

APTA Advocacy Network Newsletter — June 2024 Edition

Advocacy Doesn't Take a Vacation

With the start of summer, the focus often turns to cookouts, baseball, time with family, and vacations. However, advocacy never takes a vacation, especially in an election year. We are in the seventh inning stretch of the 118th session of the U.S. Congress, which will conclude its business this December. The question is just how much business will be done between now and December, given the summer recess and fall election. Will Congress be able to hit any health care policy home runs in these last seven months?

As noted in the last edition of the APTA Advocacy Network newsletter, Medicare payment reform has been heating up on Capitol Hill. There is talk that there could be a draft proposal possibly released later this summer from a special senate workgroup, comprised of six senators (three Republicans and three Democrats), on a package of first steps toward Medicare payment reform.

The “Gang of Six,” comprised of Sens. Barrasso, Blackburn, Cortez-Masto, Stabenow, Thune, and Warner, have begun hosting roundtables by invitation with provider groups to identify their specific issues and challenges under the Medicare Fee Schedule. APTA was invited to a roundtable with the senate workgroup in May. We outlined the various challenges that physical therapy is currently facing, not only with decreased payment and inflationary pressures but also the need to reduce administrative burden and paperwork, as well as the need to provide support and flexibilities to address the current workforce challenges.

Many of the current initiatives that APTA is pursuing on payment reform, as outlined in the [Policy Principles for Outpatient Therapy Reform under the Medicare Physician Fee Schedule](#), align with the current congressional efforts to reform Medicare payments. They include APTA-supported bills such as [Strengthening Medicare for Patients and Providers Act](#) (annual payment increase based on inflation), [Physician Fee Schedule Update and Improvements Act](#) (H.R. 6545), [Provider Reimbursement Stability Act](#) (H.R. 6371), [EMPOWER Act](#) (PTA supervision), [REDUCE Act](#) (Plan of Care certification requirements), and others.

In addition, APTA-supported legislation is being reintroduced in the U.S. Congress in June to address the issue of prior authorization. The Improving Seniors' Timely Access to Care Act is bipartisan legislation that will tackle the overuse and abuse of prior authorization by Medicare Advantage plans, which threatens access to patient care and increases provider administrative burden.

Meanwhile, APTA-supported legislation that would [expand the role of falls screening and prevention by physical therapists and include PT falls prevention-related services in Medicare's "welcome" visits and annual wellness visits](#) continues to gain co-sponsors in the U.S. House. Known as the Stopping Addiction and Falls for the Elderly Act, aka SAFE Act (H.R. 7618), the legislation was one of the issues APTA members lobbied for during APTA Capitol Hill Day in April, along with Medicare payment and administrative burden. Work is currently underway on the introduction of a Senate companion.

Summer promises to be a busy time as we work to try to advance the various APTA-supported bills before Congress concludes its work in December. The best opportunity this summer will be during the August recess, when members of Congress will be back in their home districts. Check out the article in the Grassroots Update below about hosting or meeting with a member of Congress this August.

Please be sure to check out the [APTA 118th legislation tracker that outlines the various bills that APTA is leading, working in coalition with other groups, or has endorsed](#). These bills cover everything from payment in all Medicare settings, reducing administrative burden, digital health, workforce, student loan burden, rural health, full funding for IDEA, and a whole host of issues impacting the patients that PTs and PTAs serve.

As always, your voice, your advocacy, and your membership in APTA matters. Thank you for your continued support and advocacy; and thank you for being a member of APTA.

Best,

Justin Elliott
Vice President, Government Affairs

Congressional Update

APTA-Backed Bill Supports Medicare Patients in Need of Orthoses, Prostheses

Medicare beneficiaries who require orthotics or prosthetic devices could find it easier to access care while being better protected from fraud if APTA-supported legislation now on Capitol Hill makes its way into law. In addition to sparing patients from being required to see many providers and prohibiting direct-to-consumer "drop shipping," the bipartisan bills, introduced in both the U.S. Senate and House of Representatives, would also make it easier for beneficiaries to receive replacement devices when they need them.

Known as the Medicare Orthotics and Prosthetics Patient-Centered Care Act ([S. 3977/H.R. 5315](#)), the legislation is designed to eliminate loopholes and burdensome regulations that make it more difficult — and riskier — for patients to acquire needed

equipment. The Senate version of the bill was introduced by Sens. Mark Warner, D-Va., and Steve Daines, R-Mont. In the House, Reps. Glenn Thompson, R-Pa., Mike Thompson, D-Calif., Brett Guthrie, R-Ky., Angie Craig, D-Minn., and Pete Sessions, R-Texas, introduced the measure. The House version has an additional 37 co-sponsors.

