CMS-1429-P-2600

Submitter : Mr. Martin Hendricks **Date & Time:** 09/22/2004 02:09:29

Organization : Member-National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 10-19

DEFINING THERAPY SERVICES

Dear Sir/ Madam;

I am an Athletic Trainer who will be harmed if this bill is passed in it's present form. Frankly, though, I don't know how this part ever came to committee especially in light of the sad state of our healthcare system. Let me be blunt, Athletic Trainers save patients, health insurance companies, and the government money. Athletic Trainers don't charge as much as physical therapists, that's where the conflict comes. Certain factions representing physical therapists may be lobbying to muscle out Athletic Trainers as though we are competitors. We are not, we are partners and extensions of the service of rehabilitating patients and many of us are also PT/ATCs. This kind of action is bad business and opens the door for negligence suits against the government in the form of breech of contract and denial of care for Medicare patients. The elderly is organized and not silent. You have bigger problems that need greater attention.

Furthermore, this kind of legislation punishes a specific social group, athletic trainers, without due process or proof of wrongful doing. Please do the right thing and reject #CMS-1429-P. Thank you.

Sincerely,

Martin J. Hendricks
5802 35th Way SE
Auburn, WA 98092-7355

Submitter : Mr. Josh= Zimmerman **Date & Time:** 09/22/2004 02:09:31

Organization : Mr. Josh= Zimmerman

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

Certified Athletic Trainers are highly qualified individuals who have a rich background in injury prevention, evaluation, and rehabiliation. Physicians need to be able to bill for the services provided by a Certified Athletic Trainer.

CMS-1429-P-2602

Submitter : Mr. Ben Keim **Date & Time:** 09/22/2004 02:09:45

Organization : Aurora University

Category : Other

Issue Areas/Comments

GENERAL

GENERAL

Regarding "Incident To"

CMS-1429-P-2602-Attach-1.doc

Attachment #2602

Ben Keim
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Ben Keim

Submitter : Mr. Doug Bloyd **Date & Time:** 09/22/2004 02:09:31

Organization : Good Shepherd Medical Center

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I would like to take this opportunity to express my concerns to the "incident to" billing of outpatient therapy services. Limiting this service greatly diminishes a physicians ability to provide medically necessary services to the patients under his/her care. Athletic Trainers have been utilized by physicians for many years to provide the necessary on-site rehab, instruction, as well as many other services. I strongly urge you to consider the overall detrimental impact that this will have on the patients that are served by the physicians. If you have any questions regarding this matter, do not hesitate to contact me at your conveninece.
Respectfully,

Doug Bloyd, MS, ATC, LAT
(903)315-5582

CMS-1429-P-2604

Submitter : Miss. Stephanie Kiger **Date & Time:** 09/22/2004 02:09:23

Organization : Aurora University

Category : Other

Issue Areas/Comments

GENERAL

GENERAL

This is regarding "Incident To" proposal

CMS-1429-P-2604-Attach-1.doc

Attachment #2604

Stephanie Kiger
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Stephanie Kiger

CMS-1429-P-2605

Submitter : Mr. Aaron Tomlinson **Date & Time:** 09/22/2004 02:09:31

Organization : National Athletic Training Organization

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

If the CMS limits the ability of the physicians to bill
for athletic training services, the professionals of athletic training will suffer greatly as their provided services will be recognized as 'not-qualified'. Essentially, thousands of certified athletic trainers will lose jobs because their services are not chargable. With a college education (bachelor's and master's level) and certification through examination requiring athletic trainer's to practice, there is no reason why their services can not be billed.

CMS-1429-P-2606

Submitter : Mr. Nicolas Koch **Date & Time:** 09/22/2004 02:09:08

Organization : Aurora University

Category : Other

Issue Areas/Comments

GENERAL

GENERAL

"Incident To"

CMS-1429-P-2606-Attach-1.doc

Attachment #2606

Nicolas Koch
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Nicolas Koch

Submitter : Mr. Hal Richardson **Date & Time:** 09/22/2004 02:09:09

Organization : Clinica-Sports Massage

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

LICENSED MASSAGE THERAPIST ARE THE SOFT TISSUE SPECIALIST OF HEALTHCARE. WE PROVIDE ONE-TO-ONE CARE WITH UNIQUE PALPATION SKILLS. DO NOT CLOSE OUR PROFESSION OUT AND DEPRIVE PATIENTS A GREAT SERVICE. THANKS

CMS-1429-P-2608

Submitter : Mr. Chris McAndrew **Date & Time:** 09/22/2004 02:09:52

Organization : Aurora University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

This is regarding the "Incident To" proposal.

CMS-1429-P-2608-Attach-1.doc

Attachment #2608

Chris McAndrew
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

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- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Chris McAndrew

CMS-1429-P-2609

Submitter : Mr. Aaron Tomlinson **Date & Time:** 09/22/2004 02:09:03

Organization : National Athetlic Training Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY STANDARDS AND REQUIREMENTS

If the CMS limits the ability of the physicians to bill for athletic training services, the professionals of athletic training will suffer greatly as their provided services will be recognized as 'not-qualified'. Essentially, thousands of certified athletic trainers will lose jobs because their services are not chargable. With a college education (bachelor's and master's level) and certification through examination requiring athletic trainer's to practice, there is no reason why their services can not be billed.

Submitter : **Date & Time:** 09/22/2004 02:09:21

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

CMS-1429-P-2610-Attach-1.doc

Attachment #2610
September 13, 2004

Athletic Training Educational Program
University of Findlay
1000 N. Main Street
Findlay, Ohio 45840

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

As a future Certified Athletic Trainer (ATC) and possible future patient, I feel compelled to write this letter in opposition of proposal CMS-1429-P. I am concerned that this proposal would limit patient access to qualified health care providers of "incident to" services, such as ATCs, in physician offices and clinics; thereby, reducing the quality of health care for physically active patients. Furthermore, limiting access to qualified health care providers will cause delays in the delivery of health care, which in turn will increase health care costs and tax an already heavily burdened health care system.

Athletic training is the health care profession that specializes in the prevention, assessment, treatment and rehabilitation of injuries to athletes and others who are engaged in everyday physical activities. Athletic trainers are multi-skilled health care professionals who can, and are, making significant contributions to health care. Athletic trainers are highly educated and fully qualified health care providers, evident in their recognition by the American Medical Association as an allied health care profession. If this proposal would pass, it would threaten the employment of many athletic trainers who are employed as physician extenders in clinics and physician offices. Therefore this proposal threatens my future employment in those settings and the value of my degree in Athletic Training. With this type of limitation artificially placed on the provision of "incident to" services by qualified (through accredited academic programs in athletic training, a national board examination, and state practice acts) health care providers the CMS will only add to the skyrocketing health care costs, put qualified people out of work, and reduce the overall quality of health care in the United States.

In conclusion, I believe that the CMS-1429-P proposal must be rejected in order to protect the rights (the right to choose and the right for quality care) of our patients and my right as a future health care practitioner.

Sincerely,

Lorna M. Jutte

Athletic Training Student at the University of Findlay

CMS-1429-P-2611

Submitter : Miss. Heather Mulholland **Date & Time:** 09/22/2004 02:09:27

Organization : Aurora University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Regarding "Incident To"

CMS-1429-P-2611-Attach-1.doc

Attachment #2611

Heather Mulholland
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

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- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Heather Mulholland

Submitter : Miss. Morgan Stites **Date & Time:** 09/22/2004 02:09:08

Organization : Aurora University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Regaring "Incident To"

CMS-1429-P-2612-Attach-1.doc

Attachment #2612

Morgan Stites
Aurora University
347 S. Gladstone Ave.
Aurora, IL 60506

September 20, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Morgan Stites

CMS-1429-P-2613

Submitter : Ms. helen floyd **Date & Time:** 09/22/2004 02:09:26

Organization : healinghearts and hands of dupage

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Incident to therapy must include allowing certified massage therapists the ability to provide the care needed in the doctor or chiropractic office. Physical Therapists alone are not trained in many of the techniques necessary to relieve soft tissue trauma or to work muscle groups as needed. The time needed to work with soft tissue is beyond what a PT will be allowed to give as well, and will bog down and overload their time with inuries that could be handled by another practitioner. Massage therapy is a necessary and vital component of of a patients care- as eveidenced by my own client base, many of whom are working with PT's, Chiropractors etc, and are only finding relief when massage tharapy is introduced.

CMS-1429-P-2614

Submitter : Mr. John Maynard **Date & Time:** 09/22/2004 02:09:42

Organization : InLight Solutions Inc.

Category : Device Industry

Issue Areas/Comments

Issues 1-9

SECTION 613

I would like to add the following statement to my previously submitted comments:

In order to ensure broad access to this important new screening benefit, we recommend that diabetes screening should not require a physician's prescription or referral in order to be covered under Medicare Part B. This approach would follow the successful precedent established by CMS with other screening tests such as mammograms.

Thank you for your consideration of this additional comment.

John Maynard

Submitter : Mr. Jeffrey Spiers **Date & Time:** 09/22/2004 02:09:07

Organization : Clark County Dialysis Facility

Category : Other Practitioner

Issue Areas/Comments

Issues 10-19

SECTION 623

Concerning ESRD Payments for 2005:

The proposed methodology for drug add-ons is unfair and will not keep providers operating in small towns and rural areas whole. The price that providers pay for prescription drugs has nothing to do with their geographic location so why should the add-on be based on a geographically determined composite rate? A more fair and accurate system would be to base the add-on on the real dollars being cut from provider reimbursement. For instance, you are proposing a $0.96 cut for epogen per 1,000 units. If the average dialysis unit gives 5,000 units of epogen per treatment, give everyone a one-time add-on of $4.80 per treatment for epogen to keep us whole. Furthermore, I do not understand how you can base our drug reimbursement on sales price less 3% and expect us to remain whole. MedPAC repeatedly has told CMS and congress that payments do not match costs and you are proposing to pay us at a rate less than what it costs us to provide services. If there are no access to care issues now, your proposal will ensure that there soon will be.

The Case Mix Adjustment Payment proposal is based on, in my opinion, inaccurate data. We have analyzed our patient demographics and have determined that our case mix adjusted payment will be 1.173 instead of the 1.1919 that you claim on page 35 of your report. I believe our facility is no different than the average facility, so I believe that all providers are going to see significant reductions in total payments when this system is implemented. Again, my question would be are you trying to create an access to care problem?

Finally, the complexity of this case mix adjusted payment system is mind boggling. As I understand this system, our payment will vary from patient to patient. Based on past experience with CMS contracted intermediaries, I doubt that they will be able to implement this system by the proposed date and when it is finally implemented, I believe there will payment errors galore. My challenge to CMS would be that if you believe in your data, then just adjust the composite rate accordingly. Give us all 119.19% of the current composite rate, skip all of the complicated programming changes and save all of us the huge administrative burden of trying to figure how we are getting paid for every single patient. My feeling is that this won't happen because your data paints an inaccurately rosy picture and you know that the average provider is going to get significantly less than 1.1919 of the composite rate. What is most frustrating about this is that it is just a clever ruse to get around addressing the heart of the matter which is that payments for ESRD services are inadequate. Case mix adjustments, drug add-ons, budget neutrality factors are just distractive measures that you can use to avoid fixing the real problem!

CMS-1429-P-2616

Submitter : Mrs. Elizabeth Hanselman **Date & Time:** 09/22/2004 03:09:47

Organization : Florida State Massage Therapy Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am concerned with the proposed change in policy whereby a physician can refer 'incident to' services to physical therapists only. I believe that ALL qualified health care providers should be allowed to provide services to patients with a physician's prescription or under the physician's supervision. This is especially relevent in the State of Florida where all massage therapists are licensed and where there is a steady infux of elderly/retired citizens. To deny these people access to massage therapy would not only cause unnecessary hardship for the patients but also over time increase the cost of health care as massage therapists bill at a rate significantly less than other providers.

Submitter : Renee Polubinsky **Date & Time:** 09/22/2004 03:09:13

Organization : Western Illinois University

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

There have never been any limitations or restrictions placed upon the physician in terms of who can be utilized to provide ANY 'incident to' service. Why the need for change with something that has been effective since 1965?

CMS-1429-P-2618

Submitter : Ms. Karlene DuBois **Date & Time:** 09/22/2004 03:09:14

Organization : Ms. Karlene DuBois

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a certified athletic trainer, it greatly concerns me that our privelages as health care providers to all age populations would attempt to be limited. As with all other qualified health care professionals, athletic trainers are required to attain a bachelors degree from an accredited university and pass a board certification test. I fully believe that athletic trainers play a vital role in the rehabiliation process and are fully qualified to do so. In a clinical setting, I have seen first hand the quality relationship that can develop between athletic trainers and other health care providers, such as physical therapists, which strengthens the rehab process for each individual patient, from all age ranges. It would be a complete injustice to limit these important services to only the non-geriatric and athletic populations by restricting ATC's from providing therapy services to medicare patients. In this day and age, when health and fitness promotion is at its peak, the average life span is increasing, and the amount of active senior citizens is increasing, why would we try to limit the amount of health care providers that can help this population return to a healthy, active life as soon as possible? Please carefully consider this. Thank you.

Submitter : Ms. Marilyn Barbato **Date & Time:** 09/22/2004 03:09:08

Organization : American Massage Therapy Association Member

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a Massage Therapist, I am qualified to have physicians refer to me and work under their supervision. These proposed regulations would limit this referral to Physical Therapists only. Therefore I am recommending that the referrals be made to all qualified health care professionals. Thankd you.

Submitter : Ms. elizabeth quinn **Date & Time:** 09/22/2004 03:09:36

Organization : Alternative Healing Through Massage

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy wherby a physician can only refer "incident to" services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a doctors script ot under their supervision. Thank you,

CMS-1429-P-2621

Submitter : **Date & Time:** 09/22/2004 03:09:13

Organization : St. Alphonsus Nephrology Center, LLC

Category : End-Stage Renal Disease Facility

Issue Areas/Comments

GENERAL

GENERAL

Comments to Medicare?s proposed rule: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar-Year 2005.

