

PTeam Alert Newsletter

APTA's Grassroots Network – December 2008 Edition

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APTA Celebrates Advocacy Successes In 110th Congress

In the 110th Congress, APTA had one of the most aggressive legislative agendas in its history, with four separate pieces of legislation (seven bills) on which APTA led advocacy efforts. APTA members responded strongly to the critical policy issues facing the physical therapy profession and more importantly, the lives of the patients the profession serves. During the 110th Congress, Association members sent 60,932 emails to Members of Congress. In 2008 we also saw an increase of more than 2,000 advocates from the previous year sending emails to their legislators.

Legislation that was successfully advocated by APTA's grassroots activism **resulted in more than \$1.5 billion in Medicare payments to physical therapists from 2008 – 2010**. This legislation included the 2007 and 2008 Medicare bills [*the Medicare, Medicaid and sCHIP Extension Act HR (S. 2499)* and the *Medicare Improvement for Patients and Providers Act (HR 6331)*]. In addition, three APTA supported initiatives became law in 2008 including the Medicare bill, the Higher Education Opportunity Act, and falls prevention legislation (brief summaries are included below).

Medicare Improvements for Patients and Providers Act (HR 6331)

This legislation provided significant payment updates for physical therapists in the outpatient setting. Provisions included:

- An 18 month extension of the therapy cap exceptions process until December 31, 2009 to ensure access for seniors and persons with disabilities to physical therapy, occupational therapy, and speech-language pathology services.
- Continuation of the .5% update for the remainder of 2008 and a 1.1% update for 2009 in the conversion factor to maintain adequate payments to providers under the Medicare program. This provision overrides a scheduled 10.6% reduction in payments under the Medicare physician fee schedule for the remainder of 2008 and an additional 5.0% cut for 2009.
- Extension of the Medicare Work Geographic Practice Cost Index (GPCI) under the Medicare physician fee schedule to ensure payment equity and access to services in rural America.
- Increases the bonus payments for qualified providers that meet the criteria for reporting under the Physician Quality Reporting Initiative (PQRI) from 1.5% to 2.0% for 2009 and 2010 to improve quality in the Medicare program.
- Delaying competitive bidding of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) under Medicare for 18 months by voiding Round 1 of the DMEPOS competitive acquisition program. This provision sets a new process for competitive bidding. DMEPOS items included in round 1 will be reduced by 9.5% to off-set the cost of this provision.
- Improvements in Medicare coverage of prevention services for seniors and persons with disabilities.
- Expansion in scope and duration of previously authorized medical home demonstration to improve access to primary health care.

- Adding hospital-based or critical access hospital-based renal dialysis centers, skilled nursing facilities, and community mental health centers to a list of originating sites for payment of tele-health services.

Higher Education Opportunity Act / College Opportunity and Affordability Act (HR 4137)

This legislation reauthorized federal programs in higher education. The final measure includes a provision that will enable physical therapists to participate in an existing student loan repayment program for health care professionals who provide services to children, adolescents, and Veterans. The Higher Education Act reauthorization also blocks efforts by the Department of Education to issue regulations imposing new requirements on accreditation of higher education programs (opposed by the Commission on Accreditation in Physical Therapy Education). **Please note - application for loan repayment is not yet available.** APTA is still waiting for the Department of Education to 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 five 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. APTA will alert membership once the application is available.

Safety of Seniors Act (S. 845)

This legislation authorized a federal initiative to reduce falls in seniors. This legislation includes:

- The development of public and professional education strategies to raise awareness of and prevent falls in older people
- The encouragement of research both to identify older adults at high risk of falling and to evaluate falls interventions; and support demonstration projects aimed at preventing falls.

Thank you for all your hard work and dedication in ensuring the continued growth of the physical therapy profession and its impact on the health and well-being of patients nationwide!

Ready, Set, Go...Preparing For The 111th Congress!

In APTA staffing news, Justin Moore, PT, DPT, was recently named Vice President of Government and Payment Advocacy. In this position, Justin will provide leadership for the following departments: Payment Policy and Advocacy, Federal Government Affairs, State Government Affairs, and Grassroots Advocacy. Justin has been with APTA for 9 years, most recently as Senior Director, Federal Government Affairs.

While proud of our successes in the past two years, APTA is gearing up for the 111th Congress. Advocacy efforts will begin immediately once Congress returns on January 5, 2009. APTA policy issues will include therapy caps, direct access, health care reform, Veterans Affairs issues, and student loan repayment. Informational bulletins and action alerts will be sent to PTeam members as our issues rollout in the New Year.

Initial discussions regarding healthcare reform have already begun. Senate Finance Committee Chairman [Max Baucus \(D-MT\) unveiled a proposal](#) last month that would provide access to coverage for all Americans through employer mandates and tax credits, reforms to Medicare Advantage and private health plans, and expanded coverage under Medicare, Medicaid, and the State Children's Health Insurance Program. Senator Edward Kennedy (D-MA), who chairs the Senate Health, Education, Labor, and Pensions Committee, announced the formation of three new health reform working groups within his committee to deal with insurance coverage reforms, prevention and public health, and improving the quality of care.

