

APTA Advocacy Network Newsletter — September 2022 Edition

Autumn is in the air and with it comes the fall foliage, college football, students returning to school, as well as the final months of the 117th session of the U.S. Congress and midterm elections.

Congressional members came back to Washington, D.C., in early September after their August recess break and the month started off with a flurry of activity, beginning with the Sept. 7 release of an [independent report](#) conducted by the firm Dobson & Davanzo on the SMART Act (H.R. 5536) — an APTA-supported legislation aimed at mitigating the impact of the PTA and OTA payment differential. The report, funded by a coalition of health care groups including APTA, has given a big boost to the legislation since it showed that changing the current direct supervision requirement for PTAs and OTAs under Medicare Part B clinics to general supervision could potentially save up to \$242 million to Medicare.

Next, we saw the [Supporting Medicare Providers Act of 2022](#) (H.R. 8800), introduced in the U.S. House of Representatives on Sept. 13 by Reps. Ami Bera, D-Calif., and Larry Bucshon, R-Ind., that would provide additional new funding to the fee schedule's conversion factor through the end of 2023, theoretically returning that factor to its current level. In another positive development, the bill also contains language that acknowledges the need to address reforms and the long-term stability of Medicare to get providers out of the constant cycle of cuts, and instead pay for the value we bring to the health care system.

On Sept. 14 the U.S House of Representative [passed](#) the [Improving Seniors' Timely Access to Care Act](#) (H.R. 3173). While the bill doesn't completely eliminate the use of prior authorization, it would move Medicare Advantage toward a more transparent and less burdensome process. The issue of administrative burden remains a top priority for APTA and having data on the anxieties our members face is critical to our advocacy efforts. Be on the lookout for a survey from APTA on the issue of administrative burden later in the month.

On Sept. 14-15, the [2022 APTA Flash Action Strategy](#), the annual event led by physical therapy students, focused on the [Physical Therapist Workforce and Patient Access Act](#) (H.R. 3759/S. 2676), and resulted in over 6,000 emails to Congress urging its members to join as co-sponsors of the legislation.

Advocacy aimed at federal agencies, most notable CMS, continues with APTA submitting extensive comments on a number of proposed rules, including ones aimed at Medicare Advantage Plans, [skilled nursing facilities](#), power seat elevations for [power wheelchairs](#), as well as the 2023 proposed Medicare Physician Fee Schedule. And at the state level, APTA state chapters continue to advocate on a number of issues related to payment and scope of practice as outlined in [this article](#).

Of course, with this being an election year, PTPAC will be supporting those members of Congress who have demonstrated their commitment and support to the physical

therapy profession. APTA has a long history of being bipartisan and bringing members from both sides of the aisle together for common-sense reforms to health care. Remember, membership dues cannot be used for political donations, so your support of PTPAC is greatly appreciated. Learn more about how you can support PTPAC by going to its [website](#).

As the 117th Congress comes to a close, it is important to recognize the work that APTA advocates have done during this session of Congress and the results they achieved. Without you, a record number of APTA-supported bills would not have been introduced in the 117th Congress covering a wide-range of payment issues and settings. Be sure to check out the article in this newsletter that provides a comprehensive bill status of some of the APTA-supported legislation in Congress. September was a busy month for advocacy and the rest of fall promises to be even busier. Thank you for your advocacy, your perseverance, and for being a member of APTA!

Justin Elliott, Vice President, Government Affairs

Federal Update

APTA Advocacy Roundup: What's Been Passed by Congress, What's Still on the Table

As much as you might hear about gridlock on Capitol Hill these days, the 117th U.S. Congress has taken action on a number of pieces of legislation relevant to physical therapy — with more in the works.

We know how hard it can be to keep up. So, here's an overview of what's happening with the APTA-supported legislation that's been enacted and bills under consideration.

APTA-Supported Legislation Signed Into Law

[Dr. Lorna Breen Health Care Providers Protection Act](#)

Signed into law in March, the Breen Act aims to reduce and prevent suicide, burnout, and mental and behavioral health conditions among health care professionals. The law helps promote mental and behavioral health among those working on the front lines of the pandemic, supports suicide and burnout prevention training in health care professional training programs, and increases awareness and education about suicide and mental health among health care professionals.

