

## Eli's Rehab Report

### Outpatient Outlook: Good News -- CMS Report Reveals Win-Win Situation for Exceptions Process

If you provide outpatient therapy, and you're not in a hospital-based setting, you're probably nervously counting down to June 30 -- the date that the Medicare outpatient therapy caps exceptions process expires once again.

**The good news:** You still have some time to petition your congressional representatives to extend the exceptions process -- and a recent report by CMS contractor Computer Sciences Corporation (CSC) could help argue your case. Read on for highlights you can point out to your representatives over the next few weeks, plus the experts' take on them.

#### Patient Access and Cost Control Can Happen

Most advocacy groups and the major trade associations have pushed for legislation that fully repeals the therapy caps, but now, attention seems to be shifting toward making the exceptions process a long-term solution. Why? The CSC report indicates that the exceptions process "seems to be striking the right balance between maintaining patient access to therapy services and providing some cost-containment strategies," says **Justin Moore**, senior director of federal government affairs for the American Physical Therapy Association.

**The figures:** In 2006 (the year the therapy caps went into effect with the exceptions process), the number of Medicare beneficiaries receiving therapy services increased by 3.5 percent, but the overall outpatient therapy expenditures decreased by 4.7 percent, according to the CSC report. All the while, the therapy caps with the exceptions process "had little or no impact on beneficiary access to outpatient therapy services," the report says.

True, therapy expenditures were more "dramatically" reduced when the therapy caps were in effect without an exceptions process in 1999, but "the elimination of the exceptions process on July 1, 2008, would have significant impact on beneficiaries with clearly identified demographic and diagnosis characteristics" and "disproportionately impact those beneficiaries in certain provider settings" or those who don't have easy access to hospital settings, the report says.

In short, the data in the CSC report suggest that rehab providers and their patients, as well as CMS and the government, can strike a win-win situation if they continue using the therapy caps with the exceptions process.

#### Exceptions-Process Language Is Pro-Therapist

Another reason the trade associations are focusing more of their energies on the exceptions process than on a full repeal of the caps is that the exceptions process recognizes the therapist's authority in patient care.

"In the transmittal that outlines how the exceptions process works, CMS emphasized the role of the therapist in 'attesting' to the need for the therapy that goes beyond the '\$1,500' limit (now \$1,810)," says **Christina Metzler**, chief public affairs officer for the American Occupational Therapy Association. "This language reinforces that it's the therapist who makes the decision on whether or not the patient needs therapy and for how long, so it strengthens the therapist's position in making these decisions."

Meanwhile: With this authority and the exceptions- process guidelines, therapists are more carefully evaluating their patients' therapy needs, which is probably why the exceptions process is saving the Medicare program money, even though it's letting patients get therapy beyond the caps, experts say. "The therapy usage growth trend is continuing, but therapists have had to be a little more judicious, especially on the higher-end patients," Metzler says.

#### Expert Advice: Streamline the Argument

Again, advocates at most of the trade associations believe, in theory, that a full repeal of the caps is the best answer. But they realize it will be a few years until CMS can work out a cost-saving system that doesn't use therapy caps. "CMS is working on a five-year study for new alternatives," says **Ingrida Lulis**, director of healthcare regulatory advocacy for the American Speech-Language Hearing Association, "so basically, the exceptions process is the stop-gap, and we're working to keep it in place until CMS comes up with something else."

"If Congress could make the exceptions process permanent, that gives us time for CMS to finish their work on alternatives to the arbitrary cap, and that gets us out of this year-to-year, kick-the-can strategy," Moore says.

Good idea: So while you wait on CMS' five-year study, experts agree that it would be smarter for the therapy community to put resources together to petition for extending the exceptions process until CMS comes up with a better plan, rather than spreading out resources to petition for a full repeal as well.

As for the June 30 expiration date for the exceptions process, "it will probably come down to the last minute again," Lulis says. But experts are hopeful that the CSC report and its cost-saving facts will win Congress over as it puts together its newest Medicare package.

Resource: To read the full report online, visit <http://www.cms.hhs.gov/TherapyServices/SAR/list.asp#TopOfPage>, and click on "CSC -- 2006 Therapy Cap Report."