Re: CMS-1429-P

1. On page 214 of the proposed rules a single add-on to the per treatment composite rate of 11.3% is proposed. The proposed rules offer an alternative calculation that produces separate adjustments for hospital-based and independent facilities. The alternative calculation results in an adjustment of 2.7% for hospital based and 12.8% for independent facilities. Although either method may be budget neutral for CMS, the use of a single rate will result in a significant reduction in the payments to independent facilities. This seems contrary to the spirit of the proposed rules. Accordingly, it is our recommendation that the alternative method of producing separate drug add-on adjustments for hospital-based and independent facilities be implemented.

2. On pages 253 and 254 the proposed rules seem to effectively eliminate exception rates for dialysis facilities. We operate multiple dialysis facilities in rural Idaho and we have been granted exception rates because the cost of operating those rural facilities is greater than in the metropolitan areas with a large population base. Yet under the proposed rules not only are the exception rates eliminated but the proposed rates for rural facilities as listed in Table 19 on page 269, are substantially less than the rates for urban facilities. This appears to be a very significant reduction in the reimbursement to these rural facilities. Our suggestion is to allow the exception rate as the base rate to which the drug add-on and the case-mix adjustments are applied or alternatively, to allow the use of the urban facilities rate for small rural states such as Idaho.

3. Page 174 of the proposed rules state that ?payment for a drug or biological furnished during 2005 in connection with renal dialysis services and separately billed by renal dialysis facilities will be based on the ASP of the drug minus 3 percent?. For the independent dialysis centers this represents a loss on the drugs furnished. Our costs are on the average 4% above the ASP, yet under the proposed rules our reimbursement is 3% under the ASP. It appears the smaller independent dialysis centers will suffer a reduction in revenue due to the buying power of the big chains. Our recommendation is that reimbursement for the independent dialysis facilities be based on our cost, which is 4% above the ASP.

CMS-1429-P-2621-Attach-1.doc

Attachment #2621

Comments to Medicare's proposed rule: Revisions to Payment Policies Under the Physician Fee Schedule for Calendar-Year 2005.

Re: CMS-1429-P

1. On page 214 of the proposed rules a single add-on to the per treatment composite rate of 11.3% is proposed. The proposed rules offer an alternative calculation that produces separate adjustments for hospital-based and independent facilities. The alternative calculation results in an adjustment of 2.7% for hospital based and 12.8% for independent facilities. Although either method may be budget neutral for CMS, the use of a single rate will result in a significant reduction in the payments to independent facilities. This seems contrary to the spirit of the proposed rules. Accordingly, it is our recommendation that the alternative method of producing separate drug add-on adjustments for hospital-based and independent facilities be implemented.

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3. Page 174 of the proposed rules state that "payment for a drug or biological furnished during 2005 in connection with renal dialysis services and separately billed by renal dialysis facilities will be based on the ASP of the drug minus 3 percent". For the independent dialysis centers this represents a loss on the drugs furnished. Our costs are on the average 4% above the ASP, yet under the proposed rules our reimbursement is 3% under the ASP. It appears the smaller independent dialysis centers will suffer a reduction in revenue due to the buying power of the big chains. Our recommendation is that reimbursement for the independent dialysis facilities be based on our cost, which is 4% above the ASP.

Submitter : Ms. Emily Smith **Date & Time:** 09/22/2004 03:09:50

Organization : University of Vermont

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

To Whom It May Concern,

My name is Emily Smith and I am currently a senior in the Athletic Medicine program at the University of Vermont. I am writing to state why I am against the proposed change in the Medicare Program; Revisions to Payment Policies.

This change would mean that students like myself and ATC's currently working in the clinic setting would no longer have this option. Working in the clinic is an integral part of Athletic Training and ATC's should be able to bill for their services in this setting.

Athletic Trainers are highly-skilled health care professionals trained to prevent, evaluate, manage and rehabilitate injuries sustained by both athletes and active individuals of all ages. ATC's are amply qualified to work in a clinic setting. Similar to the way an Occupational Therapist Assistant works under the supervision on an OTC, and a PT assistant works under a physical therapist, Athletic Trainers work under a supervising team physician.

A description of the role of a PT assistant and their performed tasks included the following: Physical therapist assistants perform a variety of tasks. Components of treatment procedures performed by these workers, under the direction and supervision of physical therapists, involve exercises, massages, electrical stimulation, hot and cold packs, and ultrasound. Physical therapist assistants record the patient's responses to treatment and report the outcome of each treatment to the physical therapist. This description is not much different than many of the responsibilities of Athletic Trainers. Not to mention that all Certified Athletic Trainer's have at least a Bachelor's degree, which is comparable to the education of such providers as Physical Therapists, Occupational therapists, Physician Assistants, etc. Even PT and OT assistants do not require a bachelor's degree. In addition to a higher degree of education, like PT's and OT's, Athletic Trainers also have to pass a certification exam. As Chuck Kimmel, ATC, President, National Athletic Trainers' Association (NATA) stated in a news release, 'If ATCs are qualified to prevent, evaluate, manage and rehabilitate injuries for the top athletes in this country, including many who competed at the Summer Olympic Games in Athens, then surely they are qualified to prevent, evaluate, manage and rehabilitate injuries for Medicare.'

From my perspective, it is clear that Certified Athletic Trainer's are more than qualified to work in a clinic setting and to provide services under a physician's supervision. This proposed change in Medicare billing practices would not only take away options from those wishing to receive rehab, but also take away many possibilities for ATC's.

Sincerely,

Emily A. Smith, SAT

CMS-1429-P-2623

Submitter : Ms. Kathy Meyer **Date & Time:** 09/22/2004 03:09:08

Organization : Carle Sports Medicine

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

-"Incident to" has since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including Certified Athletic Trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
-There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interest of the patients.
-In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician separately and seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
-This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlaying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
-Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patients's recovery time, which would ultimatly add to the medical expenditures of Medicare.
-Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
-Athletic Trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor's or master's degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy percent of all athletic trainers have a Master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupatioinal therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).
-To allow only physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reinbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified.

Submitter : Dr. James Scifers **Date & Time:** 09/22/2004 03:09:04

Organization : Dr. James Scifers

Category : Physical Therapist

Issue Areas/Comments

GENERAL

GENERAL

I am writing to you as a PHYSICAL THERASPIST who shocked and dismayed over the recent proposal that would limit providers of ?incident to? services in physician clinics. Limiting the ability of qualified health care professionals to provide such services indicates that one group of individuals is more qualified than another. In reality, however, each group, Certified Athletic Trainers, Physical Therapist and Occupational Therapists, provides unique strengths and abilities to the provision of these services. Allowing the Physician to select the individual who is best qualified to provide such services on an individual patient basis is much more beneficial to the patient and the entire health care system. If adopted, this regulation will reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the entire health care system.

Physicians should have the right to select the health care professional (including the Certified Athletic Trainer) who they deem is most qualified to treat the patient?s condition. Physicians should be allowed to select the provider of care based on the best interests of the patient. By allowing the Physician to select from a variety of health care providers, the patient receives the benefits of quicker, more accessible health care. Additionally, no single group of individuals should receive exclusive rights to provide Medicare services for reimbursement. To mandate that only certain practitioners may provide ?incident to? care in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Research has demonstrated that the quality of care provided by Certified Athletic Trainers in the provision of rehabilitation services is equal to that of Physical Therapists. Limiting the ability of Certified Athletic Trainers to provide care to Medicare patients, will mean that physically active individuals who qualify for Medicare will no longer be able to select the most qualified professional for care of athletic related injuries.

In summary, I feel, as a Physical Therapist, it is neither necessary nor advantageous for CMS to institute the proposed changes to ?incident to? services.

Sincerely,

James R. Scifers, DScPT, PT, SCS, LAT, ATC

CMS-1429-P-2624-Attach-1.wpd

Attachment #2624

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to you as a PHYSICAL THERASPIST who shocked and dismayed over the recent proposal that would limit providers of "incident to" services in physician clinics. Limiting the ability of qualified health care professionals to provide such services indicates that one group of individuals is more qualified than another. In reality, however, each group, Certified Athletic Trainers, Physical Therapist and Occupational Therapists, provides unique strengths and abilities to the provision of these services. Allowing the Physician to select the individual who is best qualified to provide such services on an individual patient basis is much more beneficial to the patient and the entire health care system. If adopted, this regulation will reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the entire health care system.

Physicians should have the right to select the health care professional (including the Certified Athletic Trainer) who they deem is most qualified to treat the patient's condition. Physicians should be allowed to select the provider of care based on the best interests of the patient. By allowing the Physician to select from a variety of health care providers, the patient receives the benefits of quicker, more accessible health care. Additionally, no single group of individuals should receive exclusive rights to provide Medicare services for reimbursement. To mandate that only certain practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Research has demonstrated that the quality of care provided by Certified Athletic Trainers in the provision of rehabilitation services is equal to that of Physical Therapists. Limiting the ability of Certified Athletic Trainers to provide care to Medicare patients, will mean that physically active individuals who qualify for Medicare will no longer be able to select the most qualified professional for care of athletic related injuries.

In summary, I feel, as a Physical Therapist, it is neither necessary nor advantageous for CMS to institute the proposed changes to "incident to" services.

Sincerely,

James R. Scifers, DScPT, PT, SCS, LAT, ATC

CMS-1429-P-2625

Submitter : **Date & Time:** 09/22/2004 03:09:02

Organization :

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a student athletic trainer, I am deeply troubled by the proposal to mandate that only physical therapists are allowed to provide physical medicine to Medicare patients. It is unacceptable for you to assume that athletic trainers are less qualified than the PT, PTA, OT, or OTA. In reality, our level of education, experience, and skill is equal to or greater. We have to pass a certification exam, we have to have a degree from an accredited university, and we take many of the same classes as the physical therapy students. It is unfair to think that your patients would receive substandard treatment from us. We would provide the same, and often times a more functional approach to treating your patients' injuries. It is in your best interest to give your patients a wide variety of providers to choose from. That way they can decide for themselves what treatment method and style works best on helping them back to work and to their original lifestyle. I'm not saying that athletic trainers are better than physical therapists. I think we do very similar work. We provide therapeutic exercises and modalities to decrease pain and increase range of motion. One of the main differences is the population of people that we see. Most athletic trainers focus on the younger population; while physical therapists focus on the older population. There is some overlap in these, but to deny your Medicare patients the opportunity to explore the possibility of seeing an athletic trainer hurts them. If you make it so they can only see physical therapists, then you are greatly reducing the available services out there. They will have more difficulty finding an available clinic with the personnel to accomodate them. In conclusion, I believe this proposal not only hurts those practicing physical medicine, but also the patients who are receiving it. It greatly limits their options and could possibly reduce their chances at an optimal recovery.

CMS-1429-P-2626

Submitter : Jesse Herrington **Date & Time:** 09/22/2004 03:09:30

Organization : NATA

Category : Other

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

THERAPY - INCIDENT TO

I think that it is outrageous for CMS to judge ATC's as unqualified to provide therapy services under the supervision of a physician. One of the domains of athletic training, deals with the rehabilitation/return to activities of patients. Athletic trainers are skilled in injury prevention, assesment, and rehabilitation. They are not just specialized in first aid. Athletic trainers have a broad knowledge of different sports injuries, as well as how to care for those injuries. As a student, I have had an oppurtunity to see how physicians and PT's interact with each other while doing rehabilitation. There seems to be a mutual respect between all three. While going through school to become an ATC or PT, students will often take the exact same course work as the other, which makes neither less qualified than the other. In the case of OT's, OTA's, and PTA's the Certified athletic trainer has actually had a more extensive education on rehabilitating injuries. Also many PT's that are certified athletic trainers know how much being an ATC has helped them in all aspects of the field. Being a certified athletic trainer is not something that is easy to obtain. You have to pass a certification exam and many ATC's pride themselves on continuing their education for personal benifit, as well as to help further the profession. PT's are not even required to have continuing education in many states. Overall I think it would be devastating to the medical profession, to deny a group of people that are well schooled and trained in the area of rehabilitation, not to be recognized as capable of performing a job that they have been succesful at. If athletic trainers do not seem as capable medical professionals, then why has the field grown so much in the past decade (espcially in clinical settings)?

Submitter : Mr. Matthew Whitesell **Date & Time:** 09/22/2004 03:09:49

Organization : Mr. Matthew Whitesell

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

The attachment to this document is not provided because:

1. The document was improperly formatted.
2. The submitter intended to attach more than one document, but not all attachments were received.
3. The document received was a protected file and can not be released to the public.
4. The document is not available electronically at this time. If you like to view any of the documents that are not posted, please contact CMS at 1-800-743-3951 to schedule an appointment.