[Consolidated Appropriations Act of 2022](#)

This appropriations package extends the Medicare telehealth waiver for PTs and PTAs for 151 days after the coronavirus-related public health emergency ends.

[Protecting Medicare and American Farmers From Sequester Cuts Act](#)

This was the legislation that successfully blunted payment reductions included in the 2022 Medicare Physician Fee Schedule. (Note: Those proposed cuts have returned in the proposed 2023 fee schedule rule, but [bipartisan legislation has been introduced in the House](#) that would appropriate additional funding to once again offset the cuts (see H.R. 8800 below)

APTA-Supported Legislation in Process

[Supporting Medicare Providers Act of 2022](#) (H.R. 8800)

This very recent legislation would counteract proposed payment cuts to the Medicare Physician Fee Schedule by adding additional funding to the fee schedule's conversion factor through the end of 2023, theoretically returning that factor to its current level. The bill also contains language that acknowledges the need to address the long-term stability of the payment system.

Status: Introduced in the House

[Advancing Telehealth Beyond COVID-19 Act](#) (H.R. 4040)

This bill would extend the Medicare telehealth waivers for PTs and PTAs until Dec. 31, 2024, regardless of the status of the public health emergency. That's good news for patients and providers, of course, but it's also a boost for telehealth supporters such as APTA, because it provides even more time to collect data on the use of telehealth and give policymakers more time to craft something permanent.

Status: Passed House; awaiting Senate vote

[Lymphedema Treatment Act](#) (H.R. 3630/S. 1315)

This bill, which would expand Medicare coverage of compression treatment items for beneficiaries with lymphedema, has passed out of the House Energy and Commerce Committee and is being readied for a full House vote. The House version has 356 co-sponsors; a companion Senate bill has 73 co-sponsors. You can check on the progress of the legislation at the [Lymphedema Treatment Act website](#).

Status: Passed out of House Energy & Commerce Committee; awaiting House vote

[PREVENT Pandemics Act](#) (S. 3799)

This sweeping legislation is intended to modernize the country's pandemic response by increasing federal and state preparedness, improving epidemiologic data collection, accelerating research and development, and improving the medical supply chain. The bill also focuses on supporting and improving the health care provider workforce and addressing health disparities. Two additional APTA-supported pieces of legislation are folded into the PREVENT Act: the [Improving Social Determinants of Health Act](#) (H.R. 379/S. 104) and the [Allied Health Workforce Diversity Act](#) (H.R. 3320/S. 3018). The social determinants legislation would, among other things, authorize a grant program to support projects to reduce health disparities and improve health outcomes by increasing community-based capacity to address social determinants of health. The workforce diversity bill would empower the secretary of the Department of Health and Human Services to offer grants and contracts to education programs that would in turn provide scholarships to increase the diversity of student population in health care training, including physical therapy.

Status: Passed out of Senate Health, Education, Labor, and Pensions Committee

[Improving Seniors' Timely Access to Care Act](#) (H.R. 3173/S. 3018)

This legislation would reduce administrative burden by scaling back the use of prior approval in Medicare Advantage plans. While it doesn't eliminate prior authorization, the bill would require MA plans to make regular reports to CMS on use of prior authorization, rates of denials, and average time for approval. The legislation also would direct HHS to establish a process for "real-time decisions" for services that are

routinely approved, and mandate that MA plans engage in more consultation with stakeholders and professional organizations around approval guidelines that are evidence-based.

Status: Passed House; awaiting consideration by Senate

[2023 Appropriations for Veterans Administration](#)

This large spending bill directs the VA to do what needs to be done to improve patient access to physical therapist services in the VA health care system, including increasing pay, expanding the roles of PTs and PTAs in a range of settings, including primary care, and allowing PTs to qualify for a special scholarship program.

Status: Passed House; awaiting consideration by Senate

[The Medicare Patient Empowerment Act \(H.R. 3322/S. 826\)](#)

This bill allows a Medicare beneficiary to enter into a direct contract with an eligible provider, including physical therapists, for any item or service covered by Medicare, otherwise known as "opting out" of Medicare. If enacted, the legislation would introduce more flexibility into opt-out provisions, including dropping the requirement for a two-year opt-out commitment and allowing providers to serve all other Medicare beneficiaries.

