

Eli's Rehab Report

Outpatient Outlook: Cross Your Fingers for Positive 2009 Fee Schedule Changes

Physician Quality Reporting Initiative measures get a booster shot, and the rehab community wants even more.

Physical therapy associations have had a lot to say about the proposed 2009 Medicare Physician Fee Schedule (MPFS) -- and certain rehab settings could benefit next year from these recommendations. Know what CMS has in mind for 2009, and what the industry is petitioning for in the final rule that's to come around Nov. 1.

Remember: Therapy cap exceptions and Medicare payment cuts are no longer on the chopping block for 2009 due to the MIPPA legislation hastily passed last July. But don't lose sight of Jan. 1, 2010, when the exceptions process will expire and CMS will institute a 10.6 percent payment reduction to its fee schedule.

CORFs, ORFs, Rehab Agencies to See Positive Changes

A few minor tweaks to the MPFS rule could result in some major relief to certain rehab settings. CMS was already on the ball in the proposed rule, acknowledging that requiring outpatient rehab facilities to provide social and vocational services was outside ORFs' scope of practice. Only about 1 to 2 percent of ORF patients need these services, and "it created an administrative burden and extra cost to the program, so we support this being in the final rule," says **Dave Mason**, vice president of government affairs for the American Physical Therapy Association (APTA).

APTA has also advocated that CMS make a technical correction to conditions of participation of comprehensive outpatient rehabilitation facilities and rehab agencies. When the rehab industry switched to 90-day certification intervals this year, CORFs and rehab agencies were unexpectedly caught in a bind because their COPs did not change to reflect the 90-day certification period, Mason explains. "We think the agency could easily fix this in the final regulation."

Good news: The American Occupational Therapy Association (AOTA) praised CMS for updating CORF COPs to state that a single home-environment evaluation is covered if there is a need to evaluate the potential impact of the patient's home environment on his or her rehab goals.

Referral-for-Profit Still a Hot Topic

Stark and anti-markup rules appeared in last year's proposed [Physician fee schedule](#), and the issues have resurfaced. But APTA isn't quite satisfied with the proposed regulations. "We hoped the agency would address the in-office ancillary service exception very directly to PT services to try to rein in some of the situations that we think have created abusive referral-for-profit arrangements," Mason says.

The problem: In APTA's opinion, the in-office ancillary exception creates a loophole in the Stark Law that allows physicians to set up practices where they can refer patients to PT services in which they have an ownership interest. "It basically provides a legal blueprint for how they can set up those relationships," Mason says.

Although APTA voiced its concerns on this issue, it doesn't expect changes to happen in time for the release of the [fee schedule](#) final rule. "Our comments were primarily aimed at raising the issue as something the agency needs to continue to be aware of in future rulemaking," Mason explains.

PQRI Improvements Get Attention

As PQRI heats up in the physician community, the professional associations for the different rehab disciplines are working extra-hard to ensure PTs, OTs, and SLPs have appropriate quality measures to report. "APTA has worked extensively with

Quality Insights of Pennsylvania to develop quality measures for physical therapists," the association noted in its comments to CMS. But both APTA and AOTA are concerned that the funding for this project has ended and would like to see the project continue.

For OTs: "When the contract with Quality Insights ended, there were still some outstanding measures that occupational therapy experts developed that had not been fully fielded through the endorsement process," says **Sharmila Sandhu, Esq.**, regulatory counsel for the American Occupational Therapy Association (AOTA). Meanwhile, in its comments to CMS, AOTA offered a list of additional PQRI measures it would like to see included.

A different boat: SLPs, however, are just happy to be a part of PQRI, now that they've been cleared to bill Medicare directly. But looking ahead, "we'd like to work with CMS on having them adopt our NOMS measures for the purposes of PQRI reporting," says **Ingrida Lusic**, director of healthcare regulatory advocacy for the American Speech-Language Hearing Association (ASHA), referring to ASHA's National Outcomes Measurement System. "There really aren't measures out there that SLPs can report now, except for one for a plan of care. But that's a process measure, and we believe that outcomes are a better way to measure quality in speech-language pathology services," she explains.

Finally, AOTA and APTA have advocated for CMS to continue looking into clinical registry data reporting as a way to track PQRI. "This would allow therapists in facility settings to participate," Sandhu says.