CMS-1429-P-2628

Submitter : Dr. Shane Caswell **Date & Time:** 09/22/2004 03:09:15

Organization : National Athletic Trainers' Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please See Attached File

Sincerely,

Shane V. Caswell, PhD, ATC
George Mason University
10900 University Boulevard, MS 4E5
School of Recreation, Health, and Tourism
Manassas, Virginia 20110

CMS-1429-P-2628-Attach-1.doc

Attachment #2628

Shane V. Caswell, PhD, ATC
George Mason University
10900 University Boulevard, MS 4E5
School of Recreation, Health, and Tourism
Manassas, Virginia 20110

Date: 9-22-2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Please consider the following:

- A physician has the right to delegate the care of his or her patients to trained individuals **(including certified athletic trainers)** whom the physician deems knowledgeable and trained in the protocols to be administered.
- To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment outrageous and unjustified.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Shane V. Caswell, PhD, ATC
Assistant Professor Athletic Training
George Mason University
10900 University Boulevard, MS 4E5
School of Recreation, Health, and Tourism

Manassas, Virginia 20110

CMS-1429-P-2629

Submitter : **Date & Time:** 09/22/2004 03:09:45

Organization : CMS/Region II

Category : Federal Government

Issue Areas/Comments

GENERAL

GENERAL

Date: September 23, 2004

From: Steven Lisker /s/

To: CMS/HHS/Gov/Regulations/Ecomments

Subject: File CMS-1429-P

My comments on the proposed rule are as follows:

Issue II.D.5. ? Q Code for the Set-Up of Portable X-ray Equipment

It is my recommendation that CMS continue for the current year to price this service (Q0092) within the nonphysician workpool. There is no evidence presented or available to indicate that any other methodology would be more accurate than the current method. We have no reason to believe that the carriers can do a better job than CMS in developing the RVU?s for pricing this service or by trying to cost it out directly as it is done for the transportation component. In addition, it is noted that tin the regulatory discussion states the CMS consultant found the industry data to be inconclusive to support a change in the pricing. Based upon this, it is unclear as to what reliable sources would possibly be available for carriers to use to price the service? I disagree with the comment that geographic differences should be the basis for the service to be carrier priced. This same logic could apply to virtually every code on the fee schedule. In addition, by being on the fee schedule, geographic differences are taken into account via the GPCI factor. This is a basic operating component of the fee schedule. Carrier priced services have historically been limited to those services/items where national data is either inconsistent, limited or where the unique characteristics of the service itself, necessitate it to be carrier priced. The unique characteristics criterion is considered applicable for the transportation component of portable x-ray services. However, there is no evidence presented, nor does imputed logic indicate that the set-up of portable x-ray equipment at a location is inherently different based upon the location.

In order to comply with the provisions of PL 108-199 which urged the Secretary to review and the RVU?s for Q0092, CMS should consider using a consultant to develop an independent recommendation on the RVU value or convene a task force similar to the one used in the development of the Ambulance fee schedule to arrive at the appropriate RVU values. If such task force was convened, it should incorporate the development of a National RVU value for the transportation component (R0070) of portable x-ray services.

Submitter : Mr. Jason Latona **Date & Time:** 09/22/2004 03:09:30

Organization : FSMTA

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter : Ms. Stacey Barton **Date & Time:** 09/22/2004 03:09:06

Organization : Ms. Stacey Barton

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Massage Therapists can, and have been, providing effective treatment for those patients suffering from a variety of muscular and soft tissue trauma for a number of years. More and more research is becoming available to support massage therapy's effectivness. Many massage therapists work with doctors and chiropractors in order to provide more complete care to patients. Medicare's proposal to eliminate Massage Therapists from providing care to physician's patient's would be a step in the wrong direction, as a result, I am opposed to this proposal.
Thank you.

CMS-1429-P-2632

Submitter : Mr. Flavio Correa **Date & Time:** 09/22/2004 03:09:35

Organization : Flavio Correa (L.M.T)

Category : Health Care Provider/Association

Issue Areas/Comments

GENERAL

GENERAL

My name is Flavio Correa,I am a License Massage Therapist,I working in a medical Office doing therapy for patient who suffer for pain,disabilities,chronic also on my own,I heard the controversial regarding discontinue treatments for massage therapist treatment from Medicare,if this happen is going to be a very mistake,massage is a modality who rehabilitate the patient emotionally and physically,our profession has only one intention,do everything for the patient regarding well being,among others benefits,please don't do it ...patient need it.
Flavio Correa
License massage therapist(29200).

CMS-1429-P-2633

Submitter : Mr. Richard Jean **Date & Time:** 09/22/2004 03:09:42

Organization : National Athletic Trainer Assoc.

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to state that the proposal to limit providers of "incident to", would eliminate a number of wualified professionals from providing needed health care services. It should be the right of a physican to chose whom they send their patients. There has never been any limitations or restrictions placed on a physican in terms of how there judgement of what is best for their pts. Certified Athletic Trainers are highly trained professionals that provide a high quality of service. To deny a Medicare beneficiary the same access of service that is given our Olympic athletes is unjustified. It is an unneeded and unnecessary limitation and rule change

Sincerly,

Richard Jean, ATC, LAT, MS

Submitter : Dr. Joni Barry **Date & Time:** 09/22/2004 03:09:29

Organization : St. John's Mercy Medical Center and Maryville Univ

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

09/22/04

To Whom It May Concern:

My name is Joni and I have been a licensed physical therapist for 15 years. I am sending this letter to support the proposed 2005 Medicare physician fee schedule rule. I feel it is important to only have licensed Physical Therapist and Physical Therapist Assistants providing services billed as physical therapy.

I work predominately in a setting with Neurologic patients. One of my specialty areas is vestibular rehabilitation for patients with dizziness and balance problems. A few months ago I received a phone call from a technician at a doctor's office who was looking for a physical therapy clinic that provided vestibular rehabilitation. She went on to say that normally they provide vestibular rehabilitation to the patients in the doctor's office and bill it as physical therapy. But, they had one patient who's insurance company insisted that a service billed as physical therapy be provided by a physical therapist so they could not treat that patient. Quite honestly I was a little shocked by the whole conversation. I asked her more about the services they provided and her training. She replied she had attended a weekend workshop and felt she learned what she needed to know to work with this population. This continued to shock me because most physical therapist when they have finished their entry-level education and received a bachelors, masters or doctorate degree go on to get further education in vestibular rehabilitation before they start treating this patient population extensively. It scares me to think of a technician who attended a weekend course providing services that get billed and reimbursed as physical therapy. She certainly cannot have the knowledge of anatomy, physiology and pathology to provide this patient with the best care. My guess is that she has a very cookbook approach to the care she provides.

I hope you will consider situations like these that are occurring across the country and accept the proposed 2005 Medicare physician fee schedule rule.

Thank you for taking the time to read this.
Sincerely,
Joni B, PT, DPT, NCS

Submitter : **Date & Time:** 09/22/2004 03:09:43

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I strongly urge you to continue to allow massage therapist to provide medical care under Medicare. We are educated, skilled, trained and nationally test professionals.

Submitter : **Date & Time:** 09/22/2004 03:09:55

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Including services provided by Certified Athletic Trainers. We are qualified professionals who can provide these therapy services to Medicare patients.

Submitter : Mrs. MARIKA SCHNEIDER **Date & Time:** 09/22/2004 03:09:18

Organization : Mrs. MARIKA SCHNEIDER

Category : Health Care Industry

Issue Areas/Comments

GENERAL

GENERAL

MASTECTOMY PRODUCTS SHOULD BE EXCLUDED FROM ANY FACE-TO-FACE PRESCRIPTION REQUIREMENTS. A MASTECTOMY IS PERMANENT, THEREFORE NECESSARY THROUGHOUT THE RECIIPIENTS LIFE. CURRENT PARAMETERS FOR THE DIPENSATION OF THESE ITEMS ARE SUFFICIENT. FACE-TO-FACE PRESCRIPTION REQUIREMENTS WOULD PLACE AN UNDUE BURDEN ON ALL AFFECTED MEDICARE BENEFICIARIES, PHYSICIANS, SUPPLIERS AND MEDICARE. THE INCONVENIENCE TO THE RECIPIENT, THE PHYSICIAN'S TIME AND PAYMENT BY MEDICARE FOR THE VISIT IS UNREASONABLE AND CREATES AN UNNECESSARY EXPENSE TO MEDICARE.

CMS-1429-P-2638

Submitter : Dr. Matthew Hansman **Date & Time:** 09/22/2004 03:09:34

Organization : Santa Cruz Medical Clinic

Category : Physician

Issue Areas/Comments

Issues 1-9

GPCI

September 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

I object to the Proposed Geographic Practice Cost Indices for 2005 because they fail to correct proven inadequacies in reimbursements to localities currently categorized as "Locality 99" that exceed the 5 percent threshold (the "105% rule") over the national 1.000 average. Specifically, the new GPCIs exacerbate reimbursement deficiencies for the California counties of Santa Cruz, Sonoma, Monterey, San Diego, Sacramento, Santa Barbara and El Dorado.

In particular, the county of Santa Cruz, when broken out from Locality 99, would otherwise reflect a 1.125 percent GAF - higher than the California Localities 17 (Ventura), 18 (Los Angeles) and 26 (Orange). The boundary payment difference between Santa Cruz County and its neighboring county of Santa Clara (Locality 9) is a whopping 25.1 percent. Such statistics demonstrate the fallacy of the GPCI formula and demand CMS develop either exceptions to the current rules that would correct for the Santa Cruz situation or refine the formula to more accurately reflect the true cost of medical practitioners. Not to do so perpetuates an inherently unfair and discriminatory formula.

In its August 5 notice, CMS states that on the issue of payment localities "[a]ny policy that we would propose would have to apply to all States and payment localities." Such an effort is commendable and bespeaks a desire to be fair to all physicians across the nation. However, the reality is that the governing statute does not prohibit individual State fixes or individual county or locality fixes. The CMS is not constrained by law from developing a strategy - with or without the concurrence of the state medical association - to correct the discrepancies in the reimbursement levels to California counties and I request that it do so as part of this rulemaking process.

CMS cannot postpone a solution this year as it did last year. Failure to address the GPCI/locality issue in California only grows the problems and will make fixing it all the more difficult in the future. Further, it threatens to undermine medical care to Medicare beneficiaries. Evidence from the local medical society shows an increasing trend toward doctors refusing to accept new Medicare patients. Many doctors are simply leaving the county to practice elsewhere, depleting the county of its medical resources. To implement the August 5 proposed rules would be counterproductive to CMS' mission to make Medicare benefits affordable and accessible to America's seniors.

I object to the Proposed Geographic Practice Cost Indices for 2005 as printed in the Federal Register of August 5, 2004. I request that CMS define a method in which it can revise the GPCIs for those California counties - especially Santa Cruz - that exceed 5 percent of the national average and begin reimbursing doctors in those counties more appropriate to their true costs.

Sincerely,

Matthew F. Hansman M.D.

CMS-1429-P-2639

Submitter : Mrs. Kimberly Sanders Reaves **Date & Time:** 09/22/2004 03:09:23

Organization : FLORIDA STATE MASSAGE THERAPY ASSOCIATION

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am opposed to this proposal as it is limiting the practice of manual therapies to Physical Therapists. Although their training is intense, it doesn't cover the depth of massage covered in this specialty. Massage therapists are the most qualified to perform manual therapy as they have extensive hours of "hands on" work and study in the musculoskeletal systems. There understanding of the mind/body connection is greater as they also study the emotions that realte to pain in the body. No other field covers the body as holistically as the area of massage does.

One of the reasons our elderly are so ill is that they aren't receiveing enough human contact. Touch is healing. However in allopathic medicine, touch is greatly discouraged as it may lead to a law suit. The patient's tactile needs are neglected, thus slowing the healing process. Massage is healing in that touch is given in a effort to reconnect the mind/body and sooth the patient.

CMS-1429-P-2640

Submitter : Ms. Patricia Aronson **Date & Time:** 09/22/2004 03:09:52

Organization : National Athletic Trainer's Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please read the attached Word document and thank you for your time and concern for this very important matter.

CMS-1429-P-2640-Attach-1.txt

Attachment #2640

Patricia A. Aronson, ATC
920 River Road
Madison Heights, VA 24572

September 22, 2004
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy – Incident To
Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the

patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists. Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Patricia A. Aronson, ATC
920 River Road
Madison Heights, VA 24572

Submitter : Mr. Richard Ezell **Date & Time:** 09/22/2004 03:09:49

Organization : Mr. Richard Ezell

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please do NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers, especially massage therapists, should be allowed to provide services to patients with a physicians prescription or under their supervision

Submitter : **Date & Time:** 09/22/2004 03:09:37

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer
"incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Submitter : Mr. James McNulty **Date & Time:** 09/22/2004 03:09:47

Organization : Mr. James McNulty

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

If an office is billing for physical therapy a state licensed physical therapist should have to be providing onsite supervision in accordance with PA state PT regs, ensuring that licensed and qualified personnell are treating the patients

CMS-1429-P-2644

Submitter : Larry Swanson **Date & Time:** 09/22/2004 03:09:05

Organization : Seattle Medical Massage

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I urge you to NOT pass this policy that would allow a physician to only refer "incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physician's prescription or under their supervision.

CMS-1429-P-2645

Submitter : Linda Thomas **Date & Time:** 09/22/2004 03:09:50

Organization : FSMTA

Category : Nurse

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a RN, LMT I feel that LMT's have a much better knowlegde of the body than most PT's. By taking away insurance reimbursement to us, I feel that you are limiting the quality of health care to our citizens.
Please do not limit us or the quality of healthcare in this country any further. Let us do the work we were trained to do for everyone's health.
Thank you.

CMS-1429-P-2646

Submitter : Mr. Pat Lamboni **Date & Time:** 09/22/2004 03:09:12

Organization : Salisbury University

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As an educator and an Athletic Trainer for 25 years, I implore you to disregard the latest attempt by certain Allied Health professionals to isolate care to their profession. This is an attempt to harness other professionals and relegate them to be a non-functional profession. Who better to direct care than a physician in cooperation with a multitide of resources in rending care to patients who require incidental therapy. Athletic Trainers have always been a viable source for physicians and continue to be a profession that is providing outstanding care to an ever growing active society. Athletic Trainers have long been a source and resource for the management, treatment, rehabilitation and prevention of injuries sustained by physical active people. The physician/athletic trainer model has been the cornestone of the NATA and the care of athletes for 50 years, but now has become the cornerstone in healthcare. The model has helped progress Sportsmedicine centers, industrial settings, hospital settings and the Physicain Extender model is revolutionizing the Physican/Athletic Trainer ability to care for physically active people. This is a critical issue and should not be led by professionals who deem themselves as sole source of incidental services to physicians. The physician, remains, the most appropriate Allied Health professional to determine the care afforded to patients.

