Eli's Rehab Report

Outpatient Outlook: Stay in the Loop on Key Changes CMS Proposes for Next Year

Welcome some good news about your recertification periods

A new proposed rule from CMS hit the Federal Register on July 12 and gives rehab providers a lot to think about. On top of proposing changes to the physician fee schedule, the rule (42 CFR, Vol. 72, No. 133) offers some new guidelines that will have you celebrating -- and some that will have you scratching your head.

Get the skinny on what affects you, and prepare to put on your writer's hat to share your comments with CMS before it publishes the final rule.

Recertification Period Could Get Longer

Probably the best news for you out of this proposed rule is a chance at having a 90-day recertification period instead of the current 30-day period. That means you wouldn't need a physician or qualified nonphysician practitioner to sign your plan of care until 90 days after its initial certification, says **Rick Gawenda, PT,** director of physical medicine and rehabilitation at Detroit Receiving Hospital and owner of Gawenda Seminars.

Exception: If you work in a CORF setting, your recertification period would still be 60 days, according to the proposed rule. But remember, you have time to comment on the rule until Aug. 31 if you would like to submit comments to change the recertification to 90 days in the CORF setting to be consistent with the proposed changes for the other settings.

But for all other outpatient settings, you can count this as very good news because almost all of your patients should be done with their therapy within 90 days, Gawenda says. "If, however, you make significant changes to the POC that has already been certified by the physician or NPP, you would have to get it recertified or perhaps even develop a new plan of care that would need to be certified," he says.

For example, a patient may present for therapy on May 15 for a hip fracture -- that POC would be valid for 90 days. But if on June 3, the doctor provides a new referral due to cervical pain on the same patient, you would have to develop another POC that contains all the required elements and have the POC certified by the physician or NPP because it's a new diagnosis, Gawenda says.

Watch for: CMS Transmittal 63 states that you must write a progress report once every 10 treatment days or once every certification interval -- whichever comes first. But if the 90-day recertification period appears in the final rule, you can almost guarantee that you'll be writing a progress report once every 10 treatment days because 10 treatment days are almost sure to pass before a recertification period of 90 days, Gawenda says.

CMS Revisits Professional Qualifications

Another area CMS is striving to update is professional qualifications for PTs, PTAs, OTs and OTAs. Why: CMS recognized that standards have changed since many of these qualification requirements were developed and that revisions would help establish consistent standards in the industry. Plus, some of the current qualification standards don't address therapists and therapist assistants who have been trained outside the U.S., the rule says.

"I think this is the agency's attempt to deal with the issues that Transmittal 65 raised," says **Dave Mason**, vice president of government affairs for APTA, referring to the rescinded transmittal that created a stir in California

regarding practicing PTAs who had not graduated from

PTA school. (See Physical Medicine & Rehab Coding Alert Vol. 8, No. 6 for more details.)

Bottom line: If the proposed rule stands, those who begin their practice after Jan. 1, 2008, must meet the new standards. See the proposed rule, pages 38191-38193, for discipline-specific standards. And bear in mind that your professional associations are busy at work dissecting the proposed rule's tricky language.

For example, "the language talks about OTAs having to be 'licensed or otherwise regulated' in the state, but some states, such as Hawaii, don't even regulate OTAs," says **Chuck Willmarth**, director of state affairs and interim director of reimbursement for AOTA. Also, the language says that OTs and OTAs have to pass the exam -- but under current law, they either have to pass the exam or be "exam eligible."

The problem: "Some states allow OTs and OTAs to get a temporary license and practice before they pass the exam, and my interpretation of this language is that even if you have a temporary license, you couldn't get paid under Medicare unless you pass the exam," Willmarth tells TCI, noting that AOTA plans to address the discrepancy in its comments.

Your saving grace: A grandfather clause will protect currently practicing PTs, PTAs, OTs and OTAs who don't meet the new requirements and have started practicing before Jan. 1, 2008.

CORFs Get Some Attention

In the proposed rule's revised definitions of social and psychological services, CMS also proposes to keep a closer eye on CORFs. "CMS is trying to make sure that CORFs aren't the main setting for the treatment of mental illness," says **Chris Metzler**, chief public affairs officer for AOTA. "But we don't want them to go so far in restricting social and psychological services or the provision of occupational therapy for mental-health purposes to somebody who also has a rehabilitation need."

For instance: A person suffers a head injury. "He may need social and psychological services, as they directly relate to the reason he's in the CORF -- for rehab with the head injury. But we don't want CORFs to be used as the main center for somebody, for instance, who has bipolar disorder and doesn't have any rehab need," Metzler says.

On the other hand, AOTA holds that some people who need rehab may also have a severe mental illness. "And that should be considered as a component of all the issues around rehab in a CORF," Metzler says.