

## Ensure Patients Continue to Receive Medically Necessary Medicare Part B Outpatient Therapy Services

Skilled nursing facilities (SNFs) provide critical and life-saving rehabilitative therapies to many medically frail, disabled, and elderly patients under the Medicare Part B program. As part of the *Balanced Budget Act of 1997 (BBA)*, annual payment caps on outpatient rehabilitation therapy services – speech-language pathology services, physical therapy, and occupational therapy – were established. Congress has repeatedly placed moratoria on these caps, and in the *Deficit Reduction Act of 2005 (DRA)* mandated that the Centers for Medicare & Medicaid Services (CMS) develop an “exceptions process” for Medicare beneficiaries with certain conditions who exceeded the cap on Part B therapy services in 2006. Congress has had to extend authority for continued use of this exceptions process multiple times. The most recent extension of the therapy caps exceptions process was included in the *Medicare & Medicaid Extenders Act of 2010*, and is set to expire on December 31, 2011.

Because SNF patients are often the most chronically ill and require significant amounts of therapy services, they are most harmed by the annual cap on therapy services. For example, when authority for the therapy caps exceptions process was allowed to lapse in early 2010, many SNF patients reached the existing cap of \$1,870 for either physical and speech-language pathology services combined, or occupational therapy alone, within a matter of weeks. The vast majority of these frail, elderly SNF patients are unable to seek services in hospital outpatient departments (which are not restricted by such caps) because SNF consolidated billing rules prohibit it or because they are non-ambulatory and unable to access such settings. As a result, many patients either suspend or cut back on therapy when they reach the cap, as they may be unable to pay 100 percent of the cost instead of just the co-payment for these services. Some dually eligible patients encounter another problem – since Medicare will no longer pay for these therapy services, Medicaid may decline to cover these services as well. Regardless of the circumstance, it is poor public policy to discourage Medicare beneficiaries from achieving their highest level of functioning as quickly as possible.

While the current exceptions process recognizes the acuity and unique vulnerability of SNF residents, it was intended only as a “stop gap” measure. In the long term, AHCA supports a repeal of therapy caps as well as the development of a new and permanent prospective payment system that is built upon solid clinical factors and without artificial or arbitrary caps. This new system should be applicable to all settings, and reflective of clinical diagnoses, rehabilitation complexity, patient comorbidities, and duration of episodes of care. Until such a system is in place, Congress must reinstate the therapy cap exceptions process immediately to ensure that Medicare beneficiaries can continue to access the medically necessary therapy services they need under Medicare Part B.

### Ask Congress...

To ensure that nursing home patients continue to receive the medically necessary Medicare Part B therapy services they need by extending the exceptions process beyond December 31, 2011.

### Key Facts

- The vast majority of SNF patients are unable to seek service in hospital outpatient departments, which are not restricted by these caps.
- Many patients suspend or cut back on therapy when they reach the arbitrary annual \$1,870 cap on therapy, fearing they would be unable to pay the full cost for treatment.
- The therapy caps exceptions process should be reinstated until a new permanent prospective payment system is established.

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