ALLIANCE FOR PHYSICAL THERAPY QUALITY AND INNOVATION

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Via Electronic Submission

September 9th, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health & Human Services
Attention: CMS-1807-P
7500 Security Boulevard
Baltimore, MD 21244

Re: CMS-1807-P, Medicare and Medicaid Programs: CY 2025 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments: Proposed Rule, Fed. Reg. Vol. 89, No. 147, (July 31, 2024).

Dear Administrator Brooks-LaSure:

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) regarding the above referenced "Proposed Rule to Payment Policies Under the Physician Fee Schedule et al." for calendar year 2025, published in the Federal Register on July 31st, 2024, ("Proposed Rule").

By way of introduction, we are among the nation's leading providers of outpatient rehabilitation care, and collectively employ or represent over 25,000 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 affiliate and board member entities of varying size and geographic scope, which in aggregate provide patient care services in over 6,600 outpatient rehabilitation clinical sites.

I. Preliminary Statement

We appreciate the opportunity to comment on the Proposed Rule. Many of the areas where CMS seeks feedback regarding Medicare Outpatient Part B therapy services are important to the APTQI's core mission: "*Ensuring patient access to value driven physical therapy care.*" We

support CMS' commitment to enhance its partnerships with a delivery system in which providers are supported in achieving better patient outcomes at a lower cost for Medicare beneficiaries. APTQI shares the core belief that any proposals related to physical therapy services should (a) drive payment in line with the value physical therapy services deliver to the patient and other providers in the continuum of care; (b) reduce unnecessary regulatory and administrative burdens unrelated to improving the quality of patient care; and (c) be transparent to patients and all stakeholders.

II. APTQI Calls for Substantial PFS Reform due to Series of Unsustainable Reductions that will Decrease Patient Access to Care.

The Proposed Rule would impose yet another round of significant reductions for physical and occupational therapy services for 2025. As demonstrated in the proposed rule, physical and occupational therapy providers would see a combined impact of approximately negative 2.5%.

This proposed cut is the latest in a history of reductions to physical therapy services over the past decade. If implemented, the proposed 2025 reduction would come after numerous therapy-specific reductions. These include the introduction of a multiple procedure payment reduction (MPPR) in 2011 which was further deepened in 2013, and reductions to two of the most common procedural codes used by physical therapists, Therapeutic Exercise (97110) and Manual Therapy (97140), which were instituted in 2018 after they went through the misvalued code initiative. In addition, the 15% reduction applied to services provided by therapist assistants mandated by Congress took effect in 2022.

When combined, the previously implemented and future proposed reductions would total well over 10% from 2020 to 2025 for therapy services. The main source of this massive reduction has been the redistributive effect of the finalized E/M code changes. This is because physical and occupational therapists are prohibited by CMS from billing E/M services due to the limitations of their Medicare benefit categories. The redistribution did not consider the effect the reductions would have on patient access to low-cost care.

Despite being among the lowest paid providers in the physician fee schedule, CMS shifted payment away from therapists and towards primary care physicians. According to the U.S. Bureau of Labor Statistics, the annual mean wage in 2023 was $92,260 for a physical therapist in the office-based setting and $96,370 for an occupational therapist.[1][2] A survey by Sullivan Cotter reported that the median salary for primary care physicians was $241,687.[3] The redistribution forced cumulative cuts to therapists in order to pay more to primary care providers, despite the fact that average wage for primary care physicians is over 150% higher than that of therapists. The largest cuts are centered on the procedural codes utilized by therapists. These procedural codes, such as 97110, 97140, 97112, and 97530, are time-based codes that require direct contact

[1] https://www.bls.gov/oes/current/oes291123.htm
[2] https://www.bls.gov/ooh/healthcare/occupational-therapists.htm
[3] https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/contractor-reports/jan19_medpac_disparities_physiciancompensationreport_cvr_contractor_sec.pdf

between the therapist and the patient. The severe reductions do not reflect CMS' previous goal of "recognizing the value of clinicians' time which is spent treating patients."