Without directly addressing physical therapist services, the plans offer opportunities to address issues related to Medicare fee schedules, direct access, and the therapy cap. But concerns about financing and budget neutrality are likely to expose providers to potential payment cuts and restrictions. APTA is preparing a response to the Baucus proposal and meeting with members of Congress and their staff to ensure that physical therapy issues are considered as the health reform debate takes shape.

ADVOCATE FEEDBACK NEEDED!!!

Amidst our past successes, APTA's Government and Payment Advocacy department recognizes the challenges we face in the coming year. It is our goal to continue improving our communication with advocates in the field. If you have suggestions you feel would improve your advocacy efforts next year, please e-mail them to Monica Billger, Associate Director of Grassroots Advocacy at monicabillger@apta.org

Medicare Fee Schedule

Medicare payments for physical therapists will be affected by numerous policy changes released in the 1,459-page final rule for the [2009 Medicare Physician Fee Schedule](#). Although Congress mandated a 1.1% increase in the Medicare Improvements for Patients and Providers Act (PL 110-275), the 2009 conversion factor of \$36.066 is less than this year's amount (\$38.087) due to another requirement adopted by Congress to offset the cost of increasing some work relative value units (RVUs) by reducing the conversion factor rather than altering the work RVUs for all services. An adjustment in practice expense values also will increase payments for physical therapist services.

The rule also increases the annual per beneficiary cap on outpatient therapy services for 2009 to \$1,840 for combined physical therapy and speech language pathology services and separately for occupational therapy services, while extending the existing therapy cap exceptions process through 2009 as authorized by Congress. The final rule also adds 52 new quality measures to the 2009 Physician Quality Reporting Initiative and increases the bonus payment for reporting on quality measures to 2%. A comprehensive four page [summary](#) of the final rule is also available for review.

Medicaid Outpatient Therapy Services

Regulations issued November 7 by the Centers for Medicare & Medicaid Services (CMS) may interfere with the delivery of Medicaid hospital outpatient therapy services in states that have established a separate benefit for physical therapy services in their state Medicaid plan. The final rule states that, effective December 8, physical therapy services will continue to be covered as part of the Medicaid outpatient hospital benefit in states that do not have a separate benefit for those services. However, in states that have established a separate outpatient PT benefit, CMS mandates that the state pay for PT services delivered in the outpatient hospital setting using the payment methodology defined in the separate benefit under the state Medicaid plan.

APTA will closely monitor state-by-state implementation of the rule to assess the full impact on each state Medicaid program and address any coverage issues that may arise. [A summary](#) of the rule is available to APTA members.

Recovery Audit Contractors

Physical therapists should be aware of a new aggressive campaign to prevent fraud, waste, and abuse in the Medicare system. The Centers for Medicare & Medicaid Services (CMS) is expanding the controversial recovery audit contractor (RAC) program nationally to identify overpayment and underpayments from Part A and Part B Medicare providers. RACs are paid on a contingency fee basis, receiving a percentage of the overpayments and underpayments they collect from providers.

The RACs use automated software programs to identify potential payment errors, such as duplicate payments, lack of medical necessity, and incorrect coding. The agency reported that a 3-year

demonstration program in six states recovered more than \$900 million in overpayments to health care providers.

CMS plans to have four RACs in place by 2010 that will be responsible for all 50 states. The RAC program was scheduled for implementation in nineteen states beginning October 2008 but has been temporarily postponed due to a protest by two unsuccessful bidders for the RAC program. The protest is expected to be resolved in early February. The four RAC contracts and any work under those contracts are on hold pending the outcomes of the protests.

Information on the RAC program is available at CMS's website at <http://www.cms.hhs.gov/rac/>

APTA, Providers Seek Delay in ICD Code Changes

APTA has urged the Centers for Medicare & Medicaid Services (CMS) to delay implementation of the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD-10) until at least 2013 -- 2 years later than the agency proposed in August.

The proposed rule from the US Department of Health & Human Services (HHS) would require health care providers and clinical laboratories to use the new ICD-10 code sets as the standard for coding diagnoses on all HIPAA standard transactions. Requiring providers to adopt the ICD-10 code sets by 2011 would "dramatically increase costs for practices," according to a new cost study initiated by a broad group of provider organizations, including APTA. For a three-provider practice, the total cost to implement ICD-10 is estimated to be \$83,290. For a medium-sized practice (about 10 providers), costs could exceed \$285,000.

Developed almost 30 years ago, ICD-9 contains 17,000 codes, and is expected to start running out of available codes next year. The ICD-10 code sets contain more than 155,000 codes.

