

PHYSICAL THERAPY — “INCIDENT TO” PROVISIONS

The AMA urges CMS to withdraw its proposed changes for incident to physical therapy services and re-issue a new proposal in a later proposed rule after consulting with all affected physician and other health professional organizations.

Under current CMS policy and interpretation of the law and regulations relating to physical therapy services provided incident to a physician’s services, physicians in private practice may prescribe physical therapy for their patients and that therapy may be provided by a physical therapist or other type of qualified therapy professional, as determined by the physician. The therapy may also be supervised by the physician. CMS’ changes to the “physical therapy incident to” provisions under the proposed rule have caused considerable confusion as to their impact and interpretation. Under some interpretations of these new proposed regulations, it is conceivable that physicians in private practice would no longer (i) have the authority to determine what type of licensed health professional is most appropriate to furnish the therapy services needed by their patient or (ii) be permitted to supervise the therapy. Rather, physical therapists would be solely responsible for providing and supervising the therapy.

The legislative and regulatory history of the physical therapy “incident to” provision is very complex, and CMS states that its proposal is merely a “clarification” of the law. In fact, however, CMS is proposing a complete reversal of its policy and interpretation of a statutory provision enacted seven years ago under the Balanced Budget Act of 1997, even though interpretation of this provision was well-settled at that time. Such reversal would seriously disrupt many current practices wherein it is appropriately left to the physician’s medical judgment and expertise to determine what type of health professional may provide their patients with physical therapy and, further, to determine who should supervise these services. A more detailed explanation of our concerns is outlined in the comment letter submitted to CMS by the American Academy of Physical Medicine and Rehabilitation.

Because of the substantial confusion surrounding this issue and for purposes of continuity of care and patient access, the AMA urges CMS, as discussed above, to withdraw the proposed changes for incident to physical therapy services and re-issue a new proposal in a later proposed rule after consulting with all affected physician and health professional organizations.