CMS-1429-P-2646-Attach-1.txt

Attachment #2646

Pat Lamboni, ATC, M.Ed
Athletic Training Room
Salisbury University
Salisbury, MD 21801
September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012
Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system. During the decision-making process, please consider the following:

• "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

• There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

• In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

• This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

• Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

• Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.

• Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor’s or master’s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master’s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic

Training (JRC-AT).

• To allow only physical therapists, occupational therapists, and speech and language pathologists to provide “incident to” outpatient therapy services would improperly provide
these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide “incident to” outpatient therapy in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions

deemed qualified, safe and appropriate to provide health care services.
• CMS, in proposing this change, offers no evidence that there is a problem that is in need of
fixing. By all appearances, this is being done to appease the interests of a single professional
group who would seek to establish themselves as the sole provider of therapy services.

• CMS does not have the statutory authority to restrict who can and cannot provide services
“incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

• Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

• Athletic trainers are employed by almost every U.S. post-secondary educational institution
with an athletic program and every professional sports team in America to work with athletes
to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens,
Greece this summer to provide these services to the top athletes from the United States. For
CMS to even suggest that athletic trainers are unqualified to provide these same services to a
Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes
to their local physician for treatment of that injury is outrageous and unjustified.

• These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This

CMS recommendation is a health care access deterrent. On a personal note, as an educator of
Athletic Trainers, these proposed changes would be detrimental to the profession of Athletic
Training and to our students. If imposed it would severly reduce the available Allied Health
professionals to treat the ever growing active population in this country.

Sincerely,

Pat Lamboni, ATC, MEd.
Head AThletic Trainer/Instructor
Salisbury University

CMS-1429-P-2647

Submitter : **Date & Time:** 09/22/2004 03:09:38

Organization :

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Athletic Trainers should be able to practice in clinics and in doctor's offices. Athletic Trainers receive instruction on how to rehabilitate injuries. The required curriculum looks like one of a medical student in the early years, and is very similar to a Physical Therapists'. However, Athletic Trainers are not allowed to work in clinics, nor are they allowed to help rehabilitate the 'regular Joe.' In other words, doctors can not suggest to a patient that they get help from an Athletic Trainer, even if the injury is sports related and would require expertise in that arena to cure the ailment.

I understand that Physical Therapists have to have different certifications and may take some different courses on their way to becoming a Physical Therapist, but the function of the job is relatively the same. In fact, I would suggest that the only difference between the two is that a Physical Therapist is more qualified to work with stroke victims, patients with cardiovascular disease, and para/quadrapeligics. Athletic Trainers have no interest in these patients.

Athletic Trainers have a specialty and it should be recognized in a clinical setting. They are best qualified to work with people who have sports-related injuries. We count on Athletic Trainers to fix world class athletes. Why can we not count on them to help with similar injuries in people and in the elderly? Doctors should be allowed to prescribe the most efficacious and cost effective course of therapy for their patients. Doctors should be able to have Athletic Trainers in their own office and Athletic trainers should be allowed to work in clinics. Athletic Trainers have the education and experience necessary to help patients with ankle sprains and other sports-related injuries and they are a more cost effective alternative to Physical Therapy. Doctors have the training and expertise to be able to recognize when it is appropriate for a patient to receive care from any licensed professional. Often times, the appropriate care for a patient includes therapy from an Athletic Trainer.

An example of an appropriate time to enlist the services of an Athletic Trainer would be for the weekend warrior who hurts their shoulder or knee during a vigorous tennis match or golf game. Another example would include an elderly person who sprains their ankle walking down steps. Athletic Trainers deal with these types of injuries on a day to day basis and their expertise is easily transferable into a clinical setting. Doctors and Clinicians agree that Athletic Trainers should be able to practice in clinics and in doctor's offices.

Submitter : Ms. Meredith Alig **Date & Time:** 09/22/2004 04:09:14

Organization : Ms. Meredith Alig

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-2648-Attach-1.doc

Attachment #2648

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with these services and place an undue burden on the entire health care system.

Physicians should have the right to select the health care professional (including the Certified Athletic Trainer) who they deem is most qualified to treat the patient's condition. Physicians should be allowed to select the provider of care based on the best interests of the patient. By allowing the Physician to select from a variety of health care providers, the patient receives the benefits of quicker, more accessible health care. Additionally, no single group of individuals should receive exclusive rights to provide Medicare services for reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Research has demonstrated that the quality of care provided by Certified Athletic Trainers in the provision of rehabilitation services is equal to that of Physical Therapists. Physical and Occupational Therapists do not "own" the right to provide rehabilitation services. Limiting the ability of Certified Athletic Trainers to provide care to Medicare patients, will mean that physically active individuals who qualify for Medicare will no longer be able to select the most qualified professional for care of athletic related injuries.

In summary, I feel it is neither necessary nor advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Meredith Alig, ATC/L

CMS-1429-P-2649

Submitter : Mr. Sam Sevier **Date & Time:** 09/22/2004 04:09:05

Organization : Hopkins Co Memorial Hospital

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a practicing Physical Therapist for more than 30 years, I am glad to see the proposal for these rules to finally come into the system.

I am very much in favor of requiring the provision of physical therapy services in physician offices to be under the supervision of a licensed Physical Therapist.

Throughtout my career I have dealt with the provision of physical therapy services in physician clinics by poorly trained aides who had absolutely no idea as to the effective utilization of modalities or even adequate training as to their proper application. They certainly had not any of the training necessary to implement proper therapeutic exercise programs that form the core for effective treatment of the musculoskeltal problems they were treating. I have personally, on numerous occasions, had patients who received such treatment in physician offices to tell me of their poor experiences and the differences in treatment techniques they recognized when seen by a professional Physical Therapist.

The physicians who offer such services clearly had received no special training in the physcial therapy treatments they were rendering through their provider numbers and were incapable of training their personnel in the techniques for which I was required to receive an advanced education and am tested and licensed regularly, based upon my demonstrated competency for such treatment methods.

Physical Therapy services (generally for modalities only) have been provided in these physician offices, despite the presence of well qualified Licensed Physical Therapists in the community to provide complete and appropriate treatment. I am led to believe that these services are offered in physician offices simply as an addition to the financial bottom line of the physician clinics, and not an effort to provide quality patient care.

With the growing reality of managed care we are also seeing new problems. Where there are limited resouces for Physical Therapy services by the managed care companies, the coverage may be exhausted in the physician's clinic by inappropriate or incomplete treatment with little or no funds available for coverage when the referral is finally made to a qualified professional to provide such services. This is unfair to the patient who has paid for inadequate treatment, and is also unfair to the trained and licensed professional who sees his coverage for services depleted when clearly if the patient had been properly evaluated and treated early in the process, better treatment methods could have been utilized with better outcomes and less cost.

I strongly recommend that you implement this requirment for physical therapy services to be provided under the supervision of a licensed Physical Therapist in all areas including physician offices.

CMS-1429-P-2650

Submitter : Dr. John Brouillette **Date & Time:** 09/22/2004 04:09:39

Organization : Nephrology Vascular Lab - RMS Lifeline Birmingham

Category : Physician

Issue Areas/Comments

GENERAL

GENERAL

Comments to CMS on proposed 2005 Fee Schedule CMS-1429-P

Respondent: John Brouillette, MD jbrouillette@nephrologypc.com

RE: RVUS for CPT code 36870- Percutaneous Thrombectomy

Dear Members of CMS,

I would like to express my concerns regarding the proposed reductions of RVUs for CPT code 36870. The information put forth by CMS shows a reduction of 27.7% for this code.

The bottom line with percutaneous thrombectomy for patients with prosthetic dialysis grafts is that the overall morbidity and mortality for these patients is reduced by performing this procedure in an outpatient setting compared to inpatient thrombectomy. The overall cost savings is substantial. The frequency of outpatient percutaneous thrombectomy in the United States has been increasing on an annual basis in a wide variety of settings. Further impedance of this procedure by reduction of reimbursement will negatively impact this trend.

As a member of the Fistula First Initiative through Network 8 we have been actively and aggressively implementing pathways for placement of primary fistulas using native veins. Our overall goal is reduction of prosthetic graft shunts which in the long term will reduce the need for thrombectomy of all shunts in total across the board. This is where future cost savings and therefore a reduction in reimbursement will occur without a need for the current reduction in RVU.

If the reimbursement for code 36870 is reduced there will be a negative fiscal impedance of this outpatient procedure which will then lead to an increase of inpatient procedures and hence, increased CMS expense.

I ask that you take these comments into consideration as the final revisions for this code are put forth.

Thank you for your time and continued efforts on this billing and coding issue.

John R. Brouillette, MD

Submitter : Ms. Michelle Beery **Date & Time:** 09/22/2004 04:09:02

Organization : James Madison University, Harrisonburg, VA

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

September 22, 2004

Re: CMS-1429-P Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005

To Whom It May Concern:

I am writing this letter concerning the above issue. The Centers for Medicare and Medicaid are asking that Certified Athletic Trainers should not be allowed to practice their skills in a physician?s office, but in turn allow to have physical therapists, physical therapy aids, occupational therapists, and occupational therapy aides provide such rehabilitation programs in this setting.

A Certified Athletic Trainer has obtained many hours of classroom and clinical experience prior to taking a lengthy exam to acquire their certification. A Certified Athletic Trainer?s role is to provide rehabilitation for any kind of injury and to also provide preventative measures to keep an injury from occurring.

Certified Athletic Trainers have the same qualifications as a physical therapist as they have taken most of the same courses. Unlike Certified Athletic Trainers, physical therapists in most states do not require continuing education requirements to keep their certification current. This is also true for occupational therapists, occupational therapy aides, and physical therapy aides.

Overall, the Certified Athletic Trainer has more preparation in working with people with injuries than do the above- mentioned professions. Please reconsider this proposal that the Centers for Medicare and Medicaid have asked to be passed.

Sincerely,

Michelle Beery

CMS-1429-P-2652

Submitter : Ms. Leah Versteegen **Date & Time:** 09/22/2004 04:09:00

Organization : Ms. Leah Versteegen

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly support for CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs.
Physical therapists and physical therapist assistants under the supervision of physical therapists are the only practitioners who have the education and training to furnish physical therapy services. Unqualified personnel should NOT be providing physical therapy services.
Physical therapists are professionally educated at the college or university level in programs accredited by the Commission on Accreditation of Physical Therapy, an independent agency recognized by the U.S. Department of Education. As of January 2002, the minimum educational requirement to become a physical therapist is a post-baccaulaureate degree from an accredited education program. All programs offer at least a master's degree, and the majority will offer the doctor of physical therapy (DPT)degree by 2005.
Additionally, physical therapists must be licensed in the states where they practice. As licensed health care providers in every jurisdiction in which they practice, physical therapists are fully accountable for their professional actions.
Physical therapists receive significant training in anatomy and physiology, have a broad understanding of the body and its functions, and have completed comprehensive patient care experience. This background and training enables physical therapists to obtain positive outcomes for individuals with disabilities and other conditions needing rehabilitation. This education and training is particularly important when treating Medicare beneficiaries.
The delivery of so-called "physical therapy services" by unqualified personnel is harmful to the patient.
Again, I strongly support for CMS's proposed requirement that physical therapists working in physicians offices be graduates of accredited professional physical therapist programs.

Thankyou for consideration of my comments.
Sincerely,
Leah Paige Versteegen

CMS-1429-P-2653

Submitter : Ms. Kathryn Webster **Date & Time:** 09/22/2004 04:09:54

Organization : Trinity International University

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The legistlation proposed to limit the use of licensed, cerifited athletic trainers is rediculous. Our education and experience for our job prepares us to handle the caring of patients of all ages. We are practitioners recognized by the American Medical Association to aid in the treatment of injuires. This legistlation limits the power a physician has to choose who he or she would like to treat a particular patient. Limiting what we can do as athletic trainers is a detriment to the medical field. We are highly trained individuals with advanced degrees in our field. Please allow us to continue serving the field of medicine with our knowledge by NOT passing CMS 1429-P. Thank you.

Submitter : Mr. Todd McLaughlin **Date & Time:** 09/22/2004 04:09:52

Organization : Charlotte Orthopedic Specialists

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Todd J. McLaughlin
131 Medical Park Rd
Mooresville NC 28117

Sept. 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient. There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best

possible patient care.

As a practicing Physician's Assistant that retains and practices many of the skills and knowledge as a certified athletic trainer in the physical rehabilitation setting, I find this profession (that of an A.T.,C) valuable to the health and well-being of all medical populations. And certainly a profession whose services should be directed by the overseeing Physician.

Sincerely,

Todd J. McLaughlin, MPAS, PA-C, A.T.,C

Submitter : Mr. Ross Cooper **Date & Time:** 09/22/2004 04:09:52

Organization : MedSport Physical Therapy

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-2655-Attach-1.doc

Attachment #2655

Ross Cooper, MA, ATC, CSCS
MedSport Physical Therapy
20321 Farmington Road
Livonia, MI 48152

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing this letter to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

Please see the following points to assist you during this decision-making process:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. **A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.** The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have **never** been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

- In many cases, the change to “incident to” services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and **additional** expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working “incident to” the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician’s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient’s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate “incident to” procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician’s ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide “incident to” services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide “incident to” care in physicians’ offices would improperly remove the states’ right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- **Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.**
- Through Athletic Training Education programs, rehabilitation techniques and coursework is directed at developing activity-specific programs that improve the quality of activities of daily living (ADL's) for patients and athletes. Athletic trainers are uniquely qualified individuals that can work in coordination with physical therapists to improve Medicare patient's quality of life, thus offering a greater service and higher level of health care to the population.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. **IN THIS DAY AND AGE OF RISING HEALTH CARE COSTS, HOW CAN <u>LIMITING</u> THE ACCESSIBILITY OF ALLIED HEALTH CARE PROVIDERS TO MEDICARE RECIPIENTS BE MORE COST EFFECTIVE?**

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent, and will subsequently increase the cost incurred to the Medicare system.

