



FEDERAL AFFAIRS LIAISON UPDATE

American Physical Therapy Association

August 8, 2018

Congressional Update

Opioids Epidemic

Neither the House nor the Senate has taken any action; however, behind the scenes work continues.

APTA submitted suggested report language to several bills. One section in H.R. 6 (the comprehensive House opioids bill) that is Subtitle J – Combating Opioid Abuse for Care in Hospitals. This section would require the Secretary of HHS to develop guidance on pain management and opioid use disorder prevention for hospitals receiving payment under Medicare Part A, provide for opioid quality measures development, and provide for a technical expert panel on reducing surgical setting opioid use and data collection on perioperative opioid use. APTA recently heard from staff on the House Ways and Means Committee that they included our suggested report language to that section. In addition, The Senate Finance opioids bill included APTA’s suggested language.

Recent reports indicate that the Senate will not bring an opioids package to the floor until after Labor Day. In the meantime, APTA is maintaining communication with Lamar Alexander, the HELP Committee Chairman, who is in charge of putting a package together.

Higher Education Reauthorization Bill (PROSPER Act)

APTA is working with four other groups: a) to eliminate the capped aggregate loan amount a student can take out from the federal government; b) to eliminate the \$28,500/year cap on graduate loan amounts; and 3) and to address other provisions. The Democrats have written and introduced their own higher education reauthorization bill as of Tuesday. APTA is currently reviewing the bill and will give an update in August about the good or bad effects it would have on PT/PTA students and accreditation.

Sports Licensure Clarity Act

The bill is currently on the Senate calendar with the amended language that APTA helped craft. Committee staff indicated they are trying to get this on the floor for a vote soon.

Regulatory Update

Highlights of Fee Schedule Proposals

PTA Differential Modifier

CMS is establishing two new therapy modifiers to identify the services furnished in whole or in part by PTAs and OTAs. CMS notes that the Bipartisan Budget Act of 2018 requires that claims from all providers of PT and OT services furnished on and after January 1, 2020, will be required to include these new PT- and OT-Assistant therapy modifiers. The new modifiers will be used in place of the GP and GO modifiers (modifiers currently used to identify PT and OT services furnished under an outpatient plan of care).

CMS proposes that all services that are furnished “in whole or in part” by a PTA or OTA are subject to the use of the new therapy modifiers. CMS proposes to define “in part” to mean any minute of the

outpatient therapy service that is therapeutic in nature, and that is provided by the PTA or OTA when acting as an extension of the therapist. Thus, a service furnished “in part” by a therapy assistant would not include a service for which the PTA or OTA furnished only non-therapeutic services that others without the PTA’s or OTA’s training can do, such as scheduling the next appointment, greeting and gowning the patient, preparing or cleaning the room.

Highlights of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

Proposed Rule

The rule proposes important improvements for payment in non-bid areas as well as substantive improvements to the competitive bidding program (CBP). APTA will work with industry stakeholders in submitting comments, which are due September 10. More information can be found at:

<https://www.cms.gov/newsroom/fact-sheets/cms-proposed-updates-policies-and-payment-rates-esrd-pps-dmepos-competitive-bidding-program-dmepos>

Hospital Outpatient Prospective Payment System Proposed Rule

On July 25, 2018, CMS released the CY 2019 Hospital Outpatient Prospective Payment System proposed rule. Comments are due September 24, 2018. For more information:

<https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2018-Fact-sheetsitems/2018-07-25.html>

CMS Request for Information on Stark Law

The Centers for Medicare and Medicaid Services (CMS) has issued a Request for Information from the public on how the physician self-referral law (also known as Stark Law) may impact care coordination. The RFI consists of 20 questions, but respondents are not required to address every issue or respond to every question. Note: This RFI is solely for information and planning purposes; it is not a proposed rule.

APTA will submit comments and will be making available a template comment letter on the regulatory advocacy take action webpage.

APTA Regulatory Advocacy

Upcoming Meetings

- APTA, AOTA, and ASHA will be meeting with CMS staff in August to discuss the proposed home health case-mix methodology, the Patient-Driven Groupings Model.
- APTA, with AOTA, will be meeting with CMS staff in August to discuss its proposal related to the PTA and OTA differential and what is defined as “in part.”
- Next month, APTA will be meeting with Dr. Vanila Singh, Chief Medical Officer of HHS Office of the Assistant Secretary for Health and Chair of the Pain Management Task Force.
- APTA, along with National Association for the Support of Long Term Care (NASL), are working with the CMS Medicare Administrative Contractors to schedule a conference call to discuss their misapplication of co-signature requirements; improper interpretation of HCPCS and CPT code definitions for electrical stimulation, and as a result, there have been erroneous denials and down-coding.

Completed Meetings

- APTA attended a CMS provider compliance meeting at CMS HQ several weeks ago.
- APTA attended a meeting convened by RESNA, the Rehabilitation Engineering and Assistive Technology Society of North America, to discuss future collaboration.
- APTA met with ACL Administrator Lance Robertson to continue our discussion of collaboration.

- APTA will be meeting with House Ways and Means Committee staff to discuss revisions to the Stark Law.

Submitted Comments

- APTA submitted comments to NIH in response to its request for information on its HEALing Communities Study.
- APTA submitted comments to CMS on its home health pre-claim review demonstration.
- APTA submitted comments to the FDA in response to its patient-focused drug development for chronic pain request for comments.
- APTA submitted comments to HHS in response to its request for information regarding health care sector innovation and investment workgroup.
- APTA submitted comments to the USPSTF on its diet and physical activity cardiovascular disease research plan.
- APTA submitted comments to the Congressional Bipartisan Innovation Caucus on value-based payment.
- APTA submitted a statement for the record to the House Ways and Means Health Subcommittee on Stark Law.
- Sign-on letters:
 - Letter to HHS Office for Civil Rights and Administration for Community Living on disability discrimination
 - Letter to HHS on Cuts to Navigator Funding

Flash Action Strategy 2018

This year the annual flash action strategy will focus on opioids and the role PTs play in pain management. It will take place on September 27-28 (Wednesday and Thursday) and will focus on getting students involved in advocacy. The Student Board is aware of the dates and topic, APTA staff is working on graphics and messaging, and an email to educators will be going out in the next week or so. Once graphics and prewritten social media messages are available, you will receive an email with the attachments.

In-District Meetings and Visits

APTA's goal is to have at least 1 practice/program visit per state this August. However, the long-term goal is to have over 100 in-district meetings/visits by the end of this year...an increase of about 22 visits from last year. In-district meetings and practice visits are a great way to maintain the relationships that have been built between Members of Congress and practicing physical therapists in each state. The Senate has cancelled some of their August recess, but APTA expects they will still go home for about half of it. For those meetings, it will be best to request visits on Fridays, Saturdays, Sundays, or early Mondays.

APPT encourages you to schedule a practice visit in your setting. Please invite your members of Congress and if you get something scheduled, please let APPT Federal Affairs Liaison, Maria Jones, know. Maria can be reached by E-mail at mjones1@okcu.edu.

Other Resources

Regulatory Advocacy Webpage

APTA has updated its Federal Advocacy webpage and launched a new Regulatory Advocacy page, which you can access at: <http://www.apta.org/RegulatoryIssues/TakeAction/>