Among the major provisions in the legislation:

- **Greater availability of replacement devices.** Medicare would no longer be permitted to deny coverage of replacement orthotics within what it deems the device's "reasonable use lifetime," even if the device is damaged or a patient's needs change. These restrictions currently force Medicare beneficiaries to wait for a period of time, often five years, before they are eligible for Medicare coverage of a replacement orthosis. Instead, Medicare would be required to pay for the replacement, provided the patient meets certain conditions.
- **Easier access to O&P care.** Under the proposed legislation, the exemption in statute from competitive bidding would be expanded to include physical therapists, occupational therapy therapists, and orthotists and prosthetists when providing off-the-shelf orthoses to Medicare beneficiaries, allowing these providers to furnish those types of orthoses without a competitive bidding contract.
- **The elimination of "drop shipping."** Current Medicare provisions allow reimbursement for direct-to-consumer shipping of orthoses and prostheses without any clinical intervention by a qualified provider, such as a physical therapist. The loophole leaves consumers vulnerable to fraud and creates more waste within the Medicare system. If passed into law, the legislation would eliminate this option.

Telehealth Debate Heats Up — Looming Deadline Approaching

Over the past month, Congress has taken major steps toward advancing telehealth legislation that could impact millions of Medicare beneficiaries and health care providers. APTA and many other health care organizations are urging Congress to move on this issue as quickly as possible to avoid the looming "telehealth cliff" that could happen at the end of this year.

Unless Congress acts, many of Medicare's pandemic-era telehealth policies, including those that reimburse PTs and PTAs for telehealth services, are scheduled to expire on Dec. 31. A lack of congressional action means that Medicare will not be able to cover a beneficiary's visit to a PT via telehealth after that date, potentially eliminating a critical benefit to millions of Medicare patients.

However, recently, both the House Energy and Commerce Health Subcommittee and the House Ways and Means Committee **unanimously** voted to approve a two-year extension of all current Medicare telehealth policies, meaning that if this measure is

approved, PTs and PTAs could be authorized providers of telehealth in the Medicare program until Dec. 31, 2026.

To date, the Senate has not yet acted, although the Senate Finance Committee is examining this issue and is expected to act soon. While the recent actions taken by the committees in the House are positive developments and steps in the right direction, APTA remains focused on ensuring that PTs and PTAs are permanent authorized providers of telehealth in Medicare by ensuring passage and enactment of H.R. 3875/S.2880 — the Expanded Telehealth Access Act.

To build support for the bill, APTA and our partner associations recently provided a briefing on Capitol Hill to inform and educate congressional staff on how PTs and PTAs use telehealth to treat patients and why maintaining these Medicare telehealth flexibilities is crucial to beneficiaries and providers. APTA members can also help with this effort by urging their members of Congress to co-sponsor H.R. 3875/S. 2880 by going to [APTA's Legislative Action Center](#).

State Update

APTA State Affairs: June 2024 Insights

Eliminating limited direct access provisions across the country has been a long-standing goal for APTA and our state chapters across the country. Thanks to the advocacy efforts of APTA state chapters and our member advocates across the country, severe limits on direct access to physical therapist services for patients in all states have been eliminated.

Recent changes in Alabama and Mississippi's direct access legislation have made it so that all 50 states and the District of Columbia now have provisional or unrestricted access to physical therapy without a referral. Unrestricted direct access allows patients to receive care from a PT without a referral, and it is available in 21 states. Provisional direct access to PT services places various restrictions on that access through referral requirements and the number of visits.

Physical therapists in Mississippi were previously limited to treating patients without a referral within a particular category of existing plans of care and for wellness and fitness evaluations. With Mississippi's revisions, effective July 2024, physical therapists may implement treatment without a referral so long as they hold a doctorate degree in physical therapy from an accredited institution or five years of licensed clinical practice experience. Additionally, if a patient does not make measurable or functional improvement after 30 days of PT treatment, the physical therapist must provide a referral to an appropriate health care provider.

In Alabama, the final state to employ limited direct access, PT services without referral were only allowed for a narrow range of circumstances after informing the diagnosing health care provider. Among other great improvements, PTs in Alabama with a doctorate or a master's degree, 10 years of experience, and meet certain licensing and examination criteria, can begin providing services without a referral, provided they complete additional required continuing education and refer patients not responding to therapy within 30 days or 11 visits.

Other notable legislative wins across the country include health care advocacy, patient and provider safety, PT's ability to certify disability placards, and the PT Compact. We are certain there are more wins to come as the legislative season rounds out! As state chapters begin gearing up for next year and prioritizing their 2025 legislative initiatives, remember that you can help shape policies and bring positive changes to the profession by getting involved with your state APTA chapter. Locate your chapter's information on APTA's [Chapters and Sections](#) webpage.