Sincerely,

Ross J. Cooper, MA, ATC, CSCS

CMS-1429-P-2656

Submitter : Dr. Paul Radensky **Date & Time:** 09/22/2004 04:09:51

Organization : McDermott Will

Category : Attorney/Law Firm

Issue Areas/Comments

GENERAL

GENERAL

See attached PDF file.

CMS-1429-P-2656-Attach-1.pdf

September 22, 2004

Via electronic submission at http://www.cms.hhs.gov/regulations/ecomments
Mark B. McClellan, M.D., Ph.D.
Administrator
Centers for Medicare and Medicaid Services
Room 445–G, Hubert H. Humphrey Building
200 Independence Avenue, SW.
Washington, DC 20201

RE: CMS–1429–P
Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2005; Proposed Rule
Payment for home PT/INR monitoring (codes G0248, G0249, and G0250)

Dear Dr. McClellan:

On behalf of the Prothrombin-time Self Testing (PST) Coalition comprising Hemosense Inc., International Technidyne Corporation and Roche Diagnostics Corporation, we are pleased to submit comments on the above-captioned Notice of Proposed Rulemaking regarding home Prothrombin Time (PT)/International Normalized Ratio (INR) monitoring for anticoagulation management. The PST Companies are medical device manufacturers who have developed the technologies used in home PT/INR monitoring. Our companies have put significant resources into the clinical development of these technologies, which have been shown to reduce the incidence of serious adverse events (strokes and bleeding) among patients requiring anticoagulation with warfarin.

We appreciate Medicare's having provided coverage for home PT/INR monitoring beginning July 2002, and we were pleased to see clarifications on billing for these services published in several Program Transmittals and codified in the Medicare Claims Processing Manual, Chapter 32, Section 60. In addition, we are pleased to support the proposed relative values for 2005 for the demonstration/training service (code G0248), the ongoing monitoring service (code G0249), and the professional review and interpretation service (code G0250) that together comprise home PT/INR monitoring.

We are concerned, however, that the approach CMS has taken for coverage and payment of home PT/INR monitoring severely limits access to this service by Medicare beneficiaries. Claims data from the Part B Extract and Surveillance System for 2002 (files for 2003 pending) show only 2 claims under code G0248 (training), 32 claims under G0249 (technical service), and 94 claims under G0250 (professional service). Considering that codes G0249 and G0250 represent 4 (weekly) tests and that patients are maintained on anticoagulation indefinitely, the claims data suggest that no more than a handful of Medicare beneficiaries have been able to access this technology.

When we met with staff from the Hospital and Ambulatory Payment Group in 2002 following the release of the coverage decision memorandum and prior to release of the implementing instructions, we expressed serious concern about patient access to home PT/INR monitoring if

the benefit were structured as a physician or diagnostic testing service paid under the Physician Fee Schedule. CMS staff assured us that they would monitor access to this new technology and would make changes to the payment policies to assure appropriate patient access. Clearly, current levels of access are well below any reasonable estimate of the eligible Medicare population (patients with mechanical heart valves—all of whom receive chronic anticoagulation). We strongly urge CMS staff to keep their promise and address the problem with access to home PT/INR monitoring. We would be happy to work with you to identify ways to expand outreach to patients and to modify the payment methodology to assure that Medicare policies do not raise unnecessarily high hurdles to access.

We appreciate the opportunity to comment on this Proposed Rule and look forward to working with you and your staff to address the problems with access to this important service.

Sincerely,

Dale Clendon

Dale Clendon
Vice President, Sales and Marketing
Hemosense Inc.

Larry Cohen

Larry Cohen
President
International Technidyne Corporation

Debbie Johnson

Debbie Johnson
Reimbursement Manager
Roche Diagnostics Corporation

Cc: Paul Radensky, M.D., J.D., McDermott, Will & Emery LLP

CMS-1429-P-2657

Submitter : **Date & Time:** 09/22/2004 04:09:53

Organization :

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of 'incident to' services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

CMS-1429-P-2657-Attach-1.doc

Attachment #2657

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Kim Kandler, MEd, LAT, ATC

990 Solar Parkway Neenah, WI 54956

Submitter : Ms. HALL **Date & Time:** 09/22/2004 04:09:28

Organization : MCHENRY HIGH SCHOOL

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

SEE ATTACHED SHEET

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

The attachment to this document is not provided because:

1. The document was improperly formatted.
2. The submitter intended to attach more than one document, but not all attachments were received.
3. The document received was a protected file and can not be released to the public.
4. The document is not available electronically at this time. If you like to view any of the documents that are not posted, please contact CMS at 1-800-743-3951 to schedule an appointment.

CMS-1429-P-2659

Submitter : Mr. Patrick Rothschadl **Date & Time:** 09/22/2004 04:09:47

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. The remaining letter will be attached as a microsoft file on the next page.

CMS-1429-P-2659-Attach-1.doc

Attachment #2659

Patrick Rothschadl, MS, ATC
St. Lucie Medical Center
1800 SE Tiffany Ave
Port St. Lucie, FL 34952

September 21, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy- Incident To

Dear Sir/Madam:

I am writing in regards to the recent proposal that would limit providers of " incident to" services in physician offices and clinics. If accepted, this would eliminate the ability of qualified health care professionals to provide these important services. In the field of Athletic Training, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place undue burden on the health care system.

During the decision-making process, please consider the following:

1) " Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy is inherent in the type of practice, medical subspecialty and individual patient.

2) There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide **ANY** "incident to" service. Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

3) In the past 5-10 years there has been an increasing shortage of credentialed allied and other health care professionals, especially in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment. Patients who would now be referred outside of the physician's office would incur delays of access. In the case of Medicare patients, this could not only involve delays, but, as mentioned, cost the patient in time and travel expense. All these

delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

4) Reducing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

5) Athletic trainers are highly educated, especially in orthopedics. **ALL** certified or licensed athletic trainers **must have a bachelor or master's degree** from an accredited college or university. Foundation courses include: human anatomy, human physiology, kinesiology, biomechanics, exercise physiology, acute care of injury and illness, upper and lower body assessment/evaluation, rehabilitation, modalities, nutrition and statistics/research design. Seventy percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

6) To allow **only** physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices and clinics would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

7) CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

8) CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. **In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.**

9) Athletic Trainers are highly educated in the evaluation and rehabilitative techniques of any orthopedic injury or surgery. The past 10-15 years we have worked hard to develop are profession in the areas of accreditation, licensure, and reimbursement for our services. Many physicians rely on our services, especially in the clinic/HS outreach programs, college and university settings. Hospitals and orthopedic clinics employ the majority of athletic trainers. Also, Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic training program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate injuries sustained during athletic competition.** Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal or better to the quality of services provided by physical therapists especially in the field of sports medicine and orthopedics. If this change is implemented, there would be many jobs lost and the profession of athletic training would be devastated

10) These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. This would decrease the proper care needed for Medicare patients.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Patrick Rothschadl, MS, ATC

Submitter : Miss. Patricia Fernandez **Date & Time:** 09/22/2004 04:09:21

Organization : Texas Assoc. Of Massage Therapists member

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

WE BEG YOU TO NOT PASS THIS POLICY WHEREBY A PHYSICIAN CAN ONLY REFER "INCIDENT TO" SERVICES TO PHYSICAL THERAPISTS. ALL QUALIFIED HEALTH CARE PROVIDERS SHOULD BE ALLOWED TO PROVIDE SERVICES TO PATIENTS WITH A PHYSICIANS PRESCRIPTION OR UNDER THEIR SUPERVISION.

CMS-1429-P-2661

Submitter : Mr. James McLaughlin **Date & Time:** 09/22/2004 04:09:46

Organization : Medical Resources of Kansas City, Inc.

Category : Other Health Care Provider

Issue Areas/Comments

GENERAL

GENERAL

Section 305

Reimbursement for respiratory medications at average selling price + 6% will not fairly reimburse providers of respiratory medications.

The recently published new allowables for albuterol sulfate and ipratropium bromide of $0.04/mg and $0.30/mg respectively are at or below our current cost for these medications. We currently pay $0.048/mg for albuterol and $0.30/mg for ipratropium. Clearly, our small privately owned pharmacy cannot afford to fill prescriptions at a loss. We believe the CMS calculations for the new allowables were skewed by a small group of large national providers that are able to purchase direct from the manufacturers of these drugs. We are forced to deal with wholesale distributor middlemen who mark the drugs up to us. The proposed pricing discriminates against small privately owned pharmacies. But, interestingly enough, the large national providers (Apria, Lincare and American HomePatient) have all announced publicly that they will exit the business unless an adequate dispensing fee in provided. These announcements were made in spite of the fact that the large national pharmacy providers undoubtedly enjoy costs of medications far below that of the small independent pharmacies.

In order for us to be able to remain in the respiratory medication business for the Medicare beneficiary population, there must be an additional financial incentive in the form of a dispensing fee to cover our costs and allow a profit. We have examined our costs related to the pharmacy segment of our home medical equipment business, looking at the following components:

Allocated cost of rent and utilities;
Salary and benefits for pharmacists as it relates to filling prescriptions, obtaining proper documentation for both Medicare and the Missouri State Board of Pharmacy, record keeping, interface with prescribing physicians, and patient counseling;
Professional and business liability insurance as it relates to the pharmacy segment of our business;
Costs associated with initial in-home delivery, patient training and education, follow-up deliveries, and compliance monitoring as required by Medicare;
Costs associated with sales and marketing activities related to the respiratory medication segment of our business;
Billing and clerical activities related to accepting Medicare assignment for respiratory medications;
Costs related to twenty-four hour on-call support for our patients;
Costs related to other licensed professional staff (respiratory therapists).

We believe the Muse and Associates calculation of a $68.10 dispensing fee falls short for small pharmacies. We suggest that CMS consider a transition payment for the medications based on an average selling price that takes into consideration the prices paid by small pharmacies. In addition, we calculate that a dispensing fee of $90.00 per prescription would provide enough incentive to remain active in this business segment. This amount was arrived at by an exhaustive study of the aforementioned costs related to our pharmacy business.

In the event a dispensing fee is not forthcoming, we will exit the respiratory medication business. We fill an average of 350 prescriptions/month, involving approximately 200 different patients. Our patients will be forced to pay out-of-pocket to obtain their medications from local pharmacies. More than likely, the majority of our patients will not purchase these medications, but instead will go untreated. An untreated COPD patient is likely to suffer an acute exacerbation that will require hospitalization.

We also feel the comments regarding the migration to MDI's in 2006 is misguided. We suggest you survey Medicare beneficiaries who have used both forms of treatment to determine which provides them with greater therapeutic benefit. We believe you will discover the vast majority of patients favored nebulized respiratory medications.

Thank you for this opportunity to comment.

James B. McLaughlin

Submitter : Mr. Ronald Frers, BS,AAS,LMT **Date & Time:** 09/22/2004 04:09:02

Organization : FSMTA

Category : Other Technician

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

CMS-1429-P-2663

Submitter : Dr. Darien Heron **Date & Time:** 09/22/2004 04:09:44

Organization : Santa Cruz Medical Clinic

Category : Physician

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

September 22, 2004

Center for Medicare & Medicaid Services
Department of Health & Human Services
Attention CMS 1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

I object to the Proposed Geographic Practice Cost Indices for 2005 because they fail to correct proven inadequacies in reimbursements to localities currently categorized as "Locality 99" that exceed the 5 percent threshold (the "105% rule") over the national 1.000 average. Specifically, the new GPCIs exacerbate reimbursement deficiencies for the California counties of Santa Cruz, Sonoma, Monterey, San Diego, Sacramento, Santa Barbara and El Dorado.

In particular, the county of Santa Cruz, when broken out from Locality 99, would otherwise reflect a 1.125 percent GAF - higher than the California Localities 17 (Ventura), 18 (Los Angeles) and 26 (Orange). The boundary payment difference between Santa Cruz County and its neighboring county of Santa Clara (Locality 9) is a whopping 25.1 percent. Such statistics demonstrate the fallacy of the GPCI formula and demand CMS develop either exceptions to the current rules that would correct for the Santa Cruz situation or refine the formula to more accurately reflect the true cost of medical practitioners. Not to do so perpetuates an inherently unfair and discriminatory formula.

In its August 5 notice, CMS states that on the issue of payment localities "[a]ny policy that we would propose would have to apply to all States and payment localities." Such an effort is commendable and bespeaks a desire to be fair to all physicians across the nation. However, the reality is that the governing statute does not prohibit individual State fixes or individual county or locality fixes. The CMS is not constrained by law from developing a strategy - with or without the concurrence of the state medical association - to correct the discrepancies in the reimbursement levels to California counties and I request that it do so as part of this rulemaking process.

CMS cannot postpone a solution this year as it did last year. Failure to address the GPCI/locality issue in California only grows the problems and will make fixing it all the more difficult in the future. Further, it threatens to undermine medical care to Medicare beneficiaries. Evidence from the local medical society shows an increasing trend toward doctors refusing to accept new Medicare patients. Many doctors are simply leaving the county to practice elsewhere, depleting the county of its medical resources. To implement the August 5 proposed rules would be counterproductive to CMS' mission to make Medicare benefits affordable and accessible to America's seniors.

I object to the Proposed Geographic Practice Cost Indices for 2005 as printed in the Federal Register of August 5, 2004. I request that CMS define a method in which it can revise the GPCIs for those California counties - especially Santa Cruz - that exceed 5 percent of the national average and begin reimbursing doctors in those counties more appropriate to their true costs.

Sincerely,
Darien Heron, MD

Submitter : Mrs. Heather Campbell **Date & Time:** 09/22/2004 04:09:53

Organization : Union Hospital

Category : Health Care Provider/Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file.

