

## Eli's Rehab Report

### Hospitals: Get the Facts Straight on Therapy Caps and Hospitals

#### Pathway for SGR Reform Act nails CAHs, but may be only temporary.

Hospitals have seen a roller-coaster year when it comes to therapy cap policy ☐ and they're not out of the woods just yet.

**You win some:** The Pathway for SGR Reform Act, a fix to the expiring therapy cap exceptions and nose-diving SGR passed last December, extends therapy cap exceptions until March 31, 2014.

**You lose some:** Critical Access Hospitals (CAHs) have been deemed permanently under therapy caps, per the 2014 Medicare Physician Fee Schedule.

"We believed it was a flawed interpretation of statutory policy and an inappropriate use of regulatory authority to extend the caps to CAHs," says **Tim Nanof, MSW**, director of health care policy and advocacy for the **American Speech Language Hearing Association**.

For years, all outpatient hospital rehab was exempt from therapy caps, giving therapy patients a fallback option if they exceeded their annual therapy dollar limits in other settings.

"CMS essentially reversed nearly a decade of existing regulation to apply the caps to CAHs. This results in an increase in the scope of the caps to yet another setting just when Congress is trying to repeal the caps all together because they are bad policy," Nanof points out.

"APTA and other stakeholders objected to the permanent application of the therapy cap to critical access hospitals and felt that they should be treated in the same manner as [regular] hospitals for purposes of the therapy cap," says **Gayle Lee, JD**, senior director, health finance and quality for the **American Physical Therapy Association**.

#### Regular Hospitals Not Exactly in the Clear

Despite CMS' attempt to keep outpatient therapy settings "consistent," this has been anything but the case between regular hospitals and CAHs. In late 2012, Congress passed legislation that placed regular hospitals under therapy caps for the first time until the end of 2013. CAHs, however, were declared exempt from therapy caps in this legislation.

**Complete reversal:** Then, the 2014 Physician Fee Schedule came out, placing CAHs under the caps permanently ☐ right when regular hospitals were supposed to gain their freedom from therapy caps.

Now, the Pathway for SGR Reform Act has entered the picture, applying therapy cap exceptions to all hospitals, both regular and CAHs.

**Tricky:** "So [regular hospitals] are under the exceptions process from Jan.1 to March 31... but exceptions to what? If they called it a utilization threshold that would make more sense, but they say hospitals are under the exceptions process, which implies they are subject to the cap in order to need an exceptions process," Nanof says.

That said, experts suggest hospitals err on the safe side and assume they are under therapy caps until March.

"The application of the therapy cap to hospitals could expire after March 31, 2014 (unless Congress passes legislation extending its application to hospitals)," Lee says. "However, the critical access hospitals would not be considered in the hospital exemption, and therefore CMS acknowledges that if Congress does not pass legislation, the cap could apply to services furnished in CAHs but not those furnished in hospitals in 2014."