Status: Referred to House Energy & Commerce Committee and House Ways & Means Committee; referred to Senate Finance Committee.

[Physical Therapist Workforce and Patient Access Act \(H.R. 3759/S. 2676\)](#)

This bill would allow PTs to participate in the National Health Service Corps loan repayment program, an initiative that repays up to \$50,000 in outstanding student loans to certain health care professionals who agree to work for at least two years in a designated Health Professional Shortage Area. The legislation was the target of the APTA Flash Action Strategy student-led advocacy initiative.

Status: Referred to House Energy & Commerce Committee; referred to Senate HELP Committee

[Expanded Telehealth Access Act \(H.R. 2168/S. 3193\)](#)

This bill instructs CMS to permanently adopt what is now a temporary waiver of restrictions on Medicare payment for telehealth delivered by PTs and PTAs, occupational therapists, occupational therapy assistants, speech-language pathologists, and audiologists. The HHS Secretary also would be allowed to further expand the list of authorized telehealth providers.

Status: Referred to House Energy & Commerce Committee; referred to Senate Finance Committee

[Prevent Interruptions in Physical Therapy Act \(H.R. 1611/S. 2612\)](#)

This bill expands the ability of PTs to engage in what CMS is now calling "reciprocal billing and fee-for-service," otherwise known as "locum tenens," to all PTs. Currently, only PTs in rural and underserved areas are allowed to arrange for another qualified PT to treat their patients during a temporary absence due to illness, vacation, continuing education, pregnancy, and other events, and still receive payment from Medicare.

Status: Referred to House Energy & Commerce Committee; referred to Senate Finance Committee

[Stabilizing Medicare Access to Rehabilitation and Therapy Act](#) (H.R. 5536)

Also known as the SMART Act, this bill seeks to address elements of a pay differential system that cuts payment under Medicare by 15% when services are delivered by physical therapist assistants or occupational therapy assistants. Among the APTA-supported elements in the legislation: establishment of an exemption to the differential for rural and underserved areas, and adoption of less-burdensome general PTA and OTA supervision requirements for outpatient therapy under Medicare Part B. The change in supervision requirements is estimated to save CMS as much as \$242 million over 10 years, [according to a recent policy study co-sponsored by APTA](#).

Status: Referred to House Energy & Commerce Committee

[Primary Health Service Enhancement Act](#) (H.R. 5365)

This bill would expand patient access to essential physical therapist services to children and adults who receive care at rural health clinics and federally qualified health centers, also known as community health centers. The legislation elevates the status of PTs in the health centers by, among other measures, allowing them to bill independently for services billed to Medicare and Medicaid.

Status: Referred to House Energy & Commerce Committee

[Optimizing Postpartum Outcomes Act](#) (H.R. 8181)

This bill directs the HHS Secretary to develop several provisions that would significantly strengthen Medicaid's emphasis on pelvic care for individuals in the postpartum period. The legislation includes pelvic floor physical therapy among the pelvic floor services that would be covered under Medicaid and the Children's Health Insurance Program. The bill also instructs CMS to develop and issue guidance on best practices, financing options, screenings, referrals, and access, as well as terminology and diagnostic codes. Additionally, if the law passes, HHS would be required to educate and train health professionals and postpartum individuals on the importance of pelvic health and pelvic health physical therapy.

Status: Referred to House Energy & Commerce Committee

[Preserving Access to Home Health Act \(H.R. 8581/S.4605\)](#)

This bipartisan legislation would provide stability for home health patients by preventing CMS' proposed 7.69% payment cut to home health services in 2023 and prevent the agency from implementing any permanent or temporary adjustment to home health prospective payment rates before 2026. This would allow more time for CMS to refine its approach to managing budget neutrality in home health.