CMS-1429-P-2664-Attach-1.doc

Attachment #2664

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.
- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible healthcare. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.
- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence that there is a problem that is need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.
- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.
- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of running in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Heather L Campbell, MS, LAT, ATC

823 S. 19th St.

Terre Haute, IN 47803

CMS-1429-P-2665

Submitter : Mr. Jonathan May **Date & Time:** 09/22/2004 04:09:51

Organization : Novacare Rehabilitation

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

please see attached file

CMS-1429-P-2665-Attach-1.doc

Attachment #2665
September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
PO Box 8012
Baltimore, MD 21244-8012

Re: Therapy-Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident-to" services in physician offices and clinics. Consumers deserve a choice to whom is providing their health care. In the best interest of medicine, physicians should be determining which health care provider is better suited to provide rehabilitation for their patients.

Each of these equally qualified medical professionals deserves "equal footing" in terms of reimbursement for the rehabilitation codes. In today's world of rehab, consumers are exposed to and cared for by certified athletic trainers in physicians offices, rehabilitation companies, and industrial settings. If adopted, this would eliminate the ability of qualified health care professionals to provide these important "incident-to" services.

Why now, is this proposal questioning the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service? Physicians continue to make decisions in the best interests of the patients. It is IMPERATIVE that Medicare and private payers continue to support physicians in these endeavors and not impose any limitations or restrictions as to who the physician can utilize to provide ANY "incident-to" service.

CMS is surely receiving comments from Physical Therapists and Physical Therapist Assistants regarding this proposal. The APTA strongly opposes the use of "UNQUALIFIED PERSONNAL" to provide services described and billed as physical therapy services. These individuals will speak of the "negative impact" that will be created by allowing unqualified individuals to provide services that are billed as physical therapy services in physician's offices. I could not agree more! Unqualified individuals should not be providing any medical service.

What those individuals will not tell CMS is this:

- All certified or licensed athletic trainers MUST have a bachelor's or master's degree from an accredited college or university.
- Core coursework for an ATC includes:
  Human physiology and anatomy
  Kinesiology/biomechanics
  Nutrition
  Acute care of injury and illness
  Exercise physiology
  Stats and research design
- 70% of all ATCs have a master's degree or higher.
- The services and education of ATCs are comparable to other health care professionals including PTs, OTs, RNs, speech therapists, and many other mid-level health care practitioners.
- **A Physical Therapy Assistant has 2-4 years less educational experience compared to an ATC, yet a PTA has a legislative right to be reimbursed for services. Why is this so?**

Allowing only PT,OT, speech therapist to provide "incident-to" outpatient therapy services would improperly provide these groups EXCLUSIVE rights to Medicare reimbursement and DENY the consumer access to quality health care professionals affecting the quality of health care being provided and possibly the costs.

In proposing this change, CMS offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care deterrent and is clearly driven by the financial interests of the aforementioned therapists.

Respectfully,

Jonathan J. May, ATC
Novacare Rehabilitation
122 Castleton Rd

Delran, NJ 08075

CMS-1429-P-2666

Submitter : Michael Cole **Date & Time:** 09/22/2004 04:09:52

Organization : Barrington Orthopedics

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

As a licensed physical therapist, I have worked side by side with several athletic trainers.
The trainers I have worked with are very knowlegable and are excellent additions to our staff (in a private physical therapy clinic). These athletic trainers have more training and education than some of the licensed therapists in our clinic, and the testing required for their certification is rigorous.
If health professionals such as the trainers I know are not allowed to perform 'physical therapy services,' the therapist shortage would be even further critical than it is already, and unlicensed individuals would be necessary to assist the remaining therapists in seeing their patients. While I realize that the skills of the individual athletic trainer as pertains to a certain population of patients varies widely, the same is true for physical therapists (no matter what their degree), and any facility would be foolish to hire a trainer or therapist who was unskilled in the specialties dictated by that facility's patient type.
I must admit that I was skeptical when we first hired our athletic trainers, but I have been pleasantly surprised. The schools are putting out well-prepared trainers, who we do not hire until they have passed their exam.
Please consider my comments before you make your decision. thak you very much for your time.

Sincerely,

Michael C. Cole, MS, PT
Northwestern University Physical Pherapy Programs, Class of 1977
Northwestern University Masters Degree program, Class of 1986

clcole@mc.net
Licensed Physical Therapist for the past 27 years

Submitter : Ms. Michelle Padgett **Date & Time:** 09/22/2004 04:09:05

Organization : Lutheran South High School

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Certified Athletic Trainers are highly educated medical professionals and the professions ability to treat should not be limited.

CMS-1429-P-2668

Submitter : **Date & Time:** 09/22/2004 04:09:52

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Please see attached file.

CMS-1429-P-2668-Attach-1.doc

Attachment #2668
Via Electronic Mail -- http://www.cms.hhs.gov/regulations/ecomments

Mark E. Hilburn, ATC
Russell High School
709 Red Devil Lane
Russell, KY 41169

September 22, 2004
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:
I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible healthcare. The patient would be forced to see the physician and

separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other healthcare professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services "incident to" a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,
Mark E. Hilburn ATC

Submitter : Mr. David Jenkins **Date & Time:** 09/22/2004 04:09:41

Organization : Florida State Massage Therapy Association

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

Issues 20-29
Therapy-Incident to.

We beg you to not pass this policy whereby a physician can only refer 'Incident to' services to physical therapists. All qualified health care providers should be allowed to provide services to patients with a physicians perscriptions or under their supervision.

Submitter : Mr. Robert Murphy **Date & Time:** 09/22/2004 04:09:53

Organization : Mercer University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-2670-Attach-1.doc

Attachment #2670

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with these services and place an undue burden on the entire health care system.

Physicians should have the right to select the health care professional (including the Certified Athletic Trainer) who they deem is most qualified to treat the patient's condition. Physicians should be allowed to select the provider of care based on the best interests of the patient. By allowing the Physician to select from a variety of health care providers, the patient receives the benefits of quicker, more accessible health care. Additionally, no single group of individuals should receive exclusive rights to provide Medicare services for reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services. Research has demonstrated that the quality of care provided by Certified Athletic Trainers in the provision of rehabilitation services is equal to that of Physical Therapists. Physical and Occupational Therapists do not "own" the right to provide rehabilitation services. Limiting the ability of Certified Athletic Trainers to provide care to Medicare patients, will mean that physically active individuals who qualify for Medicare will no longer be able to select the most qualified professional for care of athletic related injuries.

In summary, I feel it is neither necessary nor advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Robert M. Murphy, Jr. ATC, Med
Director of Sports Medicine
Mercer University

CMS-1429-P-2671

Submitter : Ms. Stefanie Baker-Watson **Date & Time:** 09/22/2004 04:09:44

Organization : Aurora University

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

As a certified athletic trainer with extensive experience and education in the field of athletic training, exercise science and cardiac rehabilitation, I oppose the proposed CMS revisions to payment policies.
Athletic training is a profession which prepares individuals to work in a number of health care fields and in a variety of settings. After completing a rigorous education program following by a national exam and individual state licensing/registration, an individual may be able to practice as an athletic trainer. States, such as Illinois, have taken an active role in educating the general public of the value and expertise of athletic training. In addition, Illinois has taken steps to educate the medical/allied health population about the proper education needed to be referred to as an Athletic Trainer or ATC.

With athletic trainers having significant experience working with active populations, it makes sense to allow athletic trainers to work in many settings and encourage their role in the lives of active individuals. By working with physicians in their offices and under their supervision at rehabilitation clinics, athletic trainers can provide a unique perspective to the 'injured' individual. This perspective exemplifies 'return to normal activities' as many people do not simply want to return to sitting at a desk but to return to recreational activities for an improved quality of life.

By restricting the practice of payment for services authorized by a physician, you are in fact limiting the choice of the physician and infringing on their right to practice medicine. The decision for care should be left in the hands of the physician and not individuals periphery to the situation. If physicians choose to utilize certified,licensed athletic trainers to perform return to activity rehabilitation, CMS should respect that decision.

Athletic trainers are very marketable because of their educational background and the physicians I have worked with enjoy working with certified athletic trainers throughout the rehabilitation process. Patients served by athletic trainers are often better prepared after completing their rehabilitation to return to a completely normal life which includes not only daily tasks such as cleaning and cooking but enjoying recreational activities with their families.

Athletic Trainers are qualified to perform services, as directed by physicians, and should be allowed under Medicare to continue to bill for their services.

CMS-1429-P-2672

Submitter : Mr. Thomas Crouch **Date & Time:** 09/22/2004 04:09:20

Organization : Mr. Thomas Crouch

Category : Individual

Issue Areas/Comments

GENERAL

GENERAL

I would like to express my discontent with this proposal. I am a high school basketball coach at a small, rural school in Illinois. We have the fortunate opportunity to employ a part-time athletic trainer. Basically they work in a physical therapy clinic in the mornings and at our high school in the afternoons. I am very greatful of our athletic trainer. He has done a wonderful providing care for our athletes. It is a unique profession that is designed to serve this capacity. Specifically, our athletic trainer can treat anything from a blister, to a sprained ankle, to a collapsed lung where a player of mine almost died. Because of that athletic trainer, this student has graduated and is successfully going to college. If CMS-1429-P moves forward, it would eliminate the athletic trainer at our school and a large majority of other high schools who have athletic trainers outreach from clinics. Please, for the lives of student athletes all over this country, do not allow this proposal to pass.
Sincerely,
Thomas Crouch, Jr.

Submitter : Ms. Susan Koebel **Date & Time:** 09/22/2004 04:09:20

Organization : AHT

Category : Nurse

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Massage therapy. Revision to just physical therapists to be paid for massage therapy is a disservice to clients on medicare or any other insurance plan. The reason is physical therapists are not trained to be massage therapists. Therefore patients receive no benefit. Massage is a specialty which requires in depth schooling in order to benefit patients. No on the revision to pay just physical therapists to treat patients with massage.

Submitter : Dr. Angela Mickle **Date & Time:** 09/22/2004 04:09:12

Organization : Radford University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am opposed to the changes in this section of the proposed changes. As a certified athletic trainer, I am highly qualified to provide services at this level, and the proposed changes significantly limit my ability to provide services that may be requested by a physician. Please see my attached letter.
Thank you

CMS-1429-P-2674-Attach-1.doc

Attachment #2674

Angela Mickle
504 Harvey Street
Radford, VA 24141

September 15, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- "Incident to" has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician's choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

- There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY "incident to" service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. ***It is imperative that physicians continue to make decisions in the best interests of the patients.***

- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working "incident to" the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

- Patients who would now be referred outside of the physician's office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient's recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician's ability to provide the best possible patient care.

- Athletic trainers are highly educated. ALL certified or licensed athletic trainers ***must have a bachelor's or master's degree*** from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master's degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

- To allow *only* physical therapists, occupational therapists, and speech and language pathologists to provide "incident to" outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide "incident to" outpatient therapy in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

- CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- CMS does not have the statutory authority to restrict who can and cannot provide services “incident to” a physician office visit. ***In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.***

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to **prevent, assess, treat and rehabilitate** injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept. In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Angela Mickle, PhD, ATC
Radford University
Radford, VA

CMS-1429-P-2675

Submitter : Mr. Edward Doherty **Date & Time:** 09/22/2004 04:09:28

Organization : National Athletic Trainers Association

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of incident to services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

Incident to has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physicians professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified and licensed athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physicians choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

In many cases, the change to incident to services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

Patients who would now be referred outside of the physicians office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patients recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

To allow only physical therapists and PT assistants, occupational therapists,OT assistants, and speech and language pathologists to provide incident to services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide incident to care in physicians offices would improperly remove the states right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

CMS does not have the statutory authority to restrict who can and cannot provide services incident to a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of physical therapy services.

Certified/Licensed athletic trainers are trained at 4-year institutions, like physical therapists, to provide therapy services for orthopedic injuries. Athletic trainers are required to maintain 80 hours of continuing education every three years, a requirement that is not mandated on physical therapists by their association to maintain their license. Physical therapy assistants have only 2 years of education with no continuing education requirements. Approximately 70% of athletic trainers hold an advanced level degree. Further, a significant number of physical therapists hold an athletic training certification/ license as well. To limit athletic trainer credentials in favor of one type of health care professional, that has professional crossover, would severely limit athletic trainers ability to earn a viable living. I'm sure you would agree this would be contrary to a free enterprise system that so many have fought so hard to preserve.

Independent research has demonstrated that the quality of services provided by certified/licensed athletic trainers is equal to the quality of services provided by physical therapists.

I would request that Incident To Therapy not be changed.

Sincerely,

Ed Doherty, M.S., L.A.T.,C

CMS-1429-P-2676

Submitter : Mrs. Kathy Benn **Date & Time:** 09/22/2004 04:09:45

Organization : Florida Southern College

Category : Academic

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

CMS-1429-P-2676-Attach-1.doc

Attachment #2676

Sue Stanley-Green
Athletic Training Program Director
Florida Southern College
Lakeland, FL 33801

September 19, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

Submitter : Ms. Christine Sposito **Date & Time:** 09/22/2004 04:09:55

Organization : Ms. Christine Sposito

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer "incident to" services to physical therpists. All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

CMS-1429-P-2678

Submitter : Ms. Kathleen Weaver **Date & Time:** 09/22/2004 04:09:03

Organization : Rowan University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Athletic trainers work hard throughout their college education and clinical experiences to attain their certification. The educational and clinical background of an athletic trainer highly qualifies them in a wide variety of health care services to athletes and other physically active persons. Athletic trainers are competent in such areas as injury prevention, injury assessment, injury care, treatment and rehabilitation, psychological wellfare, first aid/CPR response, and many others. They have an extensive education on the anatomy and physiology of the human body, how to evaluate and assess pathologies and illnesses, and ways to treat, care for, and rehabilitate several conditions. An athletic trainer's wide variety of capabilities in the medical field should enable them to practice those skills in numerous settings, including high school, college, professional athletics, physicians' offices, physical therapy centers, and rehabilitation facilities.