The State Affairs Department greatly values the continued conversation, collaboration, and partnership we share with our state chapters. If you have questions or require any assistance from the State Affairs Department, [please email us](#).

Regulatory Update

IRF, SNF, Medicare Advantage Comments Submitted

In late May, APTA's health policy and payment team submitted comments to the Centers for Medicare and Medicaid Services on two post-acute care setting proposed rules and one request for information. In the FY 2025 skilled nursing facility proposed rule, [CMS proposes a 4.1% payment update](#), the largest in many years; however, this increase was proposed mere weeks before the newly finalized [minimum staffing standards in long-term care facilities](#) were released, standards that will drastically reduce nursing facility profit margins and ultimately minimize the effects of the payment update. Other proposals in the rule, largely supported by APTA, provide multiple technical changes to the value-based purchasing program, look to add social determinants of health items to the quality reporting program, and update the nontherapy ancillary component of the patient-driven payment model to better account for the cost of caring for patients with comorbidities. Finally, as CMS continues to shepherd changes brought on by the new patient-driven payment model, APTA repeatedly stresses in our comments the value of skilled therapy and the tracking of therapy minutes across all patients in nursing homes.

In the [FY 2025 inpatient rehabilitation facility proposed rule](#), APTA supports CMS's proposed transition policy to mitigate sudden payment decreases for IRFs losing rural

status and endorses the three-year transition policy to reduce the impact of census-driven payment changes. Additionally, APTA advocated for including social determinants of health items in the IRF patient assessment instrument to address barriers to accessing physical therapy services. Moreover, APTA recommended the inclusion of pain management measures in the IRF setting, emphasizing nonpharmacological interventions aligned with CDC guidelines. Finally, APTA encouraged CMS to consider staffing levels, case mix, payer mix, and functional outcomes for developing an IRF star rating system to enhance transparency and inform patient decision-making accurately. For more information on the IRF and SNF proposals, read our [recent article](#) covering these issues.

Lastly, APTA submitted detailed comments to [CMS' request for information concerning Medicare Advantage data](#). APTA outlined a comprehensive set of recommendations aimed at refining data collection practices. Among our recommendations, we advocated for the disaggregation of prior authorization data by services, including physical therapy. APTA also underscores the necessity of comprehensive data on reauthorizations, severity of illnesses, denial rationales, and provider settings to monitor MA plans' adherence to policies aiming to curb inappropriate prior authorizations and coverage policies. Additionally, APTA highlights the significance of exploring avenues for collecting social determinants of health data and making the collected data more accessible and user-friendly for stakeholders. Stay tuned for an update on the Medicare physician fee schedule in our next newsletter!

Grassroots Update

Not Too Early to Plan for August Recess

August recess is a critical time for APTA advocates to meet with their members of Congress and their staff in the district. This annual congressional break is where members of Congress return home to meet with their constituents and tour their district. APTA members are encouraged to take advantage of this time and meet with your members of Congress and their staff. With 2024 being an important election year, this August is one of the best times to meet with your legislators before their focus turns to full-time campaigning in the fall.

An effective activity during August recess is to show your members of Congress what you do for your patients and host them at your practice or school. By hosting your lawmakers for a visit, you are showing them what you do and how you impact your patients. Many lawmakers may not know what physical therapy is. Showing them your work firsthand lets them know how you impact the lives of your patients and their

constituents. Visits humanize the policy issue and show how a policy would directly impact the people they represent.

Not only does the visit tangibly show what you do and how you serve the community, but you also establish a relationship with your legislator. Having constituent relationships in the district is incredibly important in advancing legislation that will impact the future of the physical therapy profession. Legislator visits also generate good press for both the legislator and your clinic or school.

Interested in participating? Please reach out to [Laura Keivel](#), Senior Specialist, Grassroots and Political Affairs.

PTPAC Update

The Latest From Inside Elections

Inside Elections, by Nathan Gonzales, is an exclusive look at the political landscape and the upcoming elections. [APTA Advocacy Network members can view this exclusive digest that includes a look at the 2024 House and Senate races and primaries and where they stand at this time.](#)

Can You Hoop? We'll Find Out at the PTPAC Party During Leadership Congress

Support our efforts on Capitol Hill with your friends at PTPAC's evening event during Leadership Congress. This year, the event will take place at [The College Basketball Experience](#). The event will be on Monday, July 22, from 6-9 p.m. Tickets cost \$100 each and can be purchased with registration for the Leadership Congress. The ticket includes drinks and food. All PTPAC Eagle club members receive one free ticket, but please contact [Michael Matlack](#) to reserve your ticket.

Contributions to PTPAC are not tax deductible as charitable contributions. Contributions are voluntary. Your contribution will be used to support candidates for federal office who support physical therapy issues. The amount given by the contributor, or the refusal to give, will not benefit or disadvantage the person being solicited.