



**July 19, 2017**

**Testimony of the American Medical Rehabilitation Providers Association (AMRPA)**

**To the Energy and Commerce Health Subcommittee Hearing on  
“Examining Bipartisan Legislation to Improve the Medicare Program”**

The American Medical Rehabilitation Providers Association (AMRPA) thanks Chairman Burgess, Ranking Member Green, and Members of the Health Subcommittee for holding a hearing to examine bipartisan legislation to improve the Medicare program. AMRPA is the national trade association representing more than 500 freestanding inpatient rehabilitation hospitals and units of general hospitals (IRFs), outpatient rehabilitation service providers, and other medical rehabilitation providers working with hundreds of thousands of patients each year to maximize their health, functional skills, independence, and participation in society.

AMRPA supports the Committee’s efforts to ensure that the Medicare program remains solvent and sustainable for the millions of beneficiaries who rely on Medicare. Access to rehabilitation and therapy services is a key part of the program’s commitment to seniors and persons with disabilities. In general, medical rehabilitation providers must be reimbursed under a sustainable payment system and Congress should prevent additional cuts through regulations that jeopardize providers’ ability to serve Medicare beneficiaries and other patients. AMRPA believes that there are commonsense ways to reform Medicare that will align payment policies with the needs of the program’s beneficiaries, and we look forward to working with the Committee on post-acute care policies that promote access to medically necessary, quality rehabilitative care.

As it relates to legislation currently before this Committee, AMRPA strongly supports a full and permanent repeal of the therapy caps. Arbitrary limits on the dollar value of outpatient therapy services delivered to Medicare beneficiaries complicate the delivery of efficient, coordinated care and decrease the ability of patients to achieve maximum health outcomes. Patients have unique demands for therapy and other rehabilitative services and, like most one-size-fits-all approaches to health care utilization, flat annual caps are disconnected from medical necessity and the realities of delivering rehabilitative care. Differential treatment based on original diagnoses is equally baseless and imposes daunting obstacles for patients seeking medically necessary care.

Congress has acted to prevent full implementation of the caps are by extending the exceptions process thirteen times since it was first enacted. At multiple points in the last decade, Congress has attempted to permanently repeal the therapy caps. Many Members of this Committee have joined bipartisan Members of the House and Senate in cosponsoring legislation to fully repeal the caps. In 2015, Congress passed the Medicare Access and CHIP



Reauthorization Act (MACRA) in order to move away from payment cliffs associated with physician payment which resulted in uncertain payment policies, hurried legislation, and ultimately more administrative cost than comprehensive reform. Permanently repealing this ill-advised policy is in the best interests of patients, providers, and the Medicare program, as well as taxpayers.

Absent full repeal, AMRPA supports extending the therapy caps exceptions process, but believes there is a need to reform the restrictive exemption process particularly in light of the broader shift towards performance-based payment systems. Congress created an exceptions process in recognition of the arbitrary nature of the caps and in an attempt to minimize its adverse impact on Medicare beneficiaries. However, the arduous exceptions process creates stress for patients and imposes a significant administrative burden on providers. Given the inherent uncertainties in the current exceptions process, providers must apprise beneficiaries of the potential that Medicare will not cover therapy, which may dissuade patients from obtaining medically necessary services. For those exceeding the therapy caps, providers must go through bureaucratic review processes and submit excessive documentation. Delays in the manual medical review process further compromises beneficiary access to care. We therefore urge the Committee to support bipartisan proposals to permanently repeal the caps, or move forward with extending the exception process indefinitely.

As Congress considers legislation to address the therapy caps policy, two fundamental principles should provide the underpinning for any new regulatory policy. First, any replacement must protect beneficiary access to critical therapy services. And second, any replacement policies must not impose undue regulatory and administrative burdens on providers. Reverting to past regulatory approaches with well-documented failures cannot be a viable solution. Broad preauthorization policies have been unsuccessful, particularly for patients attempting to access the use of medically necessary therapy services. As outlined in a July 2013 Government Accountability Office (GAO) report that assessed the implementation of medical manual review for Medicare outpatient therapy, the policy proved to be costly at multiple levels.<sup>1</sup> With inadequate guidance from CMS, Medicare contractors struggled to clinically and administratively operationalize the policy. As a result of their inability to fully process the preapproval requests in an efficient or timely manner, providers faced additional burdens and patients suffered the fallout.

Like other aspects of the Medicare payment policy, Congress and the Administration should use the impending expiration of the exception process as an opportunity to make more meaningful and lasting reforms that are deregulatory in nature, reduce costs on providers and

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<sup>1</sup> GAO, IMPLEMENTATION OF THE 2012 MANUAL MEDICAL REVIEW PROCESS (Jul. 2013), <https://www.gao.gov/assets/660/655806.pdf>.



thereby the health care system, and simplify the patient experience. Of course, repealing the therapy caps in their entirety would be the most sensible approach. However, reforms that simplify the process for patients without imposing new administrative requirements on providers would be a step in the right direction. Should Congress need to pass a shorter-term delay in order to continue working on outpatient therapy policy, we urge the Committee to make use of that time to meaningfully reform the current policies.

AMRPA appreciates the Committee's leadership on these issues and recognizes Congress' efforts to strengthen the Medicare program and improve its capacity to ensure access to high-quality care for seniors and persons with disabilities. Access to medical rehabilitation is a critical part of this commitment and our membership is committed to work with Congress on this issue. We fully recognize the need for the therapy services to continue, but object to the arbitrary cap thresholds and policy approaches that are unsubstantiated and lacking in evidentiary basis. Twenty years since this policy was first implemented it is time for Congress to reconsider how this flawed payment policy affects patient care and access to medically necessary therapy. We urge Congress to align future proposals with the Merit-based Incentive Payment System (MIPS) and ensure payment for outpatient rehabilitation services appropriately reflects the skill of therapy providers and protects beneficiary access.

Again, AMRPA thanks and commends the Committee's efforts to tackle longstanding challenges within the Medicare program, including the therapy caps policy. We appreciate the opportunity to provide testimony for the hearing record.