Submitter : Sheri McNew **Date & Time:** 09/22/2004 04:09:43

Organization : University of Kentucky Sports Medicine

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please read following letter:

September 22, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy ? Incident To

Dear Sir/Madam:

I am currently the Director of Athletic Training outreach services at a very busy university based sports medicine facility. We have 5 sports medicine fellowship trained physicians and 9 certified athletic trainers. I am very concerned over the recent proposal that would limit providers of ?incident to? services in our type of facility. If adopted, this would eliminate the ability of our physicians to incorporate the use of an ATC staff whom they have the utmost respect for in regard to their education, research capabilities, experience with their patient population and their status as a medical professional. It would also reduce the quality of care for our Medicare patients and ultimately increase the costs associated with this service and place an undue burden on our health care system that is already under constant scrutiny.

?Incident to? has always been utilized by physicians to allow others under their ?direct supervision? to provide care as an adjunct to their services. It is the physician?s right to delegate the care of his or her patients to trained individuals whom they consider knowledgeable and trained in the protocols to be administered. In our setting, this definitely includes certified athletic trainers. The physician accepts legal responsibility for the individual(s) under his/her supervision. It is imperative that they are allowed to continue to make decisions in the best interest of the patients.

All of our certified athletic trainers have a bachelor?s degree with the majority having a master?s degree from an accredited college or university. Each year they are required to do research in the area of sports medicine and submit and present it to the district and national level. They must attend weekly educational conferences with our physicians and also attend yearly accredited courses/conventions to keep them abreast of the constant changes in the sports medicine healthcare setting. CEU credits are mandatory each year to keep the National Athletic Trainer?s certification. Our staff goes above and beyond what is required. Physical therapists in the state of Kentucky are NOT required to attain any CE credits to maintain their licensure. Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

Because our clinic and our satellite clinics are located within easy access of rural areas, we see many patients with Medicare. There are numerous physicians within our area that are refusing to see these patients. It would be detrimental for CMS to institute the changes proposed as it may lead to eliminating or severely limiting the number of Medicare patients accepted in each clinic. Our number one concern in our clinics is the quality of patient care. By limiting ?incident to,? the quality of care and access to quality of care will be severely diminished.

Sincerely:

Sheri McNew, ATC
Director of Outreach
University of Kentucky Sports Medicine

CMS-1429-P-2680

Submitter : Ms. Jayne Fleck Pool **Date & Time:** 09/22/2004 04:09:34

Organization : Ms. Jayne Fleck Pool

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Dr. Mark B. McClellan,
Administrator.

My name is Jayne Fleck Pool and I am a licensed Physical Therapist, Certified Sports Specialist and Certified Athletic Trainer. I have been in practice for 17 years. My comments are regarding the proposed 2005 Physician Fee Schedule Rule. I am writing to support the proposed personnel standards for physical therapy services that are provided 'incident to' physician services in the physician's office. I feel strongly that only qualified physical therapists and physical therapist assistants should be able to provide and bill for physical therapy services.

As both a physical therapist and athletic trainer, I feel qualified to objectively address the differences and similarities in the training and education of these professions. I believe that the education I received in an accredited physical therapy school, the licensure examination that I passed and the continuing education required to maintain my physical therapy license uniquely qualify me and other physical therapists to provide physical therapy services.

The physical therapy education that I received included comprehensive training in anatomy and physiology that provided me a great understanding of the functions of the human body and well as disease processes and management. In addition, extensive clinical training enabled me to develop physical therapy examination and treatment skills. These skills allow me to evaluate my patients and provide effective treatments to improve their function and lessen their disabilities. It is particularly important that my physical therapy training used a medical model as it prepared me to better understand not only the patient?s current problem, but also the possible co-morbidities and other complexities that Medicare patients often have.

In contrast my Athletic Training Education and subsequent certification examination provided me with the skills to prevent, evaluate and manage athletic injuries. The focus of athletic training is the athlete. Many Medicare patients that I have treated are not athletes, and often times their physical disabilities do not even allow them to be active. In addition, the rehabilitation skills I learned and practice as an Athletic Trainer are focused on a healthy yet injured athlete. This does not describe the majority of the Medicare patients who I have treated as a physical therapist. These Medicare patients often have disabilities or injuries as a result of a disease process, not an athletic injury, and therefore more complex evaluation and treatment is required.

Thank you for consideration of my comments.

Jayne Fleck Pool, PT, SCS, ATC
3409 N. Central Expwy
Plano, TX 75023

CMS-1429-P-2681

Submitter : **Date & Time:** 09/22/2004 04:09:48

Organization :

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

see attched file

CMS-1429-P-2681-Attach-1.doc

Attachment #2681

Sue Stanley-Green
Athletic Training Program Director
Florida Southern College
Lakeland, FL 33801

September 19, 2004

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident To

Dear Sir/Madam:

I am writing to express my concern over the recent proposal that would limit providers of "incident to" services in physician clinics. If adopted, this will eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients, increase the costs associated with this service and place an undue burden on the health care system.

During the decision-making process, please consider the following:

- Incident to has, since the inception of the Medicare program, been utilized by physicians to allow others, under the physicians supervision, to provide services as an adjunct to the physician's professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered.
- There have never been any limitations or restrictions placed upon the physician in terms of who they can utilize to provide ANY incident to service. Because the physician accepts legal responsibility for the individual under their care, Medicare and private payers have always relied upon the professional judgment of the physician to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.
- In many cases, the change to "incident to" services reimbursement would render the physician unable to provide their patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.
- This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals, it is likely the patient will suffer delays in health care, greater cost and a lack of access to immediate treatment.
- Curtailing to whom the physician can delegate "incident to" procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, will take away from the physician's ability to provide the best possible patient care.
- To allow only physical therapists and PT assistants, occupational therapists and OT assistants, and speech and language pathologists to provide "incident to" services would improperly provide those groups exclusive rights to Medicare reimbursement. To mandate that only those practitioners may provide "incident to" care in physicians' offices would improperly remove the states' right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.
- CMS, in proposing this change, offers no evidence there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

- Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.
- Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers accompanied the U.S. Olympic Team to Athens this summer to provide these services to our top athletes. For CMS to even suggest athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured and goes to their local physician for treatment of that injury is outrageous and unjustified.
- These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This recommendation is a health care access deterrent.

Sincerely,

Sue Stanley-Green, ATC

CMS-1429-P-2682

Submitter : Mr. Scott Pennington **Date & Time:** 09/22/2004 04:09:43

Organization : Mr. Scott Pennington

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I, as a massage therapist, want to retain the right to work with or for medical doctors or chiropractors and to allow persons to receive professional health care in physian's offices from those other than physical therapists. Physical Therapy is only one method of treatement and that may not be the best suited to the health and well being of the patient. By reducing options simply to reduce costs is not the answer. There is a great deal of documented evidence to the viability to touch therapies in increasing the ones well being and speeding recovery. By cutting out Massage Therapy, and other Touch modalities, it is sending a message to others that it is second rate and our Western Medicine can do with out it.

Thank you

CMS-1429-P-2683

Submitter : Ms. LI QIU **Date & Time:** 09/22/2004 04:09:41

Organization : NVCC

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I strongly supports the proposed personnel standards for physical therapy services that are provided ?incident to? physician services in the physician?s office. I agree that interventions should be represented and reimbursed as physical therapy only when performed by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist. I strongly opposes the use of unqualified personnel to provide services described and billed as physical therapy services.

Submitter : Terry Lawrence **Date & Time:** 09/22/2004 05:09:21

Organization : Terry Lawrence

Category : Other Health Care Professional

Issue Areas/Comments

Issues 10-19

SECTION 629

Do not take Massage Therapy off of medicare. It is a beneficial and useful service.

CMS-1429-P-2685

Submitter : Ms. Jayne Fleck Pool **Date & Time:** 09/22/2004 05:09:47

Organization : Benchmark Medical, Inc.

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Dr. Mark B. McClellan,
Administrator.

My name is Jayne Fleck Pool, PT, SCS, ATC and I am the Vice President of Compliance and Regulatory Affairs for Benchmark Medical, Inc. Thank you for the opportunity to comment on the proposed 2005 Physician Fee Schedule Rule. I am writing to support the proposed personnel standards for physical therapy services that are provided "incident to" physician services in the physician's office. Our organization believes strongly that only qualified physical therapists and physical therapist assistants should be able to provide and bill for physical therapy services.

Benchmark Medical is the largest private provider of outpatient physical therapy services in the United States. We have 380 outpatient physical therapy and orthotics and prosthetics offices in 19 states. Our physical therapists have obtained specialized education and training from accredited physical therapy schools. In addition, most of our physical therapists obtain additional clinical education by attending advanced clinical training and education courses. This unique education and training allows our physical therapists to provide care to persons with physical disabilities and functional impairments. These skills are particularly important for the Medicare patient. Our physical therapists are able to identify the individual Medicare patient?s functional problems, related medical issues or co-morbidities and then implement an effective treatment program to lessen their disabilities. The overall outcome for the Medicare patient is competent skilled care and a positive clinical outcome.

Each physical therapist is also licensed by the state in which they practice. As licensed health care workers in each jurisdiction, our therapists are not only accountable to our Company policies and procedures, but also to their individual licensing authorities. Unlicensed personnel providing health care services in a physician?s office do not have the same accountability.

Thank you for consideration of my comments.

Jayne Fleck Pool, PT, SCS, ATC
Vice President, Compliance & Regulatory Affairs
Benchmark Medical, Inc.
Valleybrooke Corporate Park
101 Lindenwood Drive, Suite 420
Malvern, PA 19355

Submitter : Ms. Jennifer Lemon **Date & Time:** 09/22/2004 05:09:52

Organization : Member Florida State Massage Therapy Association

Category : Other Practitioner

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg you to NOT pass this policy whereby a physician can only refer
'incident to' services to physical therpists. There are at least 15,000 licensed and highly trained Massage Therapist in the state of Florida alone who make it their lifes work to help people. In addition, there are things physical therapists simply are not trained to take care of. You will be severly limiting the availability of valuable, scientifically proven recouperative and prevetative care to millions by this action.

All qualified health care providers should be allowed to provide services to patients with a physicians prescription or under their supervision.

Thank You

Submitter : Dr. Steve Tippett **Date & Time:** 09/22/2004 05:09:15

Organization : IATA

Category : Other Health Care Professional

Issue Areas/Comments

GENERAL

GENERAL

I am both an athletic trainer and a physical therapist so I believe I can speak intelligently about billing Medicare patients as an athletic trainer. I'm sure most of the feedback from athletic trainers have been in favor of allowing services to be billed to Medicare. In my opinion this should NOT be the case. Athletic trainer education focuses on the musculoskeletal system in otherwise healthy individuals. Clinical experiences in dealing with this population is essentially non-existent. Patients under Medicare are not just simply "older" athletes. This unique group can bring existing co-morbidities to the table that athletic trainers are not educated to deal with.

Submitter : Ms. Brenda Moss **Date & Time:** 09/22/2004 05:09:55

Organization : Senior Network Services

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 1-9

PRACTICE EXPENSE

SENIOR NETWORK SERVICES
1777-A Capitola Road,Santa Cruz, California 95062
(831) 462-1433

September 2004

CMS Code 1429-P

I am writing to comment on the Proposed Rules governing the Physician Fee Schedule for Calendar Year 2005 as printed in the Federal Register of August 5, 2004.

Please reconsider your proposed rule. CMS committed in 1996 to updated the physician payment localities if there has been a significant change in practice costs. Santa Cruz County remains the most disadvantaged county in California. The payment differential for physician services in a county less than 20 miles from our business is over 25% greater than for services performed by local physicians. We understand that this is by far the greater such differential in the country.

This needs to stop. We are losing doctors and important specialties. Our organization cannot fathom how this is allowed to continue. We believe that Congress has delegated to CMS the responsibility to manage the payment to physicians. Further, we believe that no other county in the U.S. is in greater need of reform than our county. It is your responsibility to correct this problem. Continued postponement of this long-needed reform is ill advised and inappropriate.

Health care costs are high in our community. The economy of this county is entirely equivalent to Santa Clara County. Housing costs, wages, and benefits are equivalent. How can you support the payment differential as you propose in your rule? How can you continue to include counties such as Santa Cruz, Sacramento, and San Diego in the rural Locality 99 designation? We understand that Congress is directing to include our county in a federally sponsored redistricting in 2005. This needs to occur now.

Sincerely,

Brenda Moss
Executive Director
Senior Network Services

CMS-1429-P-2689

Submitter : Miss. Andrea Brown **Date & Time:** 09/22/2004 05:09:50

Organization : Lebanon Valley College

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We are Physical Therapy students at Lebanon Valley College.
We support the CMS Decision regarding physical therapy services incident to physician office visits.
We are required to attend college for 6 yrs to get a doctor of physical therapy (DPT) degree. It is only beneficial to the patient to allow medical personnel who are completely qualified to provide interventions to do so.
Unqualified providers of physical therapy intervention, those other than physical therapists or physical therapy assistants, under supervision of the physical therapist, can harm the well-being and decrease positive outcome of the physical therapy experience.
Also, physical therapists are fully accountable for their actions while performing physical therapy interventions, which is not the case with other unqualified medical personnel.
Physical therapists have an extensive background in anatomy, physiology, and pathophysiology in order to have an in-depth understanding of the patient and their conditions. This also doesn?t occur with unqualified medical personnel.
With the issue of a cap being placed with physical therapy, the patient is allowed a certain amount of money to be billed for physical therapy. This could be taken up by a tech working under a physician when manual or one-on-one physical therapy interventions are indicated.
Delivery of so-called physical therapy services can be harmful to the patient. For example, a patient can receive ultrasound from a physician?s office and because unqualified personnel are doing it, it can cause pain, which shouldn?t occur with ultrasound. This causes the patient to expect pain when in all actuality, ultrasound shouldn?t be painful at all.
We thank you for your time in reviewing our comments and hope you take them into serious consideration.

