

July 19, 2017

Honorable Mike Burgess, Chairman
Honorable Gene Green, Ranking Member
Health Subcommittee – Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Re: Medicare Therapy Cap – Hearing July 20, 2017

Dear Chairman Burgess and Ranking Member Green:

The Private Practice Section (PPS) of the American Physical Therapy Association urges Congress to consider and pass legislation that would provide relief for the thousands of Medicare beneficiaries who are unfairly and negatively affected by the arbitrary per beneficiary therapy cap each year.

The over 4200 members of PPS own and operate small businesses that provide convenient, cost-effective rehabilitative therapy to patients across the spectrum of impairments and functional limitations secondary to neurologic and/or musculoskeletal conditions. The PPS endeavors to foster the growth, economic viability, and business success, of physical therapist-owned physical therapy services provided for the benefit of the public.

The PPS has strongly endorsed the bipartisan *Medicare Access to Rehabilitation Services Act* (H.R.807) which currently has 177 cosponsors. (The Senate companion bill [S.253] has garnered [26](#) cosponsors to date). This legislation would permanently repeal the \$1,980/year arbitrary therapy cap imposed on each Medicare beneficiary. Because the current exceptions mechanism expires on December 31, 2017, corrective legislation must be passed before the end of this year.

The Medicare therapy cap was included in the Balanced Budget Act of 1997 and since then has regularly been altered by Congress by the use of waivers or exceptions processes. This is because shortly after passage Congress heard from Medicare beneficiaries all over the country who were adversely affected by this provision.

They heard from seniors such as 89-year old Libby Frank living with her husband in Philadelphia who wrote:

I have both rheumatoid arthritis and osteoarthritis. I have been going for helpful physical therapy for years – and the more I go, the better I'm able to manage my life.

I have had to stop therapy in the past when the [Medicare therapy] cap kicked in. My health suffered.

We live independently in a comfortable apartment. Without the therapy and the exercises prescribed by the therapist, it is not likely we could remain independent. The handicaps would control my life. The only option would be a wheel chair in a nursing home which would cost money from public funds – and cut short our long active life.

This therapy cap was part of a budget gimmick that solved a government budget problem but created a health policy nightmare for seniors most of whom have more than three chronic conditions. Physical therapy is the solution to keeping these individuals functioning independently, enjoying their lives and contributing to society.

There are numerous ways to repeal this outdated policy and replace it with contemporary methods utilized in the private sector in the 21st century. These include recognized and accepted practices that were embraced in a Senate amendment (introduced by Sen. Ben Cardin in 2015) that garnered the bipartisan support of 58 senators (thus falling just two votes shy of the 60 vote threshold required during that debate). These include:

- **Per episode (rather than per year) limits with continuation allowed upon demonstration of progress toward rehabilitation goals**
- **Automatic exceptions for patients who need more than one type of rehabilitation therapy (e.g., physical and speech therapy)**
- **Targeted medical review of therapy services**
- **CMS monitoring of medical reviewers for accountability**
- **Prior authorization of services in certain circumstances**
- **Objective reporting on the patient's function upon patient intake and patient discharge from a course of outpatient therapy services**
- **Improvement of data collection on patient function during course of outpatient therapy services. This should include updating of the functional limitation reporting currently required but not being utilized by Medicare to perform predictive analytics which contemporary methods now make possible**
- **Methods and provisions compatible with the transition to value-based payment programs including Medicare's Merit-based Incentive Payment System (MIPS).**

Congress and the Centers for Medicare and Medicaid Services (CMS) have limped along for 20 years trying to work around this unfair and unworkable therapy cap policy. It is now time to repeal this misguided policy and replace it with workable provisions that allow the seniors in need to receive the care they deserve and to do so in a cost-effective way for the Medicare program. That solution is within reach.

PPS commends Chairman Burgess and the Energy and Commerce Health Subcommittee for holding this July 20 hearing and for your leadership efforts to relieve this burden from the Medicare beneficiaries who are so unfairly impacted by the current law. And we urge thorough, thoughtful action to implement an effective and updated therapy policy that allows our nation's seniors to access the type and amount of care that enable them to achieve and maintain optimal function.

Sincerely,



Terence Brown, PT, DPT
President, Private Practice Section
American Physical Therapy Association