



FAL Briefing Memo

January 2024

Please share this document with your component's board, delegates, membership, etc.

Federal Agencies

- **CAC:** The Contractor Advisory Committee Engagement coalition was formed out of concern for how local coverage policies are implemented, more specifically, the lack of notice and comment, process challenges, and an overall lack of transparency. The letter to the Centers for Medicare and Medicaid Services (CMS), submitted on Dec 12, 2023, requested a meeting to discuss the coalition's Principles for Sound Local Coverage Policies that articulates how current policies can be updated.
- **Census Bureau:** On December 19, 2023, members of the Disability and Rehabilitation Research Coalition (DRRC) and Consortium for Constituents with Disabilities (CCD) separately submitted a response to the proposed changes to the U.S. Census Bureau's American Community Survey (ACS) questions measuring the disability population. Each coalition opposed the changes because the new census questions undercount the number of individuals with disabilities which has the potential to shift the allocation of resources to disability communities. Additionally, the changes were not reviewed by members of the disability community before they were released.
- **2025 Notice of Benefit and Payment Parameters:** On January 8, 2024, APTA provided comments on the 2025 Notice of Benefit and Payment Parameters proposed rule released by the Department of Health and Human Services. The rule annually proposes changes to qualified health plans offered through both the federal and state-based exchanges. This year, HHS' primary goals were to improve accessibility, affordability, and adequacy of care across all plans. To do this, they proposed new standards that would create uniformity across all state-based exchanges, create more adequate provider networks, and improve plan options and selection in the Marketplace. APTA broadly approves of the changes to state-based exchanges as it would create consistency across all qualified health plans. We also provide more nuanced recommendations for how states can expand their essential health benefit benchmarks to include more rehabilitative and habilitative benefits. And lastly, we offer a number of ways that plans can ensure patients have adequate networks beyond what was proposed in the rule.
 - APTA also signed on to comments from the Consortium of Constituents with Disabilities (CCD) and the Coalition to Preserve Rehabilitation (CPR) on the 2025 Notice of Benefit and Payment Parameters proposed rule. CCD's comments support the proposed changes that would allow states to add adult dental benefits to their essential health benefits (EHB) package without having to cover the cost of that coverage. CPR's comments ask HHS to better define habilitation, also supports the adult dental benefits, and support updates to EHB benchmarks.

- **United States' Preventive Services Task Force Recommendation:** On January 8, 2024, APTA provided feedback to the task force on their draft recommendation and evidence review of interventions that prevent falls. In our comments, we commend the task force for developing evidence-based recommendations, but we encourage the task force to provide a more granular recommendation so that the right patients can be connected to the right services. We amplify the value and role of physical therapy interventions and supply additional research that supports PT-led interventions in preventing falls in community-dwelling older adults.
- **Prior Authorization Final Rule:** On February 8, 2024, the Department of Health and Human Services will publish the Advancing Interoperability and Improving Prior Authorization Processes final rule in the Federal Register. In a [huge win for patients and providers alike](#), the final rule adds much-needed guardrails on prior authorization processes used by Medicare Advantage, Medicaid, CHIP, and qualified health plans. The new policies establish timelines for responses to prior authorization requests and require the creation of specific technology to facilitate data exchange for patients, providers, and payers in connection with prior authorization.

U.S. Congress

- **Fee Schedule:** On January 18, 2024, the U.S. Congress passed a stopgap spending measure that temporarily keeps the government afloat until early March and prevents a government shutdown. The Continuing Resolution (CR) passed the Senate 77-18 and hours later passed the House 314-108.

The new package contains no relief from cuts to the 2024 Medicare Physician Fee Schedule, despite strong advocacy from a host of patient and provider organizations, including APTA, and fierce bipartisan criticism from within Congress' own ranks, most notably from Rep. Larry Bucshon (R-IN) who has been the biggest champion for a fee schedule fix. The stopgap spending deal does include an extension of the Geographic Practice Cost Index (GPCI) till March.

Sources indicate that the fee schedule fix was on the table for inclusion in the spending package during Senate negotiations, but those efforts failed as the parties squabbled over competing priorities. The provision to rollback the 3.37% cut to the 2024 fee schedule's conversion factor was scored at approximately \$1.8 billion.

