

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

September 13, 2007

Kerry N. Weems, Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attn: CMS-1392-P
7500 Security Boulevard
Baltimore, Maryland 21244-7850

Re: Medicare Program; Proposed Changes to the Hospital Outpatient Prospective
Payment System and CY 2008 Payment Rates; Proposed Rule

Dear Acting Administrator Weems:

The American Occupational Therapy Association (AOTA) represents more than 35,000 occupational therapy professionals, many of whom provide services to Medicare beneficiaries in hospital outpatient departments. We appreciate the opportunity to comment on the regulations refining hospital outpatient prospective payment system (OPPS), particularly with regard to the proposed Hospital Outpatient Quality Data Reporting Program (HOP QDRP). This proposed rule was published in the *Federal Register* on August 2, 2007 (72 Fed. Reg. 42628).

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 through the outpatient benefit are integral to help beneficiaries regain functional independence in order to ultimately manage their own health and successfully age in place.

The reimbursement system for occupational therapy services furnished through hospital outpatient departments is not under the OPPS for the most part. While hospital outpatient occupational therapy services furnished through partial hospitalization programs are reimbursed under OPPS, the remainder of hospital outpatient occupational therapy services is reimbursed under the Medicare Physician Fee Schedule (MPFS) billed by individual code. Occupational therapists furnishing services in hospital outpatient departments do not submit claims to the Medicare Contractor under an occupational therapist in private practice provider number; rather the hospital outpatient department submits all the claims for the outpatient services of occupational therapists to the Medicare Contractor. Therefore, except in partial hospitalization, occupational therapists would not be part of the HOP QDRP.

Hospital Outpatient Quality Data Reporting Program: Quality Measures

Section 109(a) of TRHCA (Pub. L. 109-432) requires CMS to establish a program under which hospitals will report data on the quality of outpatient hospital care using standardized measures of care to receive the full annual update to the OPSS payment rate. The Proposed Rule identifies a number of quality measures that it plans to use in the HOP QDRP that were endorsed by the National Quality Forum. Furthermore, CMS proposes 30 measures that could be reported to measure hospital outpatient quality of care, some of which are being used in the 2007 Physician Quality Reporting Initiative (PQRI) and are expected to be used in the 2008 version of PQRI.

AOTA supports CMS for identifying quality measures endorsed by the National Quality Forum. AOTA also supports CMS's consideration of other valid national endorsement bodies for purposes of reviewing and adopting HOP QDRP. AOTA strongly agrees with CMS that it is vital to harmonize outpatient hospital quality measures with those reported in both inpatient and ambulatory settings. For that reason, AOTA urges CMS to adopt a number of quality measures that are in use in or proposed for the PQRI program for use in hospitals. AOTA encourages CMS to adopt the following 2007 PQRI measure for the HOP QDRP:

- PQRI #4 Screening for Future Fall Risk

AOTA believes that screening for fall risk for Medicare beneficiaries as part of the HOP QDRP in the same manner proposed for the PQRI program would improve quality of care by identifying, when patients receive other care such as diagnostic procedures, whether they have fallen in the past months and whether that has caused injury, thus a potential risk for a future fall.

Also, AOTA recommends that CMS adopt the additional quality measures that its contractor Quality Insights of Pennsylvania have recommended as Physical Therapist and Occupational Therapist Measures in their Draft Technical Manual dated July 2007:

- Patient Co-Development of Plan of Care
- Pain Assessment Prior to Initiation of Patient Treatment
- Universal Documentation and Verification of Current Medications in the Medical Record

These items too would be appropriate to ask of many patients and would improve quality of care. AOTA particularly recommends the use of these by therapists and others in the partial hospitalization program. AOTA has worked closely with CMS and the American Medical Association to facilitate occupational therapists' participation in the 2007 PQRI, and have been granted explicit approval for occupational therapists in independent practice to report PQRI # 4 Screening for Future Fall Risk. AOTA is also asserting with CMS that occupational therapists should be deemed eligible to report on the additional measures noted above developed by Quality Insights of Pennsylvania as well as continue to be able to report PQRI #4 in 2008.

Therapists in Hospital Outpatient Departments Should Have a Mechanism to Report Quality Data

Because the majority of occupational therapy services provided in hospital outpatient departments is exempt from OPDS and instead is paid under the MPFS, occupational therapists cannot participate in the HOP program except in partial hospitalization. Neither can hospital therapists in general outpatient departments participate in the PQRI when the bill using the MPFS. CMS previously indicated that only practitioners who directly submit claims to CMS under a provider number are eligible to participate in PQRI. AOTA believes that occupational therapists in hospital outpatient departments should be able to report quality measures under the quality data reporting system that corresponds to the payment method, which for the MPFS is the PQRI. However, since hospital outpatient departments submit occupational therapy claims to CMS under the hospital provider number, the hospitals cannot participate in PQRI at this time. Given CMS' desire to harmonize the reporting of quality measures across all settings, AOTA strongly urges CMS to explicitly permit occupational therapists in hospital outpatient departments to report quality data through PQRI and be eligible for bonus payments under that program.

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