

Friday, February, 8, 2013

CMS Clarifies Outpatient Therapy Cap Exceptions Process for CAHs

We are pleased to announce that the Centers for Medicare & Medicaid Services (CMS) recently informed the AHA that critical access hospitals (CAHs) will not be subject to the outpatient therapy cap, although the cost of outpatient therapy services provided in CAHs will accrue towards the cap, in calendar year (CY) 2013.

Medicare currently sets annual per beneficiary payment limits for outpatient therapy services (physical therapy (PT), occupational therapy (OT) and speech-language pathology (SLP)) provided by therapists and other eligible professionals in certain settings. The law allows for an exceptions process to the cap if the therapy is deemed medically necessary. The limit applies to therapy services provided in medical offices, outpatient rehabilitation facilities/rehabilitation agencies, comprehensive outpatient rehabilitation facilities, skilled nursing facilities, and, beginning October 1, 2012, temporarily to services provided in hospital outpatient departments. Historically, CAHs have been exempt from this limit.

The American Taxpayer Relief Act of 2012 (ATRA) requires temporary application of the therapy cap to outpatient therapy services provided in CAHs for CY 2013. In interpreting the ATRA provision, CMS has confirmed that the dollars accrued for providing PT, OT and SLP services in a CAH will count toward the per-beneficiary annual therapy cap. The cap for CY 2013 is \$1,900. Thus, if a patient receives \$1,900 or more of therapy services in a CAH, and then receives additional services in another setting (such as a hospital outpatient department or a medical office), then the other setting would need to request an exception to the therapy cap by using a KX modifier on the claim (as well as documenting in the medical record that the additional therapy services are reasonable and necessary).

However, unlike other providers and settings, the agency said that for CY 2013 the CAH may continue to provide therapy services above the \$1,900 cap and will not need to request an exception or use a modifier on the claim. In addition, CAHs will not be subject to the additional manual medical review process for beneficiaries who reach a threshold of \$3,700 in outpatient therapy services. Note: CMS indicated that it will revisit the issue of fully applying the outpatient therapy cap to CAHs in the future.

Our View: The AHA applauds CMS's interpretation of the outpatient therapy provision in the ATRA. While we support extending the outpatient therapy exceptions process, we oppose the temporary expansion of the cap to therapy services provided in CAHs, as well as hospital outpatient departments. We will continue to work with Congress to eliminate these harmful provisions. In addition, we will work with CMS as it develops regulations and other guidance implementing this policy.