The \$1.66 trillion stopgap deal is in large part a continuation of funding levels approved by Congress in the last short-term continuing resolution passed in November, a tiered-deadline package with expiration dates of Jan. 19 and Feb. 2. The new continuing resolution extends government funding to March 1 and 8. This extension to March is intended to provide more time for Congress to iron out some of the larger and more controversial spending issues. Advocacy to include a fee schedule fix in the next spending package starts immediately as Congress begins work on a permanent spending deal that can pass before the looming March deadlines.

The delay of a fee schedule fix till March now makes it more difficult to include a fix that is retroactively applied to January 1, 2024, for claims that have already been submitted.

Medicare Administrative Contractors (MACs) can hold claims for up to 14 days, but after that point, they need to start reimbursing. With a fix to the Medicare Physician Fee Schedule conversion factor cuts now delayed until March, MACs will likely begin reimbursing at the lower rate. If Congress does act in March on the fee schedule, and provides a retroactive fix to January 1, 2024, MACs would have to reprocess all the claims they'd already paid at the lower rate. Rebilling would require providers to rebill small sums that in some cases wouldn't cover the cost of the administrative process.

APTA continues to urge members and supporters to voice support for H.R. 6683 which provide full funding to stop the 3.37% cut to the 2024 conversion factor through the [APTA Patient Action Center](#) or [Legislative Action Center](#). Grassroots response from members and patients to our recent calls to action have been extremely high.

The failure by Congress to address the fee schedule in the latest stopgap spending measure due to political squabbling is extremely frustrating for our members and the patients we serve. APTA will continue to advocate on this priority situation and push for inclusion of a fee schedule fix in the March spending deal.

- **Defense Health Agency:** In 2022 APTA was successful in securing report language in the 2023 FY National Defense Authorization Act (NDAA) that requested an analysis by the Department of Defense (DoD) of allowing PTs to serve in a primary care neuromusculoskeletal expert role throughout the Department of Defense (DoD) with a report back to the House Armed Services Committee. The APTA report language in the FY 2023 NDAA cited [research published in 2021](#) that tracked patient data from the Joint Base Lewis-McChord physical therapy service line, where an algorithm was used to identify service members appropriate for receiving primary care from a PT.

An APTA news story from 2022 provides additional background on this NDAA initiative by APTA: <https://www.apta.org/news/2022/12/20/dod-appropriations>

Currently, PTs within the DoD routinely provide primary care for musculoskeletal conditions when they are working at the troop level in garrison or during deployment; additionally, DoD has been experimenting with PTs as primary care providers in other military settings for more than 20 years. While PTs are able to provide direct access under the DoD, it is not uniform throughout the Defense Health Agency (DHA) various sites, clinics, and locations where servicemembers can receive care. Yesterday, we received the attached report from the DoD to the U.S. House Armed Services Committee in response to the APTA report language titled **“Improving Military Readiness through Physical Therapists Service in Primary Care Roles.”** Read the report: [CLICK HERE](#)

The report is a big win for direct access and positioning PTs in the role of primary care. It supports the role of physical therapists as primary care neuromusculoskeletal experts, and their role in improving patient outcomes, military readiness, and reduced costs. The report outlines efforts to increase the utilization of PTs in primary care roles through enterprise-wide implementation of the Defense Health Agency's (DHA) Direct Access to PT initiative. Using the direct access study cited as the basis for the report language, DHA is running 13 additional direct access pilots in the next 18 months with the goal of a Department-wide rollout of PT direct access throughout the DHA by the end of 2025.

APTA Articles of Interest

- [Video: APTA Year in Review](#)
- [News | APTA Advocacy Win: Defense Dept. to Roll Out System-Wide Direct Access to PTs | APTA](#)
- [Regulatory Review | Prior Authorization Win: CMS Finalizes Tighter Payer Rules | APTA](#)
- [Perspective | A Closer Look at the New Medicare Advantage Rule: Coverage Criteria and Prior Authorization | APTA](#)
- [News | 2024 Fee Schedule Calculator Now Available to APTA Members | APTA](#)
- [News | Congress Approves Temporary Spending Deal With No Fee Schedule Relief | APTA](#)
- [Perspective | Out-of-Network Medicare Advantage Payments: Know What You're Owed | APTA](#)
- [News | AMA Survey on Practice Expense Begins in January | APTA](#)
- [News | Advocacy Win: \\$3M in DOE Grants Awarded to Programs With APTA Member Connections | APTA](#)