

January 26, 2010

The Honorable Nancy Pelosi  
Speaker of the House

The Honorable Harry Reid  
Majority Leader

The Honorable Steny Hoyer  
Majority Leader

The Honorable Richard Durbin  
Majority Whip

The Honorable John Boehner  
Minority Leader

The Honorable Mitch McConnell  
Minority Leader

The Honorable Eric Cantor  
Minority Whip

The Honorable Jon Kyl  
Minority Whip

Dear House and Senate Leaders:

***The undersigned organizations, representing consumers, health professionals and providers, request IMMEDIATE ACTION by the Congress to prevent thousands of Medicare beneficiaries from exceeding arbitrary limitations on outpatient physical therapy, occupational therapy, and speech-language pathology services (also known as the therapy caps).*** We request that the Congress move legislation to remedy this concern as it considers legislation to also address the reimbursement concerns of health professionals under the Part B Resource-Based Relative Value Scale (RBRVS) (also known as the physician fee schedule).

The Medicare outpatient rehabilitation therapy caps were imposed by the Balanced Budget Act of 1997. It arbitrarily ends Medicare's coverage of outpatient physical therapy, occupational therapy, and speech-language pathology services once a beneficiary has received \$1,860 of services in a calendar year. It applies to Medicare beneficiaries in all outpatient health care settings, with the exception of hospital outpatient departments. Thus, beneficiaries who receive services within a skilled nursing facility, a therapist's or physician's office, a home health agency, or a rehabilitation agency are subject to the arbitrary cap.

Some 14.5 percent<sup>1</sup> of Medicare beneficiaries who receive rehabilitation services per year are estimated to exceed the arbitrary limit on coverage. Once the limit has been reached, beneficiaries who require additional services are on the hook for one hundred percent (100%) of the cost. Individuals with disabilities and senior citizens with the most significant medical needs will have to decide between foregoing necessary care, changing providers of care, or paying 100% of the cost out-of-pocket. Beneficiaries who

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<sup>1</sup> Ciolek, DE, Wenke H. *Utilization Analysis: Characteristics of High Expenditure Users of Outpatient Therapy Services CY 2002*. Final Report to the Centers for Medicare and Medicaid Services. November 22, 2004

experience stroke, hip fracture, or who have Parkinson's disease or osteoporosis are most likely to be negatively affected by this arbitrary payment cap. Also, those beneficiaries who experience more than one episode of illness or injury in a twelve-month period would risk needing more therapy than that covered under the \$1,860 payment limit.

Congress has repeatedly responded six (6) separate times in the past to prevent Medicare beneficiaries from being negatively impacted by the therapy cap policy. However, the 111<sup>th</sup> Congress failed to prevent the therapy cap from going into effect on January 1, 2010. While both the House and Senate versions of health care reform legislation addressed the therapy cap by expending the exceptions process for a short period of time, failure to enact reform has put beneficiaries who require rehabilitation after an illness or injury at considerable risk.

***Immediate action to prevent additional individuals with disabilities and senior citizens from exceeding the therapy caps is needed.*** We urge the Congress to take up legislation to address the immediate concerns of the therapy cap in conjunction with Congress' efforts to defray potential cuts to health professionals under Part B of the Resource Based Relative Value Scale (RBRVS), also known as the physician fee schedule.

***Further, we strongly urge the Congress to review options for repeal of the therapy caps as it prepares to modify its health care reform legislative proposal.*** The fact that Congress was unable to prevent the enforcement of an arbitrary health policy that can have such a negative impact on the care individuals with disabilities and senior citizens receive should be a sign that the time has come for complete repeal of this harmful policy. Rep. Xavier Becerra (D-CA) and Rep. Roy Blunt (R-MO) have authored legislation to repeal the therapy caps (H.R.43). A companion bill introduced by Senator John Ensign (R-NV) and Senator Ben Cardin (D-MD) and Senator Blanche Lincoln (D-AR) was introduced in the Senate (S.46). H.R.43 enjoys the support of 130 cosponsors and S.46 has the support of 26 cosponsors.

Sincerely,

**American Assoc. of Homes & Services for the Aging  
American Association of People with Disabilities  
American Health Care Association  
American Heart Association/American Stroke Association  
American Medical Rehabilitation Providers Association  
American Music Therapy Association  
American Occupational Therapy Association  
American Physical Therapy Association  
American Speech-Language Hearing Association  
Amputee Coalition of America  
Autism Society  
Brain Injury Association of America  
Council for Learning Disabilities  
Disability Rights Education and Defense Fund**

**Easter Seals**  
**Family Voices**  
**National Association of County Behavioral Health and Developmental Disability Directors**  
**National Association of Social Workers**  
**National Association of State Head Injury Administrators**  
**National Association for the Support of Long-Term Care**  
**National Disability Rights Network**  
**National Multiple Sclerosis Society**  
**National Spinal Cord Injury Association**  
**Private Practice Section of the American Physical Therapy Association**  
**PTPN (National network of independent rehab practices)**  
**The Arc of the United States**  
**The Association of Assistive Technology Act Programs**  
**United Cerebral Palsy**  
**United Spinal Association**  
**World Institute on Disability**

**cc: Members of the House Ways and Means Committee**  
**Members of the House Energy and Commerce Committee**  
**Members of the Senate Finance Committee**