The Promoting Integrity In Medicare Act (H.R. 2143)

Position

The American Physical Therapy Association strongly supports the Promoting Integrity in Medicare Act of 2019 (H.R. 2143), which would exclude physical therapy services from the in-office ancillary services exception under the physician self-referral prohibition, commonly referred to as the Stark law. H.R. 2143 was introduced by Rep. Jackie Speier on April 9, 2019.

The expansive use of this exception by physicians in a manner not originally intended by the law undercuts the purpose of the law and substantially increases costs to the Medicare program and its beneficiaries. APTA believes that this issue should be addressed as part of any fundamental health care delivery system reform and that the resulting cost savings could help support such reform.

Background

The Stark law was enacted originally in the Omnibus Budget Reconciliation Act of 1989 to stop referral-for-profit arrangements, curb unnecessary patient referrals, and reduce overutilization of the Medicare system. The Stark law provisions relating to self-referral generally prohibit physicians from referring Medicare patients to entities in which they have a financial interest. This is to ensure that medical decisions are made in the best interest of the patient on the basis of quality, diagnostic capability, turnaround time, and cost, without consideration of any financial gain that could be realized by the treating physician through self-referral. The in-office ancillary services exception to the Stark law was created to allow physicians to self-refer and bill the Medicare program for typical same-day services, such as x-rays, while the patient was in the physician office. Unfortunately, this exception was inappropriately expanded to include many services and procedures that are either not same-day services or are too advanced to be completed during the patient's initial visit. Physical therapy is one such service that is currently falls under the in-office ancillary services exception.

Restore Integrity

Physical therapy does not meet the intended use of the in-office ancillary services exception, as patients must return for physical therapy treatments in subsequent visits. According to the Medicare Payment Advisory Commission 2010 Report to Congress, in 2008 only 3% of outpatient therapy services were provided on the same day as an office visit, 9% were provided within seven days after a visit, and 14% within 14 days after a visit. The commission has also cited research that found physicians with a financial interest in physical therapy initiated therapy for patients with musculoskeletal injuries more frequently than other physicians, and that physical therapy clinics with physician ownership provided more visits per patient than nonphysician-owned clinics. Recent studies (Mitchell, October 2016; Mitchell, December 2016) found that patients whose physician had a financial interest in physical therapy were referred for physical therapy that was less intensive than those physicians who did not have a financial interest. This inappropriate utilization drives up costs in the Medicare program and depletes a patient's trust in our health care system.

Other entities such as the Office of Management and Budget, the Congressional Budget Office, and the Government Accountability Office (GAO, 2014) have also looked at outpatient therapy, advanced imaging, radiation oncology, and pathology as areas where the in-office ancillary services exception may have resulted in overutilization and rapid growth of these services.

Curb Medicare Overutilization and Misaligned Incentives

Unfortunately, the in-office ancillary services exception has substantially diluted the self-referral law and its policy objectives, making it simple for physicians to avoid the law's prohibitions by structuring arrangements that meet the technical requirements, but circumvent the intent of the exception.

H.R. 2143 removes the health care services most susceptible to overutilization and and misaligned incentives from this exception, while preserving the ability of robust, integrated, and collaborative multispecialty group practices to offer these services. Furthermore, the proposed bill strengthens the existing rural health exception.

References:

Medicare Payment Advisory Commission 2010. http://medpac.gov/docs/default-source/reports/Jun10_EntireReport.pdf?sfvrsn=0.

Mitchell, J.M.; et al. Forum Health Econ Policy December 2016. https://pubmed.ncbi.nlm.nih.gov/31419896/.

Mitchell, J.M.; et al. Health Serv Res October 2016. https://www.ncbi.nlm.nih.gov/pubmed/26913811.

U.S. Government Accountability Office. https://www.gao.gov/assets/670/662860.pdf.

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Facts About Physical Therapists and Physical Therapist Assistants

Who We Are

Physical therapists are movement experts who help to optimize people's physical function, movement, performance, health, quality of life, and well-being. Physical therapists evaluate, diagnose, and manage movement conditions for individuals, and they also provide contributions to public health services aimed at improving population health and the human experience. Physical therapist assistants are educated and licensed or certified clinicians who provide care under the direction and supervision of a licensed physical therapist. PTs and PTAs care for people of all ages and abilities.

What We Do

After performing an evaluation and making a diagnosis, physical therapists create and implement personalized plans based on best available evidence to help their patients improve mobility, manage pain and other chronic conditions, recover from injury, and prevent future injury and chronic disease. PTs and PTAs empower people to be active participants in their care and well-being. They practice collaboratively with other health professionals to ensure the best clinical outcomes.

Where We Practice

PTs and PTAs provide services to people in a variety of settings, including outpatient clinics or offices; hospitals; inpatient rehabilitation facilities; skilled nursing, extended care, or subacute facilities; education or research centers; schools; community centers; hospices; industrial, workplace, or other occupational environments; and fitness centers and sports training facilities.

Education and Licensure

As of 2016, all PTs must receive a doctor of physical therapy degree from an accredited physical therapist education program before taking and passing a national licensure exam that permits them to practice. Licensure is required in each state (or other jurisdiction, including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) in which a PT practices. PTAs must complete a two-year associate's degree from an accredited physical therapist assistant program and pass a national exam. State licensure or certification is required in each state (or jurisdiction) in which a PTA works.

American Physical Therapy Association

The American Physical Therapy Association is a national organization representing more than 100,000 physical therapists, physical therapist assistants, and students nationwide. Our mission is to build a community that advances the profession of physical therapy to improve the health of society.

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