The availability of physical therapy should be encouraged among older Americans because of the critical role it plays in preventing harmful senior falls. Accounting for roughly 300,000 hip fractures, 800,000 hospitalizations, and 27,000 deaths every year, falls are the leading cause of injury-related emergency room visits for older Americans. The Centers for Disease Control and Prevention (CDC) estimates that the cost to treating injuries due to falls will increase to $101 billion by 2030, underscoring the need to support fall prevention strategies and treatments.[4] With fall deaths increasing every year, undermining beneficiary access to fall prevention treatments offered by physical therapy is both short sighted and financially ill-advised. As aforementioned, the costs that falls incur on America's healthcare system are exorbitant and unsustainable. Siphoning resources away from physical therapy services as the fall epidemic increases in size and scope will only result in more injury-related costs further down the line. According to claims analyses, Medicare beneficiaries who have physical therapy after a fall are 50% less likely to be admitted to a hospital or emergency room for a subsequent fall related injury over the next six months than those who do not. Diminishing access to physical therapy services that save lives and reduce downstream medical costs is counterproductive, plain and simple. APTQI urges CMS to alter their recently Proposed Rule to ensure beneficiary access to physical therapy is preserved well into the future.

Implementation of the cut will have a negative impact on opioid misuse and falls. If CMS wants to reach the stated goal of decreasing opioid use, access to physical therapy should be expanded– not cut. In its Guideline for Prescribing Opioids for Chronic Pain, the CDC recommends physical therapy as an alternative to opioids for the treatment of chronic pain.[5] The CDC notes physical therapy is especially effective at reducing pain and improving function in cases of low back pain, fibromyalgia, and hip and knee osteoarthritis. Claims analyses show that Medicare beneficiaries who have physical therapy after a fall are 39% less likely to be prescribed an opioid over the next six months than those who do not. Providing this type of nonpharmacological therapy is only possible if we are able to keep our doors open and continue seeing Medicare patients. This is even more crucial as 30% of patients suffering from chronic low back pain are taking opioids despite medical guidelines cautioning against their use for this condition.

Moving forward, it is imperative that CMS acknowledge the important role physical therapists play in the prevention and treatment of acute and chronic pain. The solution requires more than limiting access to drugs. Rather, Medicare payment policies should incentivize collaboration, assessment, and care coordination with foundational care team partners, particularly physical therapists. CMS and Congressional policies to reduce reimbursement for physical therapy services is misguided (i.e., through MPPR, misvalued codes, PTA/OTA reductions, PT/OT value redistributions, etc.) at a time when benefit design and reimbursement models should support early access to nonpharmacological interventions -- including physical therapy for the primary care of pain conditions. The continuing payment reduction policies for physical therapy services

[4] https://www.cdc.gov/steadi/media/pdfs/STEADI_ClinicianFactSheet-a_1.pdf
[5] https://www.cdc.gov/mmwr/volumes/71/rr/rr7103a1.htm

impose greater challenges on physical therapy clinics to keep their doors open, thus placing at risk Medicare beneficiary access to nonpharmacological treatments for pain. It is critical that CMS, in conjunction with other state and federal agencies, examine how to reduce barriers to nonpharmacological treatment options such as physical therapy that serve as an alternative to opioids. If CMS, policymakers, and other stakeholders remain silent on the benefit of nonpharmacological treatments, this will only reinforce the idea that pharmaceuticals are the only option—an option with significant risk of harm.

In order to protect access to low-cost care that reduces downstream Medicare spend, as well as incidence of falls and opioid use, APTQI urges CMS to consider the cessation of cuts to therapy services and restore inflationary updates to the fee schedule.

III. APTQI Working to Ensure Expense Inputs for the 19 PM&R Codes are Updated and Accurate.

In the Proposed Rule, CMS notes that the agency received public nominations for 19 physical medicine and rehabilitation codes (CPT codes 97012, 97014, 97016, 97018, 97022, 97032, 97033, 97034, 97035, 97110, 97112, 97113, 97116, 97140, 97530, 97533, 97535, 97537, and 97542 and HCPCS code G0283) as potentially misvalued. An interested party asserted that the direct PE clinical labor minutes reflected inappropriate multiple procedure payment reductions (MPPR), which were duplicative of the CMS MPPR policy implemented in CMS' claims processing systems. CMS reviewed the clinical labor time entries for these 19 therapy codes and concluded that a payment reduction should not have been applied in some instances to the 19 nominated therapy codes' clinical labor time entries since the payment valuation reduction would be duplicative of the MPPR applied during claims processing. CMS indicated that the valuation of these services would benefit from additional review through the RUC's HCPAC valuation process; they were therefore reviewed by the HCPAC for PE only, with no work review, at the January 2024 RUC meeting for inclusion in the CY 2025 PFS proposed rule.

