

Eli's Rehab Report

Regulations: New Legislation Takes On Therapy Cap

If passed, bill would permanently repeal \$1,870 ceiling for therapy services.

Lawmakers are out to eliminate the cap on therapy services once and for all.

Senators **Ben Cardin** (D-Md) and **Susan Collins** (R-Maine) and Representatives **Jim Gerlach** (R-Pa) and **Xavier Becerra** (D-Calif) have introduced the "Medicare Access to Rehabilitation Services Act" (S 829/H.R. 1546). If passed, the bill will permanently repeal the \$1,870 cap imposed on therapy services.

"Arbitrary caps on vital Medicare services like outpatient therapy have no place in medicine," Sen. Cardin stated on his website. "These caps fail to take into account patients' medical needs. If Congress fails to act, they will have a serious effect on the progress of seniors who are recovering from strokes, hip fractures, or other serious medical conditions," he wrote.

This legislation is supported by associations like the **American Physical Therapy Association**, the **American Occupational Therapy Association**, and the **American Association of Homes & Services for the Aging**.

"The detrimental effects of the therapy caps on patients are well-documented," said APTA president **R. Scott Ward, PT**. For instance, when the cap nears, patients "often begin rationing their care to avoid exhausting their benefits," and eventually forgo treatment altogether, he notes.

Currently, Congress acts annually to extend cap exceptions for Medicare beneficiaries, but the exceptions expire at the end of each year. Without Congressional intervention, the exceptions cap will be replaced by a hard cap for Medicare-covered physical therapy, occupational therapy, and speech-language pathology services.

Reality: "It's unlikely Congress will repeal the cap without having something else in its place," says **Fran Fowler**, president of **Fowler Healthcare Association** in Atlanta. "The climate just isn't right for them to take it away without another way to keep costs low," she asserts.

"While anything is possible, Congress is operating in an era of fiscal austerity," points out **Michael Weinper, PT, MPH**, president of **PTPN**, a network of rehab professionals in private practice. "Cutting the nation's debt is a top congressional priority -- even privatizing Medicare is under consideration," he notes.

Repealing the cap is destined to be a "continual political fight" for the rehab industry, Ward agrees. "Every member of Congress that we meet with agrees the cap is unfair and capricious; the problem is these same representatives always look at the estimated cost of the repeal and become concerned about where the dollars will come from to cover the repeal," he shares with **Eli**.

In dollars: "The nonpartisan Congressional Budget Office estimates that the repeal would cost about \$9 billion over ten years," Weinper says. "Before it can repeal the cap, Congress must find offsets" to account for the increased care that will result from removing the cap, he notes.

For a future cap repeal, the industry must find a way to control escalating therapy costs, Fowler says. Without something better, Congress will stick with the cap," she adds.

Congress will also need a plan to "write off" the debt that has accumulated due to a flawed Medicare payment system, Weinper says. The full repeal of the cap plus that flawed system will cost more than \$340 billion -- a staggering amount even in better economic times.

Stop gap: Though the therapy cap legislation will likely fail to pass, "introducing these bills to repeal the therapy caps is the right strategy," Weinper advises. The industry must "keep the pressure on Congress until they do something about this policy that is bad for beneficiaries," he says.

Therapists and advocates should continue to lobby for the exceptions process, experts agree. "Any delay in implementing the true caps is very meaningful to Medicare beneficiaries in need of physical therapy," Ward affirms.