

## Eli's Rehab Report

### Outpatient Outlook: Congress Shines a Ray of Hope on Therapy Cap Repeal

#### **Senate Budget Committee crunches some numbers in favor of outpatient therapy.**

Policy experts have often said that a repeal of the therapy caps could be next to impossible because of Medicare's budget constraints -- but a miracle could be in the works.

The Senate Budget Committee approved an amendment from Sens. **Ben Cardin** (D-Md.) and **John Ensign** (R-Nev.) that would provide funds for the expressed purpose of improving the Medicare outpatient rehabilitation benefit, announced the American Speech-Language Hearing Association in a March 27 email to members.

**What this means:** Congress prepares a budget resolution each year once it receives the president's fiscal year budget request. The amendment to the budget package for fiscal year 2010 acknowledges that the reserve fund, which is used to address health care reform and the physician payment fix, could be used for repealing or addressing the therapy caps, explains **Kelly Lavin**, director of federal government affairs for the American Physical Therapy Association.

At the time of press, the full Senate had just passed its budget resolution with this amendment.

#### **The Battles Not Over Yet**

A repeal of the caps is now much more hopeful, but it'll still take some work. For starters, the amendment was not introduced on the House side, Lavin says.

The House and Senate attempt to pass a unified budget resolution, but that has been difficult to do in recent years, according to a statement from APTA.

**The bright side:** Most of the bills that have been passed into law this year are the Senate version, Lavin says. So were quite hopeful.

In addition, the significance of this is symbolically important, APTA says. It directs other Senate committees, such as the Senate Finance Committee, to focus on health care reform, the physician payment fix, and now the therapy caps in its legislative work this year.

**Another hurdle:** Budget resolutions are non-binding, so it's not a done deal that the funds will go toward a therapy cap repeal, points out **Tim Nanof**, manager of federal affairs for the American Occupational Therapy Association. The amendment simply acknowledges that the therapy caps are an important issue and that there is money in the reserve funds that could be used to address this problem, he explains. Congress will still have to pass legislation to address the cap.

**Silver lining:** The amendment does place a higher priority on addressing the therapy cap issue, ASHA noted.

And there are therapy advocates in Congress. Sen. Cardin has always been quite a champion on therapy cap bills, and Sen. Ensign as well, Lavin notes. Bottom line, this is our 10th year anniversary of the therapy caps, so hopefully it's about time that we have the issue solved once and for all, she continues.

**Do this:** While Congress irons out this legislation, continue to support S. 46 and HR 43, legislation that would repeal the Part B therapy caps, ASHA recommended. Remember, the current therapy cap exceptions process will expire on Dec. 31, 2009 without further congressional action.

