

Eli's Rehab Report

NEWS BRIEFS

New Bill Extends Exceptions Process

If you're wondering what will happen at the year's end when therapy cap exceptions are due to expire, you and your patients may be in luck.

The Securing Effective and Necessary Individual Outpatient Rehabilitation Services (SENIORS) Act (S. 3912/HR. 6132) would extend the current Medicare therapy cap exceptions process set to expire on Dec. 31, according to an American Physical Therapy Association (APTA) release.

The kicker: Congress was unable to address the therapy cap prior to election, which pushes the issue to a postelection "lame-duck" session agenda, according to PT Bulletin Online.

But the professional associations and most providers support a more long-term solution that completely repeals the caps. Luckily, much of Congress agrees. The bill to completely repeal the therapy caps, The Medicare Access to Rehabilitation Services Act of 2005 (S 438 and HR 916), has strong bipartisan support in both the House and the Senate with 261 and 45 cosponsors, respectively, APTA said. **Congress Seeks to Overturn Current Incident-to Rule**

Physical therapists could soon see other players on their Medicare therapy provider turf if a new bill in Congress goes through.

Senators Craig Thomas (R-WY) and Arlen Specter (R-PA) introduced legislation, The Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006 (S. 3963), that would overturn the current Medicare "incident-to" rule and recognize athletic trainers and lymphedema therapists as covered providers under Medicare, according to the American Physical Therapy Association (APTA).

The current Medicare incident-to requirement, clarified in the 2005 Medicare Physician Fee Schedule, is that individuals providing therapy services must be graduates of physical therapy professional education programs -- that includes those who provide physical therapy services incident-to a physician's professional services.

Several opponents of these regulations, including the National Athletic Trainer Association (NATA), attempted to have CMS rescind the rule but failed. NATA also filed a federal lawsuit attempting to force their withdrawal, and a U.S. Court of Appeals upheld a district court decision dismissing the litigation. **2007 OIG Work Plan Has Therapy in Its Scope**

Be ready to be on your toes next year if and when auditors swing through your facility -- the HHS Office of Inspector General (OIG) has released its 2007 work plan, and it's drawing ample attention to therapy services.

In general, the OIG plans to review medical necessity, correct billing and proper documentation for Medicare rehab services. Regarding specific facilities, a sampling of hot items on the OIG's checklist includes inpatient rehabilitation facility compliance with 75 Percent Rule admission criteria, home health agency compliance with higher-paying therapy threshold, skilled nursing facility compliance with medical necessity, and comprehensive outpatient rehabilitation facility (CORF) compliance with documentation and proper billing.

Also note that the OIG is watching for duplicate claims and will evaluate for proper billing and compliance with incident-to services. Check out the next issue of Physical Medicine & Rehab Coding Alert for more details. **South Carolina Rules Against POPTS**

If you work for a physician-owned physical therapy service (POPTS) in South Carolina, you'll be up for some major changes.

The South Carolina Supreme Court published a ruling Sept. 25 in favor of the state physical therapy board, upholding the state's Anti-POPTS Law, reported the South Carolina chapter of the American Physical Therapy Association (SCAPTA).

This confirms that all physical therapists and physical therapist assistants in South Carolina employed by a physician or group of physicians who refer patients to them are no longer in compliance with state law and will be "subject to disciplinary action by the SC Board of PT Examiners."

In the majority opinion, the state Supreme Court affirmed the lower court's ruling that the PT Board's action correctly interpreted the Practice Act. In addition, the court determined the Board was not subject to the state's rulemaking requirements, did not infringe physicians' statutory right to practice medicine, did not deny equal protection of the law to physical therapists wishing to be employed by physicians, did not deny substantive due process to such physical therapists, and did not deny the aggrieved physicians and physical therapists procedural due process, reported PT Bulletin Online.

The South Carolina Supreme Court concluded that the purpose of the statute was "to protect consumers ... from actual and potential conflicts of interest which are likely to lead to overuse of medical services by physicians who, for their own financial gain rather than their patients' medical needs, refer patients to entities in which the physicians have a financial interest."

For full text of the opinion, visit www.judicial.state.sc.us/opinions/displayOpinionPF.cfm?caseNo=26209.