

Via email to <http://www.cms.hhs.gov/erulemaking>

July 3, 2007

Leslie V. Norwalk, Esq., Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-1541-P
7500 Security Boulevard
Baltimore, Maryland 21244-7850

Re: Medicare Program; Home Health Prospective Payment System Refinement and Rate Update for
Calendar Year 2008; Proposed Rule

Dear Ms. Norwalk:

The American Occupational Therapy Association (AOTA) represents more than 35,000 occupational therapy professionals, many of whom provide services to Medicare beneficiaries under the home health benefit. We appreciate the opportunity to comment on the regulations refining the home health prospective payment system (HH PPS) and the rate update for calendar year 2008. This proposed rule was published in the *Federal Register* on May 4, 2007 (72 Fed. Reg. 25356).

Occupational therapy is a health, wellness, and rehabilitation profession working with people experiencing stroke, spinal cord injuries, brain injury, congenital conditions, joint replacements and surgeries, mental illness, and other conditions. It helps people regain, develop, and build skills that are essential for independent functioning, health, and well-being in the home and community. Occupational therapy services provided in the home are integral to help beneficiaries regain functional independence in order to ultimately manage their own health and successfully age in place.

Additional Therapy Thresholds

AOTA supports the proposal from the Centers for Medicare and Medicaid Services (CMS), to create staggered therapy thresholds. This policy change better reflects current practice patterns, which in AOTA's view appear to be more appropriate. With the simultaneous implementation of both the HH PPS and the Outcome-Based Quality Improvement Set (OBQI), HHAs have been motivated to deliver services that assist beneficiaries achieve functional independence, the outcome desired by Medicare and patients. Since achieving functional independence is a core component of occupational therapy, it is logical that HHAs increased their reliance on occupational therapy to help their beneficiaries gain independence in their activities of daily living. Based on both anecdotal feedback and agency data, AOTA asserts that there is a direct nexus between the increase in occupational therapy utilization and shorter home health patient lengths of stay, improved clinical functional outcomes and the reduced use of aides, all of which link to beneficiaries regaining their ability to care for themselves more quickly.

AOTA also supports CMS' proposal to automatically adjust the therapy visits upward or downward on the final claim, depending on the actual therapy visits performed, through CMS' claims processing system. This operational change will greatly assist HHAs to submit correct claims in a streamlined manner.

Case Mix

AOTA is concerned with the rationale underlying CMS' proposal to reduce the base payment rates. CMS proposes to reduce the base payment rates for 2007, 2008 and 2009 with the goal of preventing expenditure increases. There are a number of problems with this proposal. CMS' rationale is based upon its conclusion that the increase in the national average case mix weight between 1999 and 2003 is due to factors unrelated to changes in patient characteristics. However, there is significant evidence that changes in Medicare policy (i.e., reimbursement changes in inpatient rehabilitation facilities and skilled nursing facilities) as well as changes in medical practices (e.g., outpatient joint replacements) have impacted the clinical and functional characteristics of the beneficiaries who obtained home health services. CMS' data analysis was flawed. It failed to fully account for the utilization of therapy services as a patient characteristic. There is a strong likelihood that the increase in therapy services in home health is related to (1) HHAs admitting beneficiaries who are more clinically severe than the previous patient mixes and (2) HHAs responding to designs of the PPS and OBQI to deliver services that help beneficiaries achieve functional independence outcomes. In addition, although the increase in therapy utilization occurred simultaneously with the increase in case mix growth, CMS' expenditures for home health did not increase. Therefore, it is illogical that CMS would cut base payment rates when overall expenditures do not need to be trimmed and improved outcomes are being achieved. Such a change would only serve to burden the HHAs and discourage the use of therapy services, which in turn would result in fewer beneficiaries reaching independence as a clinical outcome and ultimately costing the Medicare program more money. Therefore, AOTA recommends that CMS halt the reduction in base payment rates and re-evaluate the changes in case mix using factors that better capture the appropriate utilization of therapy and correlate that in a more thorough way to patient characteristics.

The AOTA requests that due consideration be given to these comments. Thank you, again, for the opportunity to comment on this proposed rule. We look forward to a continuing dialogue with CMS on these issues as they apply to occupational therapy.

Sincerely,

Leslie Stein Lloyd, Esq.
Senior Regulatory Counsel