Practice Committee Report
2019 Board of Directors Meeting
Washington DC

Submitted by:
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Orthopaedic Section, APTA

Committee Members and Terms:

Kathy Cieslak, Chair	2017-2020 State Government Affairs
Molly Malloy	2016-2019, 2019-2022 Residency/Fellowship
Kathleen Geist	2018-2021 Residency/Fellowship
James Spencer, Vice Chair	2018-2021 Federal Affairs
Marcia Spoto	2018-2021 Payment Policy
Mary Fran Delaune	2013-2019 Federal Affairs/Dry Needling
Jim Dauber	2016-2019, 2019-2022 Dry Needling, Scope of Practice, Direct Access
Emma Williams White	2019-2022 Payment Policy/Scope of Practice
Gretchen Johnson	2019-2022 State Government Affairs

Update on Committee Activities for 2018:

STATE GOVERNMENT AFFAIRS

- State Legislative Issues: Members are encouraged to utilize the State Legislative Issue Tracking Tool

Physical Therapy Licensure Compact

- Adopted by 21 states to date
- 5 states are issuing compact privileges – (OR, ND, MO, MS, TN); the others are working to implement the requirements of the compact and start issuing privileges.
- Colorado's suspension has been lifted
- Legislation pending in one state (PA)
- A map of compact states and their current status can be found here: http://ptcompact.org/ptc-states

Term and Title Protection

- Connecticut: Legislation failed which proposed to permit physical therapists who have a doctorate in physical therapy to use the designation of Doctor of Physical Therapy or D.P.T.

Direct Access

- Legislation introduced in California, which is still pending
- Legislation introduced in New York, which is still pending

Dry Needling

- Idaho: On March 22, 2018, Idaho Governor Butch Otter signed legislation permitting physical therapists in the state to perform dry needling if the PT completed minimum education and training standards to be determined by the Idaho Physical Therapy Licensure Board. This legislation's effective date will be July 1, 2018.
- South Dakota: In March 2018, South Dakota Governor Dennis Daugaard signed legislation permitting physical therapists in the state to perform dry needling if the PT successfully completes a course of study in dry needling approved by the South Dakota Board of Medical and Osteopathic Examiners. Requirements for course approvals are in process and are anticipated to be completed prior to the legislation's effective date of July 1, 2018.
- Iowa: The Iowa Court of Appeals upheld a prior decision (2016) by the Iowa District Court (Polk County); supporting the decision by the Iowa Board of Physical and Occupational Therapy that dry needling is within the scope of physical therapy. This decision was in response to a petition filed by the Iowa Association of Oriental Medicine and Acupuncture.
- Colorado: In January, 2018, the Colorado State Physical Therapy Board defeated a lawsuit filed by two acupuncture organizations challenging Physical Therapy Board Rule 211 and physical therapists' ability to perform dry needling.
- Legislation pending in Massachusetts, Wisconsin and New Jersey.

Manipulation/mobilization

- Legislation still pending in North Carolina (HB 187) to remove the referral requirement for spinal manipulation. The bill is through the House, but still needs to be considered in the Senate.

Disability Parking Placard

- On March 13, 2018, Michigan Governor Rick Snyder signed legislation adding physical therapists to the list of providers who may provide certification of a person's disabling condition for purposes of windshield placards, special registration plates, motor vehicle registration plate tabs, and free parking stickers.

FEDERAL AFFAIRS UPDATE

Use of Students under Medicare

- APTA, AOTA, and ASHA met with CMS on December 11th to discuss the use of therapy students in hospitals, including IRFs. CMS provided written clarification on this topic which can be read here: http://www.apta.org/Payment/Medicare/Supervision/

Movement on TRICARE PTA Regulations

- Department of Defense has released a proposed rule adding PTAs and OTAs as TRICARE authorized providers. APTA will be sending an action alert in the new year encouraging individuals to submit comments supporting the rule. More

information and a template letter are available here: http://www.apta.org/RegulatoryIssues/TakeAction/

- The TRICARE proposed rule: https://www.federalregister.gov/documents/2018/12/20/2018- 27508/tricare-addition-of-physical-therapy-assistants-and-occupational-therapy-assistants-asauthorized

APTA & NATA Statement

- APTA & NATA released a joint statement on our associations increasing collaboration. For more information - http://www.apta.org/PTinMotion/News/2018/12/19/APTANATAStatement/

Functional Limitation Reporting (G-codes)

- G-code reporting requirements to CMS ended January 1, 2019.
- Of note, other private plans that currently require G-code reporting may not be following CMS's lead, at least not for 2019, so you will need to inquire with each payer.

