

Eli's Rehab Report

Outpatient Outlook: Expect a Near Miss of Steep Medicare Payment Changes

You may be in therapy cap and SGR limbo between January and March.

Industry leaders are calling for last-minute advocacy from therapists across the nation to reverse a 20.1 percent cut to the Medicare sustainable growth rate. Just confirmed in the 2014 Medicare Physician Fee Schedule final rule released in late November, this cut would take place Jan. 1, 2014.

In addition, automatic therapy cap exceptions will expire on this date along with the manual medical review (MMR) process for therapy claims exceeding \$3700.

Get the Latest Therapy Cap Facts Straight

The therapy cap amount for 2014 is now \$1920 for occupational therapy and \$1920 for physical therapy and speech-language pathology combined.

Also, much to the disappointment of the major professional associations and therapy advocates, the **Centers for Medicare & Medicaid Services** (CMS) finalized that therapy caps would apply to Critical Access Hospitals (CAHs) permanently. (To be considered a CAH, the facility must be either 35 or more miles from another hospital or 15 or more miles from another hospital in mountainous terrain/an area with only secondary roads.)

The twist: Inclusion of CAHs under therapy caps is inconsistent with the legislation for regular hospitals. Congress deemed regular hospitals under the therapy caps in late 2012 — a ruling extended to the end of 2013. Ironically, CAHs were declared exempt from that ruling. So, as it stands now, regular hospitals will be relieved from therapy caps, while CAHs will fall under the caps starting Jan. 1, thanks to the Physician Fee Schedule rule.

"ASHA does not believe it was the intent of Congress to separately define CAHs outside of the hospital definition in legislative statute," says **Lisa Satterfield, MS, CCC/A**, director of health care regulatory advocacy for the **American Speech-Language-Hearing Association**.

Be aware: Therapy advocates are also fighting hard against the use of Recovery Audit Contractor (RAC) involvement in manual medical review (MMR) for therapy claims over \$3700. RACs are paid on a contingency fee, which means they get a percentage of the dollars for denied claims.

"In our comment letter, we made the case that RAC involvement in MMR is unlawful and inappropriate and should be halted," says **Jennifer Hitchon, JD, MHA**, counsel & director of regulatory affairs for the **American Occupational Therapy Association**.

Therapy Cap, SGR Repeal Closer Than Ever

On the upside, experts believe that legislation deeming an overhaul of the therapy caps and the sustainable growth rate (SGR) formula for the Medicare physician fee schedule has an excellent chance of coming to fruition. This is a huge breakthrough after years of advocacy and short-term fixes to the therapy caps.

"The House of Representatives and the Senate could reach agreement early next year," says **Gayle Lee**, senior director of health finance and quality for the **American Physical Therapy Association**. "These legislative packages are part of a shift in the health care system away from the current fee-for-service system and toward programs focused on quality

outcomes."

For now: Congress will likely pass a 3-month SGR fix before the holidays to prevent a 20.1 percent cut to the conversion factor and expiration to the therapy cap exceptions process. "This short-term fix would be effective Jan. 1 through March 31, 2014, and give the House and Senate time to reach a final agreement on the SGR reform package, Lee says.

For your 2013 claims, continue to use the KX modifier for any and all claims over the therapy cap amount. "The modifier should still be included on the claim form for services over the threshold amount of \$3,700, as well, although those claims are still subject to RAC review," Hitchon says. "CMS tells us that they track the KX modifier to tally all services that exceed the cap (\$1,900 for 2013) so its use is encouraged even though it won't 'automatically' except claims over \$3,700 from scrutiny."

To view the final rule, visit <http://tinyurl.com/ozo3eyx>.