

APTA Advocacy Network Newsletter — May 2022 Edition

Summer is almost here, and along with the weather heating up comes the political maneuvering and partisanship as primaries in both parties begin to shape the November midterm elections and these final months of the 117th Congress. With much unfinished business by Congress, the next several months promise to be busy as ever, and APTA's advocacy efforts won't let up given the numerous of issues that must be addressed.

Payment, administrative burden, and workforce continue to be three areas that APTA and our components have been advocating on at both the federal and state levels. Advocacy to address these issues and more were recently highlighted in a recent [podcast](#) by APTA President Roger Herr, PT, MPA. As noted on the podcast, APTA continues to advocate for the [SMART Act](#), aimed at mitigating the impact of the PTA payment differential that went into effect on Jan. 1, as well as change the current burdensome Medicare of requirement of direct supervision to general supervision. The effort to change the direct supervision requirement of PTAs recently got a boost thanks to our champions on Capitol Hill who recently sought to address the supervision issue via the annual appropriations process.

One area of administrative burden that is getting a lot of attention is prior authorization under Medicare Advantage plans. A recent [study from the U.S. Department of Health and Human Services' Office of the Inspector General](#) examined prior authorization and claims denials. Learn more below in the Federal Update. In the meantime, the pressure for change to Medicare Advantage continues on Capitol Hill: [APTA-supported bipartisan legislation](#) that would make Medicare Advantage more transparent and less burdensome for providers has been introduced in both chambers of Congress. Known as the Improving Seniors' Timely Access to Care Act (H.R. 3173/S. 3018), the law would put up what APTA believes are much-needed guardrails around a system that can create unnecessary obstacles to needed care.

Of course, with the start of summer, the busy federal regulatory proposed rule season is here as well. Already the proposed 2023 payment rules for inpatient rehab facilities and skilled nursing facilities have been released, with the proposed 2023 payment rule for home health expected any day. APTA and numerous other provider groups are gearing up for the proposed 2023 Medicare Fee Schedule rule later this July, which likely will be another contentious battle needing Congress to intervene once again to prevent widespread cuts by CMS under the fee schedule. APTA's recent [Payment & Regulatory webinar](#) provides the latest news and additional information on these and other hot payment topics.

In addition to Medicare advocacy, payment and improved access under Medicaid is also critical. When Medicaid is in the national spotlight, APTA and state chapters advocate in support of the program; whether for increased funding, increased eligibility, decreased administrative burden, better payment, or other issues that benefit physical therapy. This recent APTA [blog post](#) provides insight on Medicaid advocacy as well as some recent state wins by our chapters. Finally, if you have not seen it yet, be sure to check out the [new resource](#) that APTA and the Private Practice

Section have developed. This member-exclusive benefit is a suite of advocacy tools intended to help members navigate issues related to prior authorization and other utilization management.

The dog days of summer are a time for backyard barbecues, trips to the beach, and family vacations. But it is also time to [make your voice heard and put the heat on Congress](#) to act on the critical issues facing the physical therapy profession and the patients we serve. Your advocacy makes a difference, and so does being a member of APTA during these challenging times. Thank you for your ongoing engagement and dedication, and thank you for being a member of APTA!

Justin Elliott, Vice President, Government Affairs

Federal Update

Medicare Advantage Prior Authorization Report Released

In its [April 2022 report](#) “Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care,” the HHS Office of Inspector General found that 13% of prior authorizations denied in a one-week period analyzed by the office met Medicare coverage rules, and 18% of denied payments during that week also met requirements. OIG looked at a random sample of denials during a week in June 2019 from 15 of the largest Medicare Advantage organizations to estimate the rate of prior authorization denials and payment denials that met Medicare coverage rules.

In many cases, MA denied the prior authorization requests by applying plan clinical criteria not required by Medicare. As for the pay denials, the report states that they “delayed or prevented payments for services that providers had already delivered.” Reasons given for the incorrect pay denials included human error during manual reviews and inaccurate programming of claims processing systems.