Opioid Update

- In November APTA staff participated in the Academy of Integrative Pain Management Integrative Pain Care Policy Congress. During the meeting APTA staff co-facilitated a workgroup on addressing access to comprehensive integrative pain management. On December 3rd and 4th APTA was a financial and content leader in the National Academy of Sciences meeting, The Role of Nonpharmacological Approaches to Pain Management. The meeting highlighted the important role of nonpharmacological approaches to addressing pain management in the U.S. while addressing the need for Opioid Stewardship.
- APTA launches new advocacy webpage on the opioid epidemic:
    - Check it out here: http://www.apta.org/OpioidEpidemic/

PTA Payment Differential

- CMS is establishing two new therapy modifiers to identify the services furnished in whole or in part by PTAs and OTAs. CMS notes that the Bipartisan Budget Act of 2018 requires that claims from all providers of PT and OT services furnished on and after January 1, 2020, will be required to include these new PT- and OT-Assistant therapy modifiers for services furnished in whole or in part by a PTA or OTA. These modifiers will be used in place of the GP and GO modifiers (modifiers currently used to identify PT and OT services furnished under an outpatient plan of care).
- CMS proposes that all services that are furnished "in whole or in part" by a PTA or OTA are subject to the use of the new therapy modifiers. CMS proposes to define "in part" to mean any minute of the outpatient therapy service that is therapeutic in nature, and that is provided by the PTA or OTA when acting as an extension of the therapist. Thus, a service furnished "in part" by a therapy assistant would not include a service for which the PTA or OTA furnished only non-therapeutic services that others without the PTA's or OTA's training can do, such as scheduling the next appointment, greeting and gowning the patient, preparing or cleaning the room.
- APTA and AOTA met with CMS staff on August 15 to discuss the therapy

assistant modifier and the 85% payment differential set to go into effect in 2022. APTA and AOTA also are securing a letter from Congress to the General Accountability Office to gain information on the potential impact of the differential to patient access in rural and underserved areas. APTA will submit comments on the CY 2019 fee schedule/QPP proposed rule before September 10 deadline.

Stark Law Reform

- APTA met with House Ways & Means majority and minority staff following the July 17 hearing *Modernizing Stark Law to Ensure the Successful Transition from Volume to Value in the Medicare Program*," that examined options to reform the Physician Self-Referral Law (Stark Law) to shift Medicare to a value-based system. APTA submitted comments in response to CMS's Request for Information on suggestions for reforms to Stark.

PAYMENT POLICY AND REIMBURSEMENT

Merit-Based Incentive Payment System (MIPS) Summary

- **General Information**

  The most significant change in the payment arena is the inclusion of physical therapists in the merit-based incentive payment system (MIPS). Beginning January 1, 2019, physical therapists in outpatient practice settings will be included in this value-based payment system under Medicare. This program is replacing the old Physician Quality Payment System (PQRS). MIPS were implemented for physicians in 2017. CMS, in its proposed physician fee schedule for 2019, requires some physical therapists to participate in MIPS.

  MIPS entails providers reporting in 4 areas: (1) Quality, (2) Advancing Care Information (replacing the old meaningful use program), (3) Clinical Practice Improvement, and (4) Cost. A total score is derived from each of the 4 categories, and the score is then used to determine whether a payment penalty or incentive is awarded, or if no payment adjustment occurs. Initially, physical therapists will only report in 2 areas: quality (which accounts for the majority of points), and clinical practice improvement.

  It is important to note that the current estimate is that only approximately 5% of physical therapists will be mandated to participate.

- **Eligibility**

  MIPS only applies to physical therapists in private practice.

  So how is eligibility determined? This is somewhat complex, but here is a brief summary:

  - Eligibility is dependent on both the number of new Medicare patients seen by an individual physical therapist, and the total Medicare charges over a one-year period.
  - The low volume thresholds for participation are: participants must see a minimum of 200 unique Medicare part B beneficiaries per year, render at least $90,000.00 in charges per year under Medicare part B, and provide a minimum of 200 Medicare services per year to Medicare enrollees.
  - Physical therapy group practices exceeding the low volume threshold will also be eligible to participate. If a group participates, all providers in the group must submit data and participate fully in the program.

