to provide input on the impact of the proposed changes. APTA will continue to work with the federal government to address the flawed policies contained in this proposed rule and will update members on developments as they become available.

\$\$\$ - Medicare Quality Reporting Bonuses

In early July, the Centers for Medicare & Medicaid (CMS) announced that more than \$36 million in bonus payments were made to many of the more than 56,700 health care professionals who satisfactorily reported quality information to Medicare under the 2007 Physician Quality Reporting Initiative (PQRI). Physical therapists and other eligible providers should receive their payments by August. The average incentive amount for individual providers is more than \$600 and more than \$4,700 for physician group practices, with one group practice receiving more than \$205,700. The [CMS Web site](#) offers more information about the PQRI program, including how eligible professionals can participate and the criteria to qualify for incentive payments.

It is not too late for those who have not started reporting. Eligible professionals still have the opportunity to begin participating in the 2008 program, and should review the "[2008 PQRI: Establishment of Alternative Reporting Periods and Reporting Criteria](#)" document for more information about the dates for which reporting can occur.

CMS Policy on 90-Day Recertification

In early May, the Centers for Medicare & Medicaid Services released a transmittal to Medicare contractors clarifying provisions of the 2008 Medicare physician fee schedule, including the extension of time for recertification of therapy plans of care from 30 to 90 days. The guidance also clarifies personnel qualifications for physical therapists and physical therapist assistants, information required in the therapy plan of care, documentation requirements for progress notes, and policies related to the rental or leasing of pools for aquatic therapy.

The effective date for most policies in the 2008 fee schedule is January 1, but Medicare contractors had until June 9 to implement the new policy clarifications. A [summary](#) of the transmittal can be found on APTA's Web site.

Don't Forget Your Documentation!

According to the Centers for Medicare & Medicaid Services (CMS), the May 2008 "Comprehensive Error Rate Testing" ([CERT](#)) report states that therapeutic exercise and manual therapy services have high rates of errors due to insufficient documentation on fee-for-service claims paid by Medicare. Providers failed to include pertinent facts such as the patient's overall condition, diagnosis, and extent of services performed in the documentation submitted on 9.9% of manual therapy (CPT 97140) claims and 6.3% of therapeutic exercise (CPT 97110) claims paid by Medicare in the last 12 months. The error rate for a physical therapist in private practice was 7.0%.

CMS said that it will work to decrease insufficient documentation errors by improving processes for requesting and receiving medical records, clarifying the components of the record needed for CERT review, and encouraging Medicare carriers and intermediaries to educate providers about the importance of submitting complete documentation, including signing all plans of care.

Advocacy Activities in August!

"Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it's the only thing that ever has."

~ Margaret Mead

The August congressional recess has arrived and it is essential that APTA members continue to educate their members of Congress about the importance of physical therapy services. The Association strongly encourages APTA members to take advantage of opportunities during the August recess when members of Congress are holding town hall meetings, conducting business out of their district offices, and visiting areas of their district. This month-long recess is a great time to schedule a practice visit for legislators at your workplace, visit them at their district office, or participate in their town hall meetings.

❖ Practice Visits

Practice visits can provide a lasting impression demonstrating the power of physical therapy to your legislators first-hand. There's no better way to educate lawmakers about physical therapy than to invite them to visit your work setting. Many of them have no clear idea what physical therapy is and the impact it has on their constituents. Practice visits provide lawmakers with real-life snapshots of the impacts of the physical therapy payment cap, direct patient access, and other policy issues. Such visits, too, put on display the knowledge and experience that makes PTs and PTAs such effective patient advocates.

❖ **Town hall meetings.** House and Senate members seek out opportunities in August to share with constituents what's been going on in Washington and hear citizens' takes on the issues. Thus, lawmakers convene town hall meetings—perhaps several of them, depending on the size of the district or state. These generally are not huge gatherings, meaning that a single well-organized group

can make a big impression. Just imagine the impact a group of 10 to 20 PTs and PTAs might have in informing a House member or senator about the health care issues that are of foremost concern to the profession and the patients and clients it serves.

- ❖ **Fundraisers.** If it seems as if members of Congress are always raising money for their next election, that's because they are. Given the ever-rising costs of campaigns, candidates must begin financially preparing for the next election as soon as the preceding contest has been decided. This perpetual cycle offers APTA members additional opportunities to develop relationships with lawmakers. If a member of Congress supports physical therapy issues, PT-PAC, APTA's federal political action committee, can provide financial support for Association members' participation in campaign fundraisers. In fact, it is more valuable to APTA to have constituents attend these events back home than it is to have lobbyists attend fundraisers in Washington. Not only are you a constituent who can actually vote for the candidate, but PAC contributions go farther back home: For example, it costs at least \$1,000 a plate for APTA's lobbyists to attend most Washington fundraisers, but that same amount might allow five or more APTA members to attend a fundraiser in a given state. For more information on getting involved in PT-PAC activities contact Michael Matlack at 1/800-999-2782 ext. 3163, or you can email him at michaelmatlack@apta.org

PT Advocates SPRING into Action!

Advocacy on behalf of the physical therapy profession takes on many forms. From contacting members through e-mails and phone calls, organizing practice visits, or meeting with representatives in their districts, grassroots activities remain vital to advancing the physical therapy profession. Throughout the year, APTA members may also be called upon to share their knowledge and personal experiences to educate members of Congress on important issues facing physical therapists and their patients.

This past July, physical therapists celebrated the passage of HR 6331 - the Medicare Improvements for Patients and Providers Act. One month earlier, expert [testimony](#) on this issue was provided by **Tom DiAngelis, PT**, vice president of the Private Practice Section before Congress. The hearing on "Medicare Physician Fee Cuts: Can Small Practices Survive?" provided an opportunity for the US House Committee on Small Business to examine the potential impact of fee cuts on the practices of physicians and other allied health professionals. DiAngelis commented that a scheduled 10.6% cut in Medicare physician payments could have an especially devastating impact on PTs in private practice, faced with rising costs of running a small business and decreases in revenue due to a variety of government payment and policy challenges.

"The health care delivery system needs physical therapist small businesses to meet patients' rehabilitation needs," testified DiAngelis. "If those needs are unmet, then health care costs will be transferred to more intensive, costly environments, compounding the existing crisis in health care spending. Physical therapist small businesses are a cost-effective, efficient delivery model for physical therapy services, and efforts to maintain and enhance this setting are essential."

In additional advocacy news, APTA joined forces with a national coalition of health and consumer groups to educate members of Congress and their staff about the importance of falls prevention initiatives, including the recently enacted Safety of Seniors Act.

On May 7, National Falls Free Coalition representative **Lynn Beattie, PT, MPT, MHA** provided remarks during a "Falls Prevention Briefing" in Washington, DC. Beattie, who also represents the National Council on Aging, urged Congress "to fund efforts to increase the falls risk assessment and intervention skills of health care providers and promote collaboration with the aging services network."

The Safety of Seniors Act, signed into law mid-May, authorizes the secretary of Health and Human Services to oversee and support a national education campaign focusing on reducing falls among older adults and preventing repeat falls, and awards grants, contracts, or cooperative agreements to design and carry out local education campaigns.