Prominent among the denied requests for prior authorizations and payments were imaging services, stays in post-acute facilities, and injections. OIG recommended that CMS issue new guidance on the appropriate use of MA plan clinical criteria in medical necessity reviews; update the agency’s audit protocols to deal with the issues identified in the report, such as MA plans’ use of clinical criteria, or examine particular service types; and tell plans to take steps to identify and fix vulnerabilities that can lead to manual review errors and system errors. CMS agreed with all three recommendations.

[The report](#) has highlighted the APTA-endorsed [Improving Seniors’ Timely Access to Care](#) Act (H.R. 3173/S. 3018), which aims to address prior authorization under MA plans. Reps. Suzan DelBene, D-Wash., Mike Kelly (R-Pa.), Ami Bera (D-Calif.), and Larry Bucshon (R-Ind.), who sponsored the bill, called the OIG report scathing, and say it “underscores the need for reforms in the current prior authorization system.”

**Letter Sent to House
Appropriations Committee on
PTA Supervision Requirements**

**School-Based Therapy
Resolution Introduced in
Congress**

On April 23, Rep. Bobby Rush (D-Ill.) led [a bipartisan letter to the U.S. House Appropriations Committee](#) requesting that the committee include report language in the upcoming annual appropriations bill clarifying congressional intent surrounding supervision requirements for PTAs and OTAs. The report language directs CMS not to limit access or alter reimbursement for outpatient therapy services by imposing supervision requirements for assistants in outpatient settings that are more stringent than what is required by state law. Rep. Rush was joined by Rep. Jason Smith (R-Mo.), along with Reps. Ted Budd (R-N.C.), Troy Carter (D-La.), Steve Cohen (D-Tenn.), Steven Horsford (D-Nev.), Lucy McBath (D-Ga.), Don McEachin (D-Va.), David McKinley (R-W.Va.), Jimmy Panetta (D-Calif.), and Susan Wild (D-Pa.).

Reps. Jahana Hayes (D-Conn.) and Brian Fitzpatrick (R-Pa.) introduced a bipartisan [resolution](#) designating and celebrating the week of April 25-29, 2022, as [National Specialized Instructional Support Personnel Appreciation Week](#). Schools are home to more than 1 million specialized instructional support personnel across the United States, including physical therapists, physical therapist assistants, nurses, speech-language pathologists, audiologists, and more. This resolution builds on the [Save Education Jobs Act](#), an APTA-endorsed bill introduced by Rep. Hayes to mitigate the impacts of students' learning loss as a result of the COVID-19 pandemic and support specialized instructional support personnel.

Pelvic Health Bill to Be Introduced in House of Representatives

Reps. Jamie Herrera Beutler (R-Wa.) and Lisa Blunt Rochester (D-Del.) plan to introduce the Optimizing Postpartum Outcomes Act soon. This bipartisan legislation instructs CMS to issue guidance on coverage under Medicaid and the Children's Health Insurance Program for pelvic floor services, including pelvic floor physical therapy, performed during the postpartum or neonatal period. The legislation also requires the Government Accountability Office to conduct a study on pelvic floor programs that address gaps in coverage for covered pelvic health services, including pelvic floor physical therapy, for postpartum individuals and other services postpartum women received following their pregnancies.

Additionally, the bill instructs the HHS Secretary to carry out a program to educate and train health professionals on the benefits of pelvic floor physical therapy and to educate postpartum women on the importance of pelvic floor examinations and physical therapy, what pelvic floor examinations and physical therapy are, and how to obtain an examination for pelvic physical therapy. APTA staff and representatives from APTA Pelvic Health worked with Rep. Beutler's office in drafting the legislation.

Regulatory Update

Regulations that govern payment and policy across the major health care settings that impact physical therapy under Medicare fee-for-service are given a thorough review and update for the next year. APTA staff monitor the [Federal Register](#) for the release of these rules and then review, analyze, and submit public comments in response to proposed updates and policies addressed in the rules.