Status: Referred to House Ways & Means Committee and House Energy & Commerce Committee; referred to Senate Finance Committee

Regulatory Update

Medicare Physician Fee Schedule Comment Period Closes

On Sept. 6, CMS completed its collection of comments on the 2023 Medicare Physician Fee Schedule. In the past APTA has always encouraged members to respond to the rule using a pre-written comment letter. While that strategy continued, this year, APTA sought to encourage members to submit high quality feedback to

CMS on the rule. This included providing guidance on [how to draft a comment letter](#) education on important issues on the rule and a fillable form for members to create their own unique comment letter. This type of personal feedback is incredibly valuable to agencies like CMS and can have a profound impact on the final rule. Further, effective comment letter writing is an important advocacy skill that members can use on other federal rules, on state and local issues, and even in advocacy with private payers. APTA will continue to refine and improve this strategy in order to equip our members with the tools they need to be effective advocates. Thank you to everyone who took the time to draft comments on the rule!

In addition to our members' advocacy, APTA submitted lengthy comments in response to the rule. First and foremost, APTA denounced the payment reduction proposed by the agency year after year. APTA noted the decline in payment across providers as well as the specific impacts to physical therapy and urged the agency to take action to correct the damaging payment trends or risk providers leaving Medicare. APTA also submitted extensive comments on CMS' request for underutilized services that could cut Medicare's long-term spending — highlighting the myriad of ways physical therapy can aid various patient groups and conditions. APTA also defended PT's role and value in a number of updates to CPT codes including those on RTM, patient caregiver training, and pain management. Finally, APTA also submitted comments on the long-term use of telehealth in Medicare, the supervision of PTAs, and the problematic MIPS and MVP programs. Read APTA's comments [here](#).

APTA expects the final MPFS rule to be released in late October or early November.

Grassroots Update

Student Advocacy Offerings All Year Long

Students are the future of the profession and their participation in advocacy is important. In the recent APTA Flash Action Strategy, a two-day, student-led social media blitz to raise awareness on an advocacy issue, students sent more than 6,500 letters to Congress. The focus this year was the [Physical Therapist Workforce and Patient Access Act](#) (H.R. 3759/S. 2676). Please encourage PT and PTA students you know to get involved in advocacy throughout the year with the below programs:

- [National Advocacy Dinners](#) are a springtime activity in April organized by students and programs to get together and learn about advocacy. This dinner raises awareness of what advocacy is, educates others about the importance of advocacy, and how students can participate throughout their career.
- The [Student Advocacy Challenge](#) is a competition among PT and PTA programs to participate in advocacy activities for points. Check out the [menu of eligible activities](#) that programs can complete for points. Participants can submit their activities for credit through the APTA's website or the APTA Advocacy app. The Challenge runs from January 2022 through December 2022. The winning program will not only get bragging rights, but they'll be featured on APTA's website and will receive a virtual or in-person presentation by an APTA staff or Board member of the program's choice.
- Students are encouraged to become a [PTPAC Student Star](#). A \$20 donation will not only help PTPAC meet with legislators and candidates who support physical therapy, which is especially important in an election year, they will

receive a lapel pin and recognition on the PTPAC website. Visit <https://ptpac.apta.org> to learn more about PTPAC and donate.

PTPAC Update

2022 Election Preview: Waiting for the World to Change

Inside Elections, from Nathan Gonzales, is an exclusive look at the midterms elections and where they stand at this point. [APTA Advocacy Network members can view this exclusive digest](#) that includes an overview of the midterms. It includes links to updates in key races for the Senate, House, and governor and analysis of the recent special election in Alaska, where a Democrat was elected for the first time since Richard Nixon was president.

PTPAC's 50th Anniversary Celebration at APTA CSM

Celebrate PTPAC's 50 years of advocacy for the profession at PTPAC's evening event during APTA Combined Sections Meeting. This year the event will take place at [House of Blues](#). The event will be held Friday, Feb. 24, from 9 p.m.-midnight PT. Tickets cost \$100 for PTs and PTAs and \$50 for students. The ticket includes drinks, appetizers, and live music! You can buy your PTPAC tickets when registering for conference online or call 800-809-9565. You must be at least 21 years of age to attend. All PTPAC Eagle club members receive one free ticket, but please contact Michael Matlack at michaelmatlack@apta.org to reserve your ticket.

Contributions to PTPAC 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.