



December 20, 2011

Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-9070-P
P.O. Box 8012
Baltimore, MD 21244-1850

RE: CMS – 9070-P

Dear Sir/Madam:

The Home Care Association of NYS (HCA) is a statewide association comprised of nearly 400 health care providers, organizations and individuals involved in the provision of home care services to several hundred thousand individuals annually in New York State. HCA's membership includes Certified Home Health Agencies, Long Term Home Health Care Programs, Licensed Home Care Services Agencies, Managed Long Term Care Plans, and Hospices which form the core of New York's cost-effective home and community based care system.

HCA, on behalf of its member agencies that serve approximately 111,665 Medicaid beneficiaries and 177,000 Medicare beneficiaries annually, appreciates the opportunity to provide comments on proposed rule CMS – 9070-P.

HCA is particularly interested in the provision of the proposed rule that would remove the personnel qualifications language in the current Medicaid regulations (section 440.110) and instead cross reference the Medicare personnel qualifications for physical therapists (and occupational therapists) for use under Medicaid. This would help to partially address an issue triggered in New York State by a CMS interpretation that is preventing many well qualified and New York State licensed foreign educated physical therapists (PTs) from receiving Medicaid reimbursement for providing services to Medicaid patients at home and in other settings.

Background of Problem

This impediment to services was first identified in mid-2011 when CMS informed the New York State Department of Health (DOH) that it would limit Medicaid coverage of physical therapy providers (in all health care settings) to graduates of only those physical therapy programs accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE). The policy of allowing only graduates of CAPTE-approved physical therapy education programs to bill Medicaid, however, effectively excludes from the Medicaid program those New York State licensed and currently registered PTs who are graduates of other institutions and whose curriculum has been approved by an APTA-approved (American Physical Therapy Association) credentialing evaluation organization, including foreign educated PTs.

Home care provides an array of clinically proven, cost-effective services that have evolved over time as providers work to: meet the needs of a growing aging population; apply innovative clinical and technological practices that assist the chronically ill, those with life-limiting illnesses, persons with disabilities and post-

acute care patients at home; support the right of patients to receive services in the least restrictive environment; and meet the prerogatives of federal health reform to improve the delivery of health care and control costs by preventing utilization of higher-cost services.

Physical therapy services are integral to care plans at home and help patients regain their mobility after an accident or accentuation of a prior illness or to help them overcome a debilitating illness. As a result of CMS's interpretation of Medicaid reimbursement policy, some home care agencies in our state have had to remove their qualified, state licensed foreign educated PTs from providing services at home. This has created access issues for home care patients in New York. For our largest member agency, this has meant taking 150 PTs off of cases and trying to replace their services for the 200+patients each one of them serves at home annually.

HCA Supports Proposed Fix

The proposed rule would help address the problem described by aligning the Medicaid regulations with Medicare which would allow foreign educated PTs to have their credentials reviewed by an organization other than CAPTE –in this case one approved by APTA. HCA supports this change which would permit well qualified, state licensed foreign educated PTs to bill Medicaid for their services in New York.

Additional Corrective Action Needed

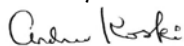
Unfortunately, this change will not allow all foreign educated PTs in New York State to bill Medicaid because New York State's Education Department (SED) does not use an APTA-approved organization to determine educational equivalence of a foreign educated PT, but instead SED uses such an approved organization to verify the authenticity of the PT's diploma and other documents. To address this issue, in addition to CMS's currently proposed fix, we ask that CMS amends the rule to allow foreign educated PTs who meet state licensure requirements to bill Medicaid and Medicare for their services.

In New York, as well as in other states, the licensure requirements are very comprehensive and ensure that only those qualified can practice. SED's process for licensure in New York includes a credential evaluation by the Commission on Graduate Foreign Nursing Schools (CGFNS) or the Foreign Credentialing Commission on Physical Therapy (FCCPT), a thorough education review by the Comparative Education unit in SED's Office of the Professions, a moral character evaluation and passage of the Federation of State Boards of Physical Therapy (FSBPT) national examination. These requirements create a very high standard for foreign educated PTs to meet and should be an allowable criterion for billing Medicaid.

Aligning the Medicaid regulations with Medicare and allowing foreign educated PTs who meet state licensure requirements to bill Medicaid will continue to ensure that well qualified foreign educated PTs can provide services at home (and in other settings).

HCA respectfully requests that CMS incorporates our comments into the proposed rule as this has created an access issue in New York State. We are available to provide further information.

Sincerely,



Andrew Koski
Vice President for Program Policy and Services