



AMERICAN SOCIETY OF HAND THERAPISTS

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June 1, 2020

Seema Verma, MPH
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
CMS-1744-IFC
200 Independence Ave, SW
Washington, DC 20201

Submitted electronically

RE: Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency [CMS-1744-IFC]

Dear Administrator Verma:

On behalf of the American Society of Hand Therapists (ASHT), thank you for the opportunity to comment on the interim final rule proposing Medicare and Medicaid policy and regulatory revisions in response to the COVID-19 public health emergency. ASHT represents over 3,000 occupational and physical therapists, assistants and students who provide evaluation and intervention services for patients with diseases, conditions, or injuries resulting in upper extremity dysfunction. A large proportion of the patients we serve are Medicare and Medicaid program beneficiaries.

Permanently Expand Provider Types Eligible to Provider Medicare Telehealth Services

ASHT thanks CMS for utilizing its authority under §1135(b)(8) of the Social Security Act, as amended by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to include occupational therapists and physical therapists amongst the provider types eligible to furnish and bill for Medicare telehealth services during the Public Health Emergency (PHE). This move has increased access to desperately needed care for beneficiaries suffering from upper extremity dysfunction while also helping decrease the spread of COVID-19. ASHT requests CMS consider extending these flexibilities for occupational therapists and physical therapists beyond the duration of the PHE. We welcome the future opportunity to articulate the benefit of telehealth services related to the delivery of hand and upper extremity therapy.

Address Denials of Custom Fabricated Orthoses; 2021 Reimbursement Cuts

Hand therapists and the patients they serve have faced the continual challenge of denials by DME MACs for custom fabricated orthoses. These denials are occurring due to application of CMS' 'Same or Similar' policy against medically necessary DME items. As administered, the current "Same or Similar" policy does not account for beneficiaries' change in condition or body part and has the effect of limiting Medicare beneficiaries'

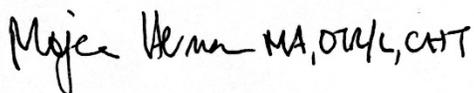
access to medically necessary items, which can lead to more serious and costly health consequences for patients. The harm resulting from denial of medically necessary DME items are particularly exacerbated amidst the COVID-19 pandemic. For example, as a result of this “Same or Similar” policy, a patient with a wrist sprain with minimal swelling, which occurred 2 years ago and treated with the fabrication of a custom wrist hand orthosis would be denied access to appropriate medical treatment now if the same patient fell today, broke their wrist, had increased swelling, and required a new custom wrist hand orthosis.

ASHT thanks CMS for implementing critical flexibilities during the PHE, including giving DME MACs discretion to waive replacement requirements for durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) that are lost or destroyed. We request that CMS ensure DME MACs are utilizing this discretion in a manner that maximizes access to care. Further, ASHT requests CMS take steps to address this issue on a permanent basis.

Additionally, changes to the physician fee schedule’s evaluation and management (E/M) codes resulting in projected reimbursement cuts to therapy services will place additional burden on hand therapists’ ability to deliver care. ASHT urges CMS to reconsider the proposed E/M changes and the unintended consequences that would result. As occupational therapists and physical therapists face the prospect of up to 8% Medicare reimbursement cuts in 2021, it is critically important that CMS ensure our ability to deliver vitally important care during the PHE and beyond.

Thank you for the opportunity to provide comments on the Medicare and Medicaid policy and regulatory revisions in response to the COVID-19 public health emergency interim final rule. Please do not hesitate to reach me with questions or concerns at asht@asht.org.

Sincerely,

A handwritten signature in black ink that reads "Mo Herman MA, OTR/L, CHT". The signature is written in a cursive style.

Mo Herman, MA, OTR/L, CHT
ASHT President