

November 12, 2010

The Honorable Nancy Pelosi
Speaker of the House

The Honorable Harry Reid
Majority Leader

The Honorable Steny Hoyer
Majority Leader

The Honorable Richard Durbin
Majority Whip

The Honorable John Boehner
Minority Leader

The Honorable Mitch McConnell
Minority Leader

The Honorable Eric Cantor
Minority Whip

The Honorable Jon Kyl
Minority Whip

Dear House and Senate Leaders:

The undersigned organizations, representing consumers, patient advocacy organizations, health professionals and providers request further action by Congress to prevent seniors and individuals with disabilities covered by the Medicare program from being denied medically necessary services when they exceed arbitrary limitations on outpatient physical therapy, occupational therapy, and speech-language pathology services (also known as the therapy caps). Congress must not allow a repeat of last year when it failed to extend the exceptions process under 42 U.S.C. 1395l(g) and Medicare beneficiaries were subject to arbitrary limitations on necessary services. This was finally remedied nearly three months into the year when Congress enacted and President Obama signed the Affordable Care Act on March 23, 2010, which extended the exceptions process to the end of December 31, 2010.

As a coalition we support a permanent remedy to the therapy cap, but today request that the current exceptions process be extended for a period long enough to allow the Centers for Medicare and Medicaid Services (CMS) to complete ongoing congressionally-authorized studies of the therapy caps and identify potential remedies to arbitrary financial limits on rehabilitation services under Medicare. In January of 2008, CMS awarded a contract to Research Triangle Institute (RTI) to collect a broad range of beneficiary data relevant to the need for outpatient therapy services, analyze the collected data in terms of predictive power and cost and, develop therapy payment alternatives. The RTI study is planned as a five-year project that will produce a long-term solution to the quest for alternatives to caps.

The Medicare outpatient rehabilitation therapy caps were imposed by the Balanced Budget Act of 1997. They arbitrarily end Medicare's coverage of outpatient physical

therapy, occupational therapy, and speech-language pathology services once a beneficiary has exceeded a financial threshold of services in a calendar year. It applies to Medicare beneficiaries in all outpatient health care settings with the exception of outpatient hospital departments. Beneficiaries who receive Part B rehabilitation services within a skilled nursing facility, a therapist's or physician's office, a home health agency, or a rehabilitation agency are subject to the arbitrary cap.

Some 14.5 percent¹ or 640,000 Medicare beneficiaries who receive outpatient rehabilitation services per year are estimated to exceed the existing statutory therapy cap if Congress was to allow it to be enforced. Once the limit has been reached, beneficiaries who require additional services are responsible for the total cost. Seniors and individuals with disabilities with the most significant rehabilitation needs will have to decide between foregoing necessary care, changing providers of care, or paying 100% of the cost out-of-pocket. Beneficiaries who experience stroke, neuromuscular diseases, hip fracture, Parkinson's disease, diabetes, arthritis or osteoporosis are most likely to be negatively impacted by this arbitrary therapy cap. Also, those beneficiaries who experience more than one episode of illness or injury in a twelve-month period would risk needing more therapy than that covered under the existing payment limit.

Immediate action is needed to prevent additional seniors and individuals with disabilities from being denied medically necessary outpatient rehabilitation services.
We urge Congress to take up legislation to further address the concerns caused by the therapy cap until CMS can complete important work on alternatives to the therapy caps.

Sincerely,

Alliance for Quality Nursing Home Care
ALS Association
American Association of Homes and Services for the Aging
American Health Care Association
American Heart Association/American Stroke Association
American Occupational Therapy Association
American Medical Rehabilitation Providers Association
American Music Therapy Association
American Physical Therapy Association
American Speech-Language-Pathology Association
Arthritis Foundation
Autism Society
Brain Injury Association of America

¹ Ciolek, DE, Wenke H. *Utilization Analysis: Characteristics of High Expenditure Users of Outpatient Therapy Services CY 2002*. Final Report to the Centers for Medicare and Medicaid Services. November 22, 2004

Easter Seals

Focus On Therapeutic Outcomes, Inc

Jewish Federations of North America

Muscular Dystrophy Association

National Association for the Support of Long Term Care

National Association of Rehabilitation Agencies and Providers

National Association of State Head Injury Administrators

National Association of Social Workers

National Disability Rights Network

National Multiple Sclerosis Society

Parkinsons Action Network

Private Practice Section of the American Physical Therapy Association

PTPN

cc: Members of the House Ways and Means Committee
Members of the House Energy and Commerce Committee
Members of the Senate Finance Committee