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Eli's Rehab Report

Medicare: Beware These Therapy Payment Challenges

2 are oldies and one relatively new.

Therapy providers shouldn't let their guard down yet on three Part B-related developments, advise industry insiders.

One is the outpatient therapy cap. In April, lawmakers introduced legislation to repeal the cap, says **Tim Nanof,** federal affairs manager for the American Occupational Therapy Association. (See the cover story in Eli's Rehab Report, Vol. 18, No. 6.) While the prospect for repeal is "extremely unlikely," Nanof says, the industry uses the repeal bill "as a rally cry -- a beacon to draw support on the issue of the therapy cap and try to get Congress to take action, which it has many, many times since the cap was implemented" by the Balanced Budget Act in 1997.

"Currently, under the exceptions process, which is in effect for the remainder of this year, people can get therapy at levels beyond the cap to meet their needs," Nanof says. And "we are still optimistic that we will get the exception process" renewed. "But the political environment is much more difficult now with the budget crisis [in terms of getting] lawmakers to sign onto a bill that costs money. And according to the CBO [the exceptions process] costs money, as they don't look at the longer-term consequences of what happens when therapy is not provided."

Upside: "The cap has only been implemented for a few weeks at a time" since it was passed, Nanof points out. And he notes that Congress views the cap "not just as a service provider issue but also a beneficiary issue [in that] it eliminates services rather than just reducing payment for them."

The American Speech-Hearing-Language Association continues to work with other organizations to educate Congress regarding "the need to do something more longterm about the Part B cap," says **Ingrid Lusis,** director of federal and policy advocacy for the trade group. ASHA is also working with Congress to ensure "the exceptions process for the cap remains in place," she adds. At the same time, "we are also sensitive to the fact that you can't keep kicking the can down the line -- all of the organizations are looking to see what kind of long-term solution would work the best."

2 More Reimbursement Concerns

Under the Sustainable Growth Rate (SGR) system, "we are all scheduled to take a 29.5 percent cut, which will require legislative action to remedy," says **Chuck Willmarth,** director of state affairs and reimbursement and regulatory policy for AOTA.

"There was some discussion that the SGR might have been part of the debt ceiling deal," adds Lusis, "but it wasn't. Even so, we anticipate legislation at the end of the year to fix the SGR again -- if not, there will be another steep decline in reimbursement."

Also a problem: "Last year the physician fee schedule rule applied the MPPR [Multiple Procedure Payment Reduction] to the practice expense component of therapy services provided on the same day," says Willmarth.

Quick review: CMS applies "a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures," states an MLN Matters article. "Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." (You can read the article at www.cms.gov/MLNMattersArticles/downloads/MM7050.pdf.)

The proposed physician fee schedule rule this year, says Willmarth, "leaves the MPPR for therapy unchanged, but [AOTA]

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will be commenting again on why CMS should apply the MPPR separately."

"There are arguments as to why the MPPR should be applied differently to the separate therapy disciplines," says Nanof. For example, "OT may be set up in a SNF or clinic with an apartment as opposed to PT, which has walking bars and steps and stretch bands, etc.," he adds. "The expenses you incur to practice are completely different."

ASHA views the MPPR as a "flawed policy," says Lusis. It has less of an effect on SLP services than it does on OT and PT, however, because "our codes are procedure versus time based. PT and OT codes are based on 15- minute increments." But "the policy does affect SLP when two procedures are done on the same day -- or when PT, OT, and speech are provided on the same day," she adds.

Not just Medicare: "We are seeing some private insurance companies apply MPPR-style cuts to therapy that cut the payments in general rather than just the practice expense portion of the Medicare valuation," Nanof says.

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