

## Eli's Rehab Report

### Outpatient Outlook: Taste Sweet Victory With SGR Fix, Therapy Cap Repeal Not So Much

**Experts fear therapy cap repeal lost its best chance to pass.**

The April 1, 2015 deadline came and went for lawmakers to end therapy caps and a plummeting Medicare sustainable growth rate (SGR). With no Congressional action for the first half of April, PTs, OTs, and SLPs were in open waters of therapy caps and a -21 percent cut to Medicare payments.

**The good news:** Albeit 15 days late, the **House of Representatives** passed legislation to once and for all repeal the flawed SGR. President **Barak Obama** signed into law the Medicare Access and CHIP Reauthorization Act on April 16, which the Senate had passed a day earlier.

**The bad news:** The legislation left out any mention of repealing the therapy caps. Instead, it included a two-year patch for the therapy caps, a less than ideal outcome, according to therapy advocates. Apparently, lawmakers were concerned about spending pressure and wanted a "clean" SGR fix, thus, didn't feel comfortable adding in the therapy cap repeal this time.

"Without the therapy cap repeal attached to a larger Medicare reform bill, there is no guarantee Congress will address the therapy cap issue in the next two years," stated a combined press release from the **American Speech-Language Hearing Association** (ASHA), the **American Occupational Therapy Association** (AOTA), and the **American Physical Therapy Association** (APTA), shortly after the SGR repeal bill passed in the House.

Thankfully, the SGR has now been laid to rest, but the therapy caps will continue to reappear and call for a fix unless Congress repeals them.

"If Congress fails to include a permanent solution for the therapy cap in this bill, it will have purposely missed the only significant opportunity in almost 20 years to fix this critical patient issue," said APTA President **Paul Rockar, Jr, PT, DPT, MS**, in a press release before the Senate voted on the SGR legislation. "A bipartisan solution has been negotiated. These policies were created together. They should be fixed together."

"Any effort to disassociate these two policies will, undoubtedly, compromise Congress' ability to tackle the policy comprehensively in the future," added **Virginia Stoffel, PhD, OT, BCMH, FAOTA, AOTA** president.

#### **Historic Vote Leaves Therapy Industry Hopeful**

Despite the therapy cap repeal defeat, the therapy cap exceptions process was extended to the end of 2017, and big steps were made toward finally ridding Medicare of the caps.

**So close:** At the last minute, Sens. **Ben Cardin** (D-MD), and **David Vitter** (R-LA), pushed for an amendment to add a full therapy cap repeal to the House's SGR legislation. Unfortunately, the amendment did not pass, but the vote was extremely close □ 58 in favor, with 60 needed to pass.

"This is the first time there has ever been a full-chamber vote on therapy cap repeal, and it came the closest it's ever come [to passing]," says **Mandy Frohlich**, VP of government affairs for APTA. "We felt fairly confident that the support was there for 60 votes, but ultimately we think some members may have felt nervous about re-opening the House bill or amending it."

Also, the 60-vote threshold was "higher than normal," according to Frohlich. "In any other circumstance, it would have

passed with 58 votes, so we're going to continue to keep the pressure on and are looking for opportunities to resolve the issue this year rather than waiting another two and a half years [for the therapy cap exceptions to expire.]"

"We're disappointed in the outcome, but to have received 58 votes for the U.S. Senate is certainly something to carry with us," says **Tim Casey**, director of federal affairs for AOTA. "We look at this as a building block and that we can hold quite a few members to their vote [in the future.]"

"We are extremely grateful to Senators Cardin and Vitter for championing the bipartisan therapy cap amendment during the Senate floor debate, and thankful for the 56 Senators that joined them in voting in support of the procedure motion," says **Ingrida Lulis**, director of federal and political advocacy for ASHA. "We are, however, disappointed at the outcome."

### **Know What's Ahead for Medicare Reimbursement**

So the flawed SGR is gone □ now what?

"The reform piece of the SGR bill provides for 0.5 percent annual updates for the next five years, then, it starts to move providers, including therapists, toward systems that focus more on value of services over volume," Frohlich says.

The value-based reimbursement mechanism is still a ways off, though. "There's a lot of work to be done on the implementation side, but APTA supports the idea that it's better to be looking at outcomes for patients and also value of services," Frohlich says. "As far as reimbursement, mechanisms will change for all providers, but for the next two years, they will be pretty consistent."

**Stay one step ahead:** While therapy cap exceptions are a familiar fallback, get ready for changes in the Manual Medical Review (MMR) process.

"The MMR process is changing significantly from 100 percent review of claims over \$3,700 to more targeted review," notes **Tim Nanof, MSW**, director of health care policy and advocacy for ASHA. "The details of how CMS will implement that remains a significant question."

The changes, however, "should limit some of the administrative burden while allowing CMS the flexibility to address claims that truly are outliers rather than wasting limited resources on 100 percent review," Nanof says.