So far, CMS has released the [inpatient rehabilitation facilities rule](#) and the [skilled nursing facilities rule](#). The [SNF rule](#) includes some major shake-ups, including a 4.6%

payment reduction and an announcement of imminent minimum staffing requirements. This payment reduction also is likely to be applied to the home health setting once that rule is released. The [IRF rule](#) included a more predictable update but still contained a few expansive proposals, including the IRF-PAI for all patients (as opposed to just Medicare), as well as some preliminary factfinding on potentially including home health under the PAC transfer payment policy.

Using these first few rules as an indication of CMS' direction this summer, it appears that the regulatory agency is beginning to regain its confidence to make changes in a post (permanent?) COVID-19 world. The agency hesitated to take much action last year so that the health care landscape had more time to catch its breath and adjust to this new, rapidly evolving world, but it's apparent the agency is ready to start shaking things up again. Stay tuned to the [Regulatory Action Center](#) to keep up to date with the latest regulatory developments.

Comments Submitted to OSHA

On April 21, APTA submitted comments to the Occupational Safety and Health Administration in response to its reopened comment period for its interim final rule establishing an Emergency Temporary Standard, "Occupational Exposure to COVID-19 in Healthcare Settings." OSHA sought feedback on potential deviations from the ETS considered in its development of a permanent standard, as required by law.

Certain changes under consideration would expand coverage under the permanent standard to ambulatory care providers, including physical therapists, who are largely exempt under the current ETS. APTA's comments generally: (1) request additional time to provide feedback on potential changes to the ETS in development of a permanent standard; (2) seek clarification on the expiration date and effective provisions of the current ETS; (3) detail operational challenges of potential modifications described in the notice; and (4) address concerns over administrative burden under the standard.

Commercial Payers Adopt PTA Differential; Advocacy Resources Available

APTA is aware of two commercial payers that are implementing the PTA payment differential for their Medicare Advantage plans. These include Wellmark (Iowa) and Highmark (Pennsylvania). APTA is working on tools to assist chapters with advocacy efforts, including template letters and talking points.

Grassroots Update

All Politics Is Local: Raising the PT Voice in the District

Members of Congress were elected to represent the people from their state or district and rely on communications with their constituents to know what issues need to be addressed. As the professional association for physical therapy, we are the voice of the profession with our legislators. Raising our voices and building relationships are essential so legislators know how to help the profession and the people we serve.

How can we continue to build these relationships? Look for local events during the summer. Members of Congress are frequently back in their districts to connect with their constituents. Will you see your representative at a Fourth of July picnic? Maybe catch your senator at a county fair? Be ready to connect with them and let them know what you do.

Some legislator visits can happen unexpectedly. This is where you can work on your one sentence advocacy pitch. In one sentence, can you tell someone who you are, where you're from, what you do, and a challenge you face?

Sending letters to members of Congress is important and often raises the profile of an issue, but it's the personal communication that helps to move the needle. According to the Congressional Management Foundation, a large quantity of emails going to Capitol Hill certainly helps to raise the profile of an issue, but having a quality personal connection to a legislator is just as important. APTA members can participate by joining the [Key Contact program](#), which provides opportunities throughout the year to connect with your legislators. By building relationships, we can raise awareness of physical therapy with Congress and continue to advocate for beneficial resolution of issues.

PTPAC Update

It's an Election Year! Party With PTPAC Overlooking D.C.

Support PTPAC with your friends at PTPAC's evening event during the APTA Leadership Congress. This year the event will take place on the rooftop of [The LINE Hotel](#). The event will be on Monday, Aug. 15, 7 p.m.-9 p.m. Tickets cost \$50 each and can be purchased when registering for Leadership Congress or by calling 703-706-3163. The ticket includes drinks and appetizers. All PTPAC Eagle club members receive one free ticket, but please contact Michael Matlack at michaelmatlack@apta.org to reserve it.

Contributions to PT-PAC are not tax deductible as charitable contributions. Contributions are voluntary. Your contribution will be used to support candidates for federal office who support physical therapy issues. The amount given by the contributor, or the refusal to give, will not benefit or disadvantage the person being solicited.