



Issue Brief

Repeal the Medicare Part B Outpatient Therapy Caps

Payment Rates for Part B Outpatient Therapy Services

Established by the *Balanced Budget Act of 1997 (Public Law 105-33)*, the therapy cap is a statutory restriction on the dollar amount of rehabilitation therapy services a patient can receive under Medicare Part B in a calendar year. Under current law, there are two therapy caps – one combined for physical therapy (PT) services and speech language pathology (SLP) services and a separate cap for occupational therapy (OT) services. The caps have no regard for appropriateness of clinical need and ignores the health care needs of our most vulnerable Medicare beneficiaries – especially the oldest, sickest and most frail. Therapy caps discriminate against Medicare beneficiaries who are in the most need of therapy services. The current therapy cap limits beneficiaries to \$1,980 in claims for physical therapy and speech language pathology combined in a calendar year. The current therapy cap on claims for occupational therapy is \$1,980 in a calendar year.

Rehabilitation therapists provide PT and OT and SLP services to patients in nursing facilities and other settings through the Medicare Part B outpatient therapy benefit. The goal of treatment is to help beneficiaries regain and or maintain function; recuperate from various conditions and surgeries; achieve positive outcomes; and safely return and remain home. Nursing facility patients are much more likely to have chronic conditions and typically have a higher level of impairment and more comorbidities. They can take longer to respond to rehabilitation therapy and need more therapy than beneficiaries who live independently at home. Data shows that patients with stroke, hip fracture, Parkinson's disease and other conditions that require extensive rehabilitation are most likely to be affected by the Medicare Part B therapy caps.

Exceptions Process

In addition to the therapy cap, Congress instituted an exceptions process that allows patients to access medically necessary therapy above the annual dollar cap. To do this, the therapy provider attests that continued therapy services are medically necessary. Since 2007, Congress has continuously extended the exceptions process through statute. The *Medicare Access & CHIP Reauthorization Act (MACRA)* authorized the current exceptions process through December 31, 2017. *MACRA* also requires that the Centers for Medicare & Medicaid Services (CMS) implement a targeted medical review process for claims for outpatient therapy services once they reach a \$3,700 threshold.

Ask Congress

Cosponsor the *Medicare Access to Rehabilitation Services Act of 2017 (S. 253, H.R. 807)*.

Key Facts

An estimated 5.6 million beneficiaries received therapy under Medicare Part B in 2010.

Nursing facility patients accounted for 38% of Medicare's outpatient therapy services in 2014.

Arbitrary, annual caps on therapy services discriminate against the oldest, sickest Medicare patients, who require the most therapy for their care.

About 16% of nursing facility patients receive Part B outpatient therapy – 31% of those patients exceeded the PT/SLP cap & 71% exceeded the OT cap. Even greater percentages hit the targeted medical review thresholds.

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Targeted Medical Review Process

MACRA required CMS to improve the medical review process by *targeting* medical review of therapy services instead of reviewing all therapy claims for beneficiaries whose annual therapy spend exceeds a \$3,700 threshold for PT and SLP services combined, or \$3,700 for OT services. CMS' criteria for targeted medical review focuses on services furnished by providers with high claims denial rates, patterns of billing that are aberrant compared with their peers or other factors. MACRA also authorized the use of a contractor other than a Recovery Auditor to conduct these reviews; and CMS chose the Supplemental Medical Review Contractor, Strategic Health Solutions, to undertake these reviews.

Congressional Activity

Without Congressional action to either repeal the therapy cap or to extend the exceptions process, beneficiaries face a hard cap on services which disproportionately impacts beneficiaries who need therapy the most. Congress has acted numerous times to extend the exceptions process, thereby preventing implementation of an arbitrary cap on Part B outpatient therapy services for Medicare beneficiaries. In 2015, a permanent solution to this policy was nearly enacted when an amendment was offered to permanently repeal the cap during the Senate's floor consideration of MACRA. The amendment received significant support, and was two votes shy of the 60-vote threshold needed to pass the amendment.

NASL continues to advocate for repeal of the therapy cap, which restricts services to patients without regard to their need for rehabilitation therapy. NASL also supports the bicameral legislation, the *Medicare Access to Rehabilitation Services Act of 2017 (S. 253, H.R. 807)*, which will repeal the harmful caps placed on outpatient rehabilitation services. The proposal was reintroduced in the 115th Congress by Senators Ben Cardin (D-MD), Susan Collins (R-ME), Bob Casey (D-PA) and Dean Heller (R-NV). The House companion bill is sponsored by Representatives Erik Paulsen (R-MN), Marsha Blackburn (R-TN), Ron Kind (D-WI) and Doris Matsui (D-CA).

NASL Asks Congress

- Repeal the therapy cap and provide for an equitable therapy review process so that Medicare beneficiaries will continue to have access to the medically necessary therapy services they need.
- If Congress does not repeal the cap, the exceptions process must be extended beyond 2017 for Medicare beneficiaries to receive medically necessary therapy above the cap.
- Co-sponsor the *Medicare Access to Rehabilitation Services Act of 2017 (S. 253, H.R. 807)* which repeals the therapy cap. If Congress does not address a permanent fix of the therapy cap, it is very likely that millions of Medicare patients could face a hard cap on outpatient therapy services in 2018.