While CMS did make changes to this family of therapy codes based on the recommendations of the RUC's Health Care Professionals Advisory Committee (HCPAC), CMS did note that equipment inputs for these codes could benefit from additional review. While CMS specifically raised continued interest in equipment minutes, APTQI also believes equipment could benefit from additional review as some typical pieces of equipment do not appear in the public use file. As such, APTQI is considering working with the broader therapy community to collect invoices as part of CMS' ongoing process for developing payment rates for new, revised, and potentially misvalued codes. Pursuant to the CMS process, APTQI would strive to submit updated invoices by February 10, 2025, as part of the standard deadline and 2026 PFS rulemaking cycle.

IV. APTQI Supports CMS Proposal to Allow For General Supervision of Therapist Assistants in OTPPs and PTPPs When They are Furnishing Outpatient Therapy Services.

Currently, direct supervision of PTAs by PTs and OTAs by OTs is required in the physical therapist in private practice (PTPP) or occupational therapist in private practice (OTPP) settings for Medicare patients. Under direct supervision, the supervising PT or OT is required to be physically present and on-site for direction and supervision of the therapist assistant. This regulation is not aligned with supervision in institutional settings such as rehabilitation agencies, many of which are virtually identical to OTPPs and PTPPs. This has serious negative consequences on access to therapy services and exacerbates an already strained therapist workforce.

APTQI supports the CMS proposal to allow for general supervision of therapist assistants by supervising therapists. CMS correctly states in the Proposed Rule that changing to general supervision requirement would allow a clinic to expand their hours of operation and accommodate more patients if the staffing includes a therapist assistant. This flexibility not only provides patients with more options in scheduling, but it also reduces delays in accessing care. These changes would not have any impact on the patient's safety as the vast majority of States already allow for general supervision without any negative effect on the public. In addition, institutional settings have operated under general supervision of therapist assistants for years without issue. APTQI believes finalizing this proposal brings much needed alignment to the supervision requirements across all therapy settings and allows therapist assistants to practice at the top of their licensed as allowed by their State Law. APTQI acknowledges that a handful of States have stricter supervision requirements and agrees with CMS that in those cases, the therapist and therapist assistant must restrict their practice to what is permitted under their State Law.

V. APTQI Supports CMS Proposal to Allow for a Signed Referral to Demonstrate Certification of the Therapist Plan of Care.

APTQI appreciates that CMS is constantly searching for ways to decrease the administrative burden on providers and to put patients over paperwork. Across the over 6,600 locations operated by APTQI members, thousands of Medicare beneficiaries seek therapy services every day. Over 95% of these patients arrive for their first visit with a referral from a physician/NPP in hand and the therapist creates a plan of care. The signed referral is proof that the patient is under the care of a physician/NPP and that therapy services are needed. The proposed changes alleviate the burden on providers to procure duplicative signatures, which may require dozens of attempts. Since the proposed change would require either a referral signed by a physician/NPP or a plan of care certified by physician/NPP in order to for therapy services to be covered, this change keeps the collaborative relationship between the physician/NPP and the therapist intact. The proposal is clear that if a Medicare beneficiary began a therapy plan of care without a signed referral by a physician/NPP, the therapist would need to obtain certification of the plan of care from a physician/NPP in order for the services to be covered. In response to CMS' request for comment on the amount of time that should be allotted to make changes to the Plan of Care, APTQI recommends that 10 business days be used.

VI. Conclusion

APTQI is in favor of value driven care and reimbursement. We ask that CMS revisit the proposed reductions for physical/occupational therapy and fully consider the impact of those cuts on two of the most important health issues of our day, opioid misuse and falls resulting in injury and hospitalization. Considering the enormity of these cuts, it is clear that physical therapy for Medicare patients is at serious risk. If CMS proceeds with the reductions as proposed, the country will undoubtedly see practice closures and providers opting out of the Medicare program, which would then stifle access to important therapy treatments.

APTQI appreciates the opportunity to provide comments to CMS on the Proposed Rule for CY 2025. We encourage CMS to continue to work with professional societies such as APTQI through the rulemaking process. APTQI looks forward to continued dialogue with CMS officials about these and other issues affecting therapy services. If you have any questions, 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,

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By: _____
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