

Eli's Rehab Report

Inpatient Insights: News Flash -- CMS Abruptly Rescinds Transmittal 65

Certain California PTAs can relax about losing their jobs

If you're a hospital-based inpatient facility, you can breathe a sigh of policy-changing relief: You're no longer faced with adhering to Transmittal 65's tricky policies.

Background: On Jan. 26, the Centers for Medicare & Medicaid Services released Transmittal 65, which stated that hospital inpatient rehab settings, hospital acute care settings, critical access hospitals and long-term care hospitals and psychiatric hospitals under Part A were subject to the same documentation and provider requirements as Part B settings (see Physical Medicine & Rehab Coding Alert, April 2007 edition).

The result: Applying Part B rules to an inpatient setting was like fitting a square peg into a round hole for inpatient rehab providers. And after pleas from providers and professional associations, CMS stepped in and rescinded the transmittal on March 26.

Policy Change Needs Further Examination

CMS would not comment on the reasons behind rescinding Transmittal 65 other than to confirm to TCI that it was rescinded. But other association experts suggest that the agency simply realized that implementing outpatient rehab standards to inpatient facilities needed further examination.

"I think there were some unintended consequences the agency wasn't aware of that could have impacted patient care if the regulation had gone forward," says **Dave Mason**, VP of government affairs for the American Physical Therapy Association. "In general, some of the things CMS applied in outpatient settings have different kinds of impacts when applied in inpatient settings."

Example: The American Speech-Language Hearing Association recognized issues with the supervision policy for therapy students in inpatient hospital settings. "ASHA believes the hospital industry was greatly dissatisfied with issues in the policy, had not been adequately involved in its development and consequently convinced CMS to rescind it," ASHA wrote in a letter to the press.

Many California PTAs Took the Heat

In addition to understandable confusion that emerged over re-certification procedures and supervision policies, a sizeable proportion of California's physical therapy assistants were particularly jammed into a corner, thanks to the transmittal's definition of PTA.

How it works: "California allows some PTAs to sit on the exam and pass that way instead of going through all the educational requirements," says **Stacy DeFoe**, executive director of the California Physical Therapy Association. Medicare inpatient policies did not rule against this practice until Transmittal 65 stated, to the contrary, that a PTA must have had official PTA education to treat patients.

The result was a sudden stir over whether facilities would have to lay off some PTAs to remain compliant. In fact, an unnamed source reported to TCI that one, if not more, inpatient facility in California had already fired all PTAs who had

not meet Transmittal 65's requirements.

Lesson Learned

Although an unfortunate and most likely unintended consequence, this is a perfect example of the challenge of balancing two or more sets of regulations: One must follow the strictest regs, and in this case, Medicare had the final say over the state.

But creating this sudden hole in staffing was a major concern in a state where "there's currently a shortage of PTAs," DeFoe says. Not to mention the case many PTAs had for discrimination.

That said, know that voicing concerns like this to your associations and CMS is very important -- in this case, a strong dissenting voice from associations and providers helped result in rescinding the problematic transmittal.

Heads up: More Regulations Likely

If you're one of the therapists or facility managers affected by Transmittal 65, you can relax for now, but don't get too relaxed. Experts agree that CMS is not throwing the issues in Transmittal 65 completely away. The agency has recognized problems with the old standards, but "it appears there is some interest in proposing new standards at some point," Mason says.

Important: "I would urge providers not to jump to any conclusions at this point because Medicare did rescind the policy," DeFoe says. "We do think it will come back, but we think that they heard some of our pleas."