HHS also proposed adopting the new HIPAA transaction standard (Version 5010) by April 1, 2010. According to HHS, the updated standards are more specific in requiring the data that are needed, collected, and transmitted in a transaction. Version 5010 must be implemented before transitioning to the ICD-10 code sets.

In [comments](#) to the agency that echo concerns raised in a recent [study](#), the Association said that significantly more time is necessary for physical therapists and other providers to adopt the new standards, which include a much larger and more detailed set of codes than the ICD-9 code set currently in use. APTA also joined a broad coalition of health care provider organizations in a [statement](#) urging the agency to provide more time for practices to adopt the new codes. CMS also released a [fact sheet](#) on the expanded code set.

Physical Therapists Exempt from DME Accreditation Rule

Responding to pressure from APTA and a coalition of health care organizations, the Centers for Medicare & Medicaid Services (CMS) agreed to [exempt physical therapists](#) and other health care providers from the accreditation process and quality standard requirements to provide durable medical equipment and prosthetic and orthotic services (DMEPOS) to Medicare beneficiaries. Complying with the requirements would have been burdensome and costly for physical therapist practices, which are recognized as providing high-quality services and were not the primary target of the process. APTA worked closely with the American Medical Association, the American Association of Orthopaedic Surgeons, the American Occupational Therapy Association, and other provider groups to convince the agency to grant the exemption.

Medicare Releases Billing Edits to Improve Claims Accuracy

Responding to APTA and other health care organizations, the Centers for Medicare & Medicaid Services (CMS) has published most of the coding edits used in its ["Medically Unlikely Edit" \(MUE\) program](#). The

agency initiated the MUE program to improve the accuracy of Part B claims payments. An MUE is the maximum units of service that a provider would report under most circumstances for a single beneficiary on a single date of service. Through the MUE program, claims processing contractors are instructed to check the number of times a service is reported by a provider or supplier for the same patient on the same date of service, and deny claims that exceed the maximum units. However, PTs and other providers have been unable until now to know which services, and the maximum number of units reported for each one, would trigger MUE denials. At the start of each calendar quarter, CMS will publish most MUEs active for that quarter. Although the October 1 release contains most MUEs, additional edits will be published on January 1, 2009. CMS reports that some MUEs deemed to be vulnerable to fraud and abuse will remain confidential.

CMS Qualifies Registries for PQRI

The Centers for Medicare & Medicaid Services has [qualified](#) 32 registries -- including Cedaron Medical Inc and FOTO (Focus on Therapeutic Outcomes) -- to submit quality measures information on behalf of eligible physical therapists and other health care providers who participate in the Physicians Quality Reporting Initiative ([PQRI](#)). The qualified registries offer additional options for PTs, specifically those who practice in institutional settings, to participate in the reporting initiative. PTs already participating in the PQRI who successfully report on at least three quality measures on claims for dates of service from January 1 to December 31, 2008, may earn a bonus payment of 1.5% of total allowed charges for covered Medicare Physician Fee Schedule services.

A list of the registries and their Web sites is available at [this link](#). Eligible providers interested in registry-based participation for PQRI in 2008 are encouraged to contact the registries directly to determine which registry meets their practice's needs and collects quality information on measures that are important to the practice.

APTA's [CONNECT](#), a point-of-care, computerized patient record system designed specifically for physical therapists, was created through a partnership between APTA and Cedaron Medical Inc.

Physical Therapists in the News

The 2008 general election resulted in sweeping changes in Washington, also sending a record number of physical therapists to serve in state legislatures in 2009. Of nine physical therapists on the November ballot, six were elected or re-elected to office: **State Senator Jamie Boomgarden, PT (SD), and State Representatives Sue Allen, PT (MO), Penny Bernard Schaber, PT (WI), Randy Stewart, PT (NC), Phil Lowe, PT (SC) and Beth Coulson, PT (IL).** Chapter executive director **Nancy Garland also won a seat in the Ohio State House of Representatives. These seven will join physical therapists Senator Bo Watson, PT (TN), and State Delegate Roslyn Tyler, PT (VA),** when state legislatures convene next year. On the federal level, candidates supported by PT-PAC, APTA's political action committee, won 92% of their House races and 20 Senate races in which the outcome has been decided.

Michael P Johnson, PT, PhD, OCS, recently was appointed as one of two non-physician members of the Quality Alliance Steering Committee, a group of physicians, hospitals, health care providers, consumers, employers, health plans, and government agencies charged with promoting quality measures, transparency, and improvement in patient care. Created by the Ambulatory Care Quality Alliance (AQA) and the Hospital Quality Alliance in 2006, the steering committee works closely with the Centers for Medicare & Medicaid Services (CMS) and the Agency for Healthcare Research and Quality on projects designed to combine public and private information to measure and report on quality measures in ways that are fully transparent and meaningful to patients and stakeholders in government and the private sector. In its Physician Quality Reporting Initiative bonus program, CMS has adopted many measures approved by AQA. For more information on the AQA alliance, visit www.aqaalliance.org/default.htm.