Andrea Brown and
Scott Marek

CMS-1429-P-2690

Submitter : **Date & Time:** 09/22/2004 05:09:13

Organization :

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Please see attached file

Department of Health and Human Services
Centers for Medicare and Medicaid Services (CMS)
Offices of Strategic Operations and Regulatory Affairs

The attachment to this document is not provided because:

1. The document was improperly formatted.
2. The submitter intended to attach more than one document, but not all attachments were received.
3. The document received was a protected file and can not be released to the public.
4. The document is not available electronically at this time. If you like to view any of the documents that are not posted, please contact CMS at 1-800-743-3951 to schedule an appointment.

CMS-1429-P-2691

Submitter : Miss. Celica Bicocchi **Date & Time:** 09/22/2004 05:09:23

Organization : Lebanon Valley College

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We are physical therapy students at Lebanon Valley College.
We strongly support the CMS proposal establishing requirements for individuals furnishing physical therapy services in physicians offices. Physical therapists are educated at colleges or universities for a minimum of six years for a doctorate of physical therapy degree and, after passing an exam, are licensed to practice, making physical therapists fully accountable for their professional actions. Physical therapist assistants are educated at colleges or universities for a two year time period to earn an associate's degree. As current physical therapy students, we feel that we are being supplied with the appropriate knowledge of anatomy, physiology and pathophysiology to provide therapeutic modalities, as well as supervise physical therapist assistants in the proper application of these modalities.
We are also knowledgeable of the indications and contraindications of the various therapeutic modalities as well as their effects on the tissues of the body.
There is a potential for medical workers who are untrained in physical therapy interventions to cause harm to patients. For example, in applying ultrasound, the untrained medical worker may burn the patient or cause the treatment to be painful for the patient when it should not be. As a result, the patient may not want to come back for treatment or receive proper ultrasound treatments in the future and would therefore lose the benefit of physical therapy services, which would cause the patient to lose function. We thank you for taking the time to review our comments and hope that you take them into serious consideration.

Sincerely,
Jana Bowman, Celica Bicocchi, and Shannon Potocny

CMS-1429-P-2692

Submitter : Miss. Stacey Delano **Date & Time:** 09/22/2004 05:09:20

Organization : Lebanon Valley College

Category : Physical Therapist

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We are Physical Therapy students attending the Doctoral program at Lebanon Valley College and we support the CMS's proposed standards for personnel providing physical therapy services in physician offices.
Physical Therapists and Physical Therapist Assistants supervised by Physical Therapists have the knowledge based background required to furnish physical therapy services. They have been educated in Anatomy, Physiology, Pathophysiology and therapeutic interventions that are necessary to provide quality physical therapy services.
Patients receiving care in the physician's office are being deceived when they are told that they are receiving quality physical therapy when the patient may actually be receiving treatment from an unqualified person. The person delivering these services may have very little or no educational background in these services. This can do more harm to the patient than good.
Physical Therapists are licensed professionals and are fully accountable for the services they provide in the states they practice as well as direct supervision for Physical Therapist Assistants.
As students, we have spent and will continue to spend a significant amount of time learning and gaining the knowledge base required to become a licensed PT compared with unlicensed 'on the job' training.
Financial limitation is also a problem regarding the services provided by unqualified individuals in regards that they bill their services as 'Physical Therapy' in which it truly is not. The monetary resources afforded by CMS may be exhausted before a patient even is treated by Physical Therapist.
In closing we would like to thank you for your consideration and time.

Stacey Delano
Mike O'Connell

CMS-1429-P-2693

Submitter : Mr. Hyung Rock Lee **Date & Time:** 09/22/2004 05:09:46

Organization : University of Nebraska at Omaha

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I attach the files.

CMS-1429-P-2693-Attach-1.doc

Attachment #2693

Hyung rock Lee
10665 Charles Plaza #911
Omaha, NE 68114

September 22, 2004.
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1429-P
P.O. Box 8012
Baltimore, MD 21244-8012

Re: Therapy – Incident TO

Dear sir/Madam:

I am writing to state my concern over the recent suggestion that would limit providers of "incident to" services in physician clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for our Medicare patients and ultimately increase the costs associated with this service and place a burden on the health care system.

During the decision-making process, please consider the following:

Certified Athletic Trainers (ATC) are responsible for the prevention, emergency care, first aid, evaluation, and rehabilitation of injuries to athletes under their care, and they are employed in various practice settings: high schools, colleges or universities, hospitals or clinic, and professional, amateur, or Olympic sports organizations. In recently, dozens of athletic trainers will be accompanying the U.S.A. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United State. Also, most certified athletic trainers are employing in any other setting above in the U.S., and already providing

health care service successfully. Many certified athletic trainers are employed any other countries in the many professional teams, Olympic teams, and hospitals. Athletic Trainers are getting spotlight and renowned in the world of sports medicine area, and many countries have the same opinion that certified athletic trainer are enough qualified health care profession.

Athletic trainers are very well educated. All certified or licensed athletic trainers must have a bachelor's or master's degree from an accredited college or university, and over 70% of certified athletic trainers have master's degree or higher. It is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Becoming certified athletic trainer, student athletic trainers should pass National Athletic Training Association Board of Certification (NATABOC), and must graduate athletic training programs, which are accreditation of Allied Health Education Program in Athletic Training (JRC-AT). In the athletic program, many health professional academic courses was required for graduate and NATABOC such as human physiology and anatomy, kinesiology or biomechanics, nutrition, acute care of injury and illness, statistics and research design, exercise physiology, and many basic science courses (general physics, chemistry, biology, and pharmacology ete.). I would like to say that certified athletic trainers serve one of the top health care services because all of certified athletic trainers require continuing education for holding their certification and license. In other word, all of certified athletic trainers have to keep up to date with new issues and skill for best health care service.

For the high quality Medicare health services, preventing certified athletic trainer from providing therapy services to Medicare patients got rid of the capacity of qualified health care professionals to provide these important services.

Submitter : Mr. Ospaldo Lopez **Date & Time:** 09/22/2004 05:09:58

Organization : NATA

Category : Other Health Care Provider

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Dear Sir/Madam:

During the decision-making process, please consider the following:

?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

There have never been any limitations or restrictions placed upon the physician in terms of who he or she can utilize to provide ANY ?incident to? service. Because the physician accepts legal responsibility for the individual under his or her supervision, Medicare and private payers have always relied upon the professional judgment of the physician to be able to determine who is or is not qualified to provide a particular service. It is imperative that physicians continue to make decisions in the best interests of the patients.

In many cases, the change to ?incident to? services reimbursement would render the physician unable to provide his or her patients with comprehensive, quickly accessible health care. The patient would be forced to see the physician and separately seek therapy treatments elsewhere, causing significant inconvenience and additional expense to the patient.

This country is experiencing an increasing shortage of credentialed allied and other health care professionals, particularly in rural and outlying areas. If physicians are no longer allowed to utilize a variety of qualified health care professionals working ?incident to? the physician, it is likely the patient will suffer delays in health care, greater cost and a lack of local and immediate treatment.

Patients who would now be referred outside of the physician?s office would incur delays of access. In the case of rural Medicare patients, this could not only involve delays but, as mentioned above, cost the patient in time and travel expense. Delays would hinder the patient?s recovery and/or increase recovery time, which would ultimately add to the medical expenditures of Medicare.

Curtailing to whom the physician can delegate ?incident to? procedures will result in physicians performing more of these routine treatments themselves. Increasing the workload of physicians, who are already too busy, will take away from the physician?s ability to provide the best possible patient care.

Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees is comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

Continue next box

THERAPY STANDARDS AND REQUIREMENTS

To allow only physical therapists, occupational therapists, and speech and language pathologists to provide ?incident to? outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide

?incident to? outpatient therapy in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

CMS does not have the statutory authority to restrict who can and cannot provide services ?incident to? a physician office visit. In fact, this action could be construed as an unprecedented attempt by CMS, at the behest of a specific type of health professional, to seek exclusivity as a provider of therapy services.

Independent research has demonstrated that the quality of services provided by certified athletic trainers is equal to the quality of services provided by physical therapists.

Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers will be accompanying the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

These issues may lead to more physician practices eliminating or severely limiting the number of Medicare patients they accept.

In summary, it is not necessary or advantageous for CMS to institute the changes proposed. This CMS recommendation is a health care access deterrent.

Sincerely,

Ospaldo Lopez

CMS-1429-P-2695

Submitter : Dr. Richard Edelson **Date & Time:** 09/22/2004 05:09:24

Organization : Dr. Richard Edelson

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

DIAGNOSTIC PSYCHOLOGICAL TESTS

To whom it may concern:

This is to support the rule change proposed which would allow psychologists to supervise psychological and neuropsychological tests performed by ancillary staff. In Kentucky we credential Master's level psychologists, most of whom receive supervision regularly. They are well-qualified to do psychological testing and their use allows me and my doctoral staff to see more patients more quickly. Given that we consult to more than 150 physicians in the state, this enables us to provide answers to diagnostic questions more effectively. In rural areas of my state, where there are far fewer psychologists, services provided by Master's level psychologists are even more critical. I am pleased that CMS recognizes our situation.

Richard Edelson, Ph.D.
Neuropsychologist

CMS-1429-P-2696

Submitter : Mr. Karl Glass **Date & Time:** 09/22/2004 05:09:10

Organization : Trinity International University

Category : Other Health Care Professional

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

I am writing to express my concern over the recent proposal that would limit providers of ?incident to? services in physician offices and clinics. If adopted, this would eliminate the ability of qualified health care professionals to provide these important services. In turn, it would reduce the quality of health care for Medicare patients and ultimately increase the costs associated with this service and place an undue burden on the health care system.

? ?Incident to? has, since the inception of the Medicare program in 1965, been utilized by physicians to allow others, under the direct supervision of the physician, to provide services as an adjunct to the physician?s professional services. A physician has the right to delegate the care of his or her patients to trained individuals (including certified athletic trainers) whom the physician deems knowledgeable and trained in the protocols to be administered. The physician?s choice of qualified therapy providers is inherent in the type of practice, medical subspecialty and individual patient.

? Athletic trainers are highly educated. ALL certified or licensed athletic trainers must have a bachelor?s or master?s degree from an accredited college or university. Foundation courses include: human physiology, human anatomy, kinesiology/biomechanics, nutrition, acute care of injury and illness, statistics and research design, and exercise physiology. Seventy (70) percent of all athletic trainers have a master?s degree or higher. This great majority of practitioners who hold advanced degrees are comparable to other health care professionals, including physical therapists, occupational therapists, registered nurses, speech therapists and many other mid-level health care practitioners. Academic programs are accredited through an independent process by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) via the Joint Review Committee on educational programs in Athletic Training (JRC-AT).

? Of the 28,000 Athletic Trainers nationwide, over half are currently employed in clinical settings and may be handling the care of Medicaid and Medicare patients. This precedent setting decision could deny patients such as those access to appropriate rehabilitative care.

? To allow only physical therapists, occupational therapists, and speech and language pathologists to provide ?incident to? outpatient therapy services would improperly provide these groups exclusive rights to Medicare reimbursement. To mandate that only these practitioners may provide ?incident to? outpatient therapy in physicians? offices would improperly remove the states? right to license and regulate the allied health care professions deemed qualified, safe and appropriate to provide health care services.

? CMS, in proposing this change, offers no evidence that there is a problem that is in need of fixing. By all appearances, this is being done to appease the interests of a single professional group who would seek to establish themselves as the sole provider of therapy services.

? Athletic trainers are employed by almost every U.S. post-secondary educational institution with an athletic program and every professional sports team in America to work with athletes to prevent, assess, treat and rehabilitate injuries sustained during athletic competition. In addition, dozens of athletic trainers have accompanied the U.S. Olympic Team to Athens, Greece this summer to provide these services to the top athletes from the United States. For CMS to even suggest that athletic trainers are unqualified to provide these same services to a Medicare beneficiary who becomes injured as a result of walking in a local 5K race and goes to their local physician for treatment of that injury is outrageous and unjustified.

Please encourage opposing votes to the upcoming proposal for "Incident To" changes.

Submitter : Ms. Sara Barr **Date & Time:** 09/22/2004 05:09:31

Organization : National Athletic Trainer's Association

Category : Individual

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

The exclusion of Certified Athletic Trainers in the treatment of Medicare patient's is unjust. The education of Certified Athletic Trainers is comprable to Physical Therapists. The abilities and qualifications necessary to pass the National Athletic Trainer's Association Certification test are in direct comparison with those needed to pass the boards. Please take into consideration the skills that Athletic Trainers need to treat Medicare patients and evaluate these skills compared to Physical Therapists. There is no need to eliminate the ability of these qualified individuals to treat Medicare patients. Thank you for your time.

Submitter : **Date & Time:** 09/22/2004 05:09:40

Organization :

Category : Other Technician

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

We beg youto NOT pass this policy whereby a physician can only refer "incident to" services to physical therapists. All qualified health care providers (including massage therapists) should be allowed to provide services to patients with a physicians perscription or under their supervision.

CMS-1429-P-2699

Submitter : Miss. Susan Gilpin **Date & Time:** 09/22/2004 05:09:23

Organization : National Athletic Trainers Association

Category : Health Care Professional or Association

Issue Areas/Comments

Issues 20-29

THERAPY - INCIDENT TO

Changing the requirements for Physical Therapy billing and standards will eliminate the excellent care provided by other health practitioners such as athletic trainers. Athletic trainers have been an essential part of the care and assessment of our patients seen in our orthopaedic surgery clinic. Without their valuable input and care our patients would have significantly different outcomes. Athletic trainers are licensed professionals that are held to a high standard of professionalism and conduct. Please do not make a decision that will essentially eliminate them from the patient care heirachy.