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Via Electronic Submission

April 2nd, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
Attention: CMS-1744-IFC
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: CMS-1744-IFC, Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency.

Dear Administrator Verma:

This letter represents the collective comments of the Alliance for Physical Therapy Quality and Innovation (the “APTQI”) to the Centers for Medicare and Medicaid Services (CMS) and the Department of Health and Human Services (HHS) regarding the above referenced interim final rule released on the Federal Register Public Inspection webpage on March 31, 2020 (“Interim Final Rule”).

By way of introduction, we are among the nation’s leading providers of outpatient rehabilitation care, and collectively employ or represent over 15,000 physical and occupational therapists, and furnish physical and occupational therapy services on an annual basis to Medicare beneficiaries throughout the United States. APTQI membership consists of board member entities of varying size and geographic scope, which in aggregate provide patient care services in approximately 4,000 outpatient rehabilitation clinical sites.

I. Preliminary Statement

We agree that the President’s recent emergency declaration was the appropriate step to take in order to equip our healthcare system with the flexibility it needs to respond to the 2019 Novel Coronavirus (COVID-19) pandemic.

We support CMS’ goal to increase access to telehealth in Medicare to ensure patients have access to clinicians while keeping patients safe at home. This goal falls in line with the core mission of APTQI: “*Ensuring patient access to value driven physical therapy care.*” We appreciate the opportunity to provide comment and support any changes that would allow

physical and occupational therapists to continue to treat their patients without potentially harmful interruptions during the COVID-19 pandemic.

II. APTQI Urges HHS and CMS to Utilize their Authority Under Section 3703 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to Issue a Blanket Waiver to Expand the Types of Providers Eligible to Furnish Telehealth Services under Medicare to include Physical and Occupational Therapists during the COVID-19 Pandemic.

In the Interim Final Rule, CMS identified many therapy services as having “sufficient clinical evidence” to support their addition to the Medicare telehealth list on a category 2 basis. We appreciate the recognition that the therapy services listed in the 97000 series are beneficial to patients. We also agree that all of the codes listed in the Interim Final Rule can be appropriately provided via telehealth. However, the regulation makes it clear that CMS is constrained by Section 1834(m) of the Act which only allows physician practitioners to bill for telehealth physician therapy services and does not allow physical therapists or occupational therapists to bill for such services. **This is despite the fact that, as stated in the Interim Final Rule, “the majority of the [therapy] codes are furnished over 90 percent of the time by therapy professionals.”** Said another way, excluding physical or occupational therapists from providing therapy services via telehealth [due to the statutory constraints of 1834(m)] means that the vast majority of Medicare beneficiaries would not have access to the benefit CMS so clearly believes telehealth physical therapy services provides. This lack of access would be particularly acute in rural and socioeconomically disadvantaged portions of the country. Fortunately, the blanket waiver authority in Section 3703 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) gives CMS the authority to allow physical and occupational therapists to provide telehealth physical therapy services. **We urge CMS to utilize the 3703 waiver authority in order that the approximately 90 percent of Medicare beneficiaries left out of the Interim Final Rule due to statutory constraints would be able to receive therapy telehealth services from the providers who are the most experienced and qualified to provide them.**

By allowing therapy professionals to provide therapy services via telehealth during the period of the COVID-19 pandemic, Medicare beneficiaries would have the same access that has already been granted to beneficiaries of major private insurers such as UnitedHealthcare, Cigna, and Humana Military. In addition, many State Governors have taken action to allow patient access and provider payment for state plans.

Without this blanket waiver, beneficiaries can only see their therapist in the patient’s home or in an office/outpatient setting. Considering that many Medicare beneficiaries have a higher risk for infection and that personal protective equipment (PPE) is in short supply, both of these settings can be harmful for at-risk patients.

Among the patient stories APTQI recently received from its members is of a 76-year-old woman from Virginia who suffers from osteoarthritis, degenerative joint disease, and lupus. Due to her age and underlying health conditions, she is socially isolated at home and unable to travel to her

physical therapy appointments to receive critical pain management services. Given the difficulty in caring for herself, telehealth-based physical therapy services would be enormously beneficial, particularly since therapists can advise her on self-administered treatment approaches to address shoulder and back pain, as well as improve strength and endurance through individual exercise regimens.

Another story comes out of Michigan, where a woman in her late 60s is suffering from post-operative pain following L4-L5 lumbar fusion surgery. Due to her asthma, she is frightened of contracting COVID-19 and unable to continue visiting her local physical therapy clinic. Although she could potentially be served in the home, shortages of PPE make it virtually impossible for therapists to visit her place of residence safely. As with the case above, this patient would benefit enormously from telehealth-based physical therapy appointments that provide self-guided exercise and pain management treatments.

III. APTQI Requests that Therapeutic Activities, CPT Code 97530, be Added to the List of Approved Services for Telehealth.

We agree with all of the services listed in the Interim Final Rule and we also view them as beneficial to patients. One code that was left off was CPT Code 97530, therapeutic activities. This code is defined as the use of dynamic activities to improve functional performance. We believe this service can be provided via telehealth and that it would be beneficial for patients. Examples of therapeutic activities include instruction and prescription of activities to improve squatting, reaching, and bending. Through skilled instruction in therapeutic activities, patients will be able to improve their abilities to perform functional tasks such as lifting, getting out of a bed, safely getting on and off the toilet and preparing meals. These activities are vital to improving or maintaining a patient's functional independence and safety.

IV. Conclusion

APTQI appreciates the opportunity to provide comments to CMS on ways to ensure all Medicare beneficiaries have the access they need to the healthcare services they rely upon. We hope CMS will continue to work with professional societies such as the APTQI in order to ensure patients get the best possible care during this difficult time. APTQI looks forward to continued dialogue with CMS officials about these and other issues affecting therapy services. If you have any questions,

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January 17, 2020
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or would be interested in further collaboration, please feel free to contact Nikesh “Nick” Patel, PT, DPT Executive Director, at 713-824-6177 or npatel@aptqi.com.

Very truly yours,

**ALLIANCE FOR PHYSICAL THERAPY
QUALITY AND INNOVATION**

A handwritten signature in black ink, appearing to read 'N. Patel', written over a horizontal line.

By: _____
Nikesh “Nick” Patel, PT, DPT
Executive Director