    - Individuals and groups who meet or exceed one or both of the low volume thresholds are eligible to opt in.
    - Individuals and groups who do not exceed the low volume threshold and do not want to opt in can choose to voluntarily report, however this will not result in any payment adjustment
- **Payment Adjustments**
    - For physical therapists and groups who meet the low volume threshold, lack of participation will result in up to a 7% payment penalty. On the other hand, up to a 7% payment incentive will be awarded to those who meet the reporting requirements.
    - As with PQRS, the payment adjustments will occur 2 years following the reporting period.
    - It is important to note that no other Medicare fee schedule changes will occur from 2020 through 2025.
    - Payment adjustments are based upon performance thresholds: out of a total score of 100 points, 30 points is the break-even point whereby there is a neutral payment adjustment, greater or equal to 80 points will result in a positive adjustment of 7%, and less or equal to 7.5 points will result in a negative payment adjustment of 7%.
- **Quality Measures**
  The MIPS quality measures replace the PQRS and quality portion of the value modifier. MIPS quality measures include the PQRS measures, and additionally will incorporate outcomes registry measures (i.e. FOTO, PT Outcomes Registry), and new specialty specific measure sets (yet to be determined for PT). CMS plans to retire measures that have high performance rates, and will eventually replace these with more outcomes measures.
- **Claims Reporting**
  Starting in 2019, practices with more than 15 PT MIPS eligible clinicians will need to report via EMR systems. Claims-based reporting will not be permitted.

  For more information, please visit the APTA MIPS website at:
  http://www.apta.org/MIPS/

Aetna Pre-authorization Program

On September 1, 2018, Aetna rolled out a new pre-authorization program in 4 states: Delaware, New York, Pennsylvania and West Virginia. Although the respective state chapters were informed of the program, APTA was not informed prior to the start date. APTA subsequently became involved through communications with the respective chapters.

Aetna has selected Magellan/National Imaging Association (NIA) to administer the utilization management program. They have provided training to physical therapy providers and administrative staff members, although not universally, in the states impacted by the program. Despite this training, there have been many problems encountered by physical therapists with this pre-authorization program. In particular, Aetna is requiring authorization for units of care instead of the usual practice of

authorizing visits. As a result, there have been delays in medically necessary treatment as well as denials of patient care. APTA staff members have been working diligently with chapter representatives to address this issue. Despite multiple phone conferences, there have been no significant changes to the program. Organized and administered by the Delaware, New York, Pennsylvania and West Virginia chapters, a survey went out to members at the end of 2018 in order to collect data on how the program is impacting patient care. This data will be shared with Aetna in early 2019.

APTA staff is scheduling a face-to-face meeting with Aetna at their headquarters in Pennsylvania in early March, 2019. State representatives will also be present.

Aetna has indicated that this program eventually will be implemented in every state. New Jersey has been added as of January 1. 2019.

Multiple Procedure Payment Reduction (MPPR)

- CMS had updated the multiple procedure payment reduction (MPPR) calculator which incorporates the 50% multiple procedural payment reduction for values under the Medicare physician fee schedule. The 2019 calculator also applies the overall 2% sequestration cut on Medicare payments.

MANIPULATION/MOBILIZATION

- The Manipulation Education Manual draft has been completed. It is currently being reviewed prior to submitting to APTA.

ADVOCACY

Advocacy Grants

- The Academy of Orthopaedic Physical Therapy provided funding for four advocacy grants of $5,000 each in 2018:
    - California Chapter of the American Physical Therapy Association
    - Florida Chapter of the American Physical Therapy Association
    - Idaho Chapter of the American Physical Therapy Association
    - Texas Chapter of the American Physical Therapy Association

RESIDENCY AND FELLOWSHIP

- Currently 106 Orthopaedic Accredited Residency programs are listed on the American Board of Physical Therapy Residency and Fellowship Education (ABPTRFE) Directory of Residency Programs. In addition, 8 Orthopaedic residency candidate programs and 13 developing programs are listed on the ABPTRFE residency directory.
- Currently 32 Orthopaedic Manual Physical Therapy Fellowship Programs are listed on ABPTRFE directory. In addition 3 more are in candidate status and 3 are in developing program status.
- The committee engaged the PR committee to disseminate information on grants offered for developing residency and fellowship programs. Up to 3 grants ($1,850) are available annually. One grant was approved in January, 2018.

Data on grant recipients for the past 3 years:
2018: 1 grant: $1,850
2017: None
2016: None

ORF-SIG Activities (See ORF-SIG Report for details):

- Strategic Planning
- ABPTRFE
  - New Quality Standards
  - Annual Continuous Improvement Report
- CSM Pre-Con Course: “Clinical Excellence and Quality Standards in Residency/Fellowship Education” Kirk Bentzen, Kathleen Geist, Aimee Klein, Tara Jo Manal, Matt Haberl and Eric Robertson.
- Participation in Education Academy Residency and Fellowship Special Interest Group (ERFSIG)