

April 14, 2020

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-222, U.S. Capitol
Washington, D.C. 20515

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
S-230, U.S. Capitol
Washington, D.C. 20510

Dear Speaker Pelosi and Majority Leader McConnell:

On behalf of our more than 100,000 member physical therapists, physical therapist assistants, and students of physical therapy, the American Physical Therapy Association appreciates the work of Congress to date to combat the spread of COVID-19. We recognize that the Families First Coronavirus Response Act (FFCRA) and Coronavirus Aid, Relief, and Economic Security (CARES) Act are important steps in what must be a multi-phased approach.

As Congress considers a fourth relief package to address the current COVID-19 pandemic, APTA urges Congress to take additional steps to ensure patient safety and to protect health care providers, including increasing access to rehabilitation telehealth services and providing financial relief to community-based private rehabilitation clinics similar to relief proposed for other small businesses.

Provide Economic Stability to the Health Care of Older Adults

The pandemic is taxing every corner of our nation's health care system, and health care providers are working beyond their capacity to meet the needs of their patients. Now is not the time to reduce payment to providers under the Medicare program. In the 2020 final Medicare Physician Fee Schedule rule, the Centers for Medicare & Medicaid Services reduced payment, effective January 1, 2021, to more than three dozen health care providers in order to increase payment for primary care health professionals.

More than 30 health care provider organizations are advocating for a suspension of these cuts. This coalition's legislative proposal is found in Appendix A and seeks to waive the budget neutrality requirements stipulated in Section 1848(c)(2) of the Social Security Act for a period of no less than five years for purposes related to proposed E/M payment adjustments. Please include this policy in the next COVID-19 relief package.

Support Health Care Providers and First Responders on the Front Lines of the Pandemic

APTA urges Congress to include funding for “hazard pay” to assist health care providers who are deemed essential during the coronavirus pandemic. Many health care workers in a variety of settings are risking their health and lives every day due to potential exposure to the coronavirus. For example, physical therapists and physical therapist assistants are providing cardiopulmonary therapy to patients with COVID-19, as well as providing early mobilization of patients on ventilators to decrease the risk of ICU-acquired weakness (the muscle weakness that develops during an ICU stay that is present in at least 33% of all patients on ventilators), and providing rehabilitation for post-ICU patients who have limitations in strength and function. In addition, therapists continue to provide medically necessary physical therapy services across all settings to prevent initial hospitalizations and readmissions, and to delay surgery until the crisis has passed. These therapists are putting themselves at risk of exposure as they often lack adequate personal protection equipment.

APTA also supports the policies outlined in the Senate’s “Heroes Funds” proposal. This policy will go a long way to ensure that people with disabilities, and individuals who are recovering from illness and injury, safely gain the therapeutic and personal assistance services they need during this pandemic. The financial support helps ensure the availability of this essential workforce.

Providing support to health care providers on the front lines is particularly critical given the interim final rule issued on April 1, 2020, by the Department of Labor outlining the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act, both part of the FFCRA, that allows employers to exempt physical therapists, physical therapist assistants, and other health care providers employed in certain settings from these leave provisions.

We recognize that providing additional support to these essential health care workers will not reduce risk of exposure to the virus, which is why we urge the federal government to do significantly more to facilitate the timely manufacturing and distribution of ventilators and PPE through a process that is transparent, equitable, based on need, and noncompetitive. A streamlined and predictable supply chain must emerge that is capable of lasting the duration of the pandemic and beyond. Whether that is through further use of the Defense Production Act to coordinate and set nationwide priorities and distribution chains, or enhancing and accelerating current work, action is needed now. Our nation is relying on health care providers to carry us through this crisis, and they, in turn, are relying on the federal government to equip them to do so.

Provide Additional Economic Support Specifically for Health Care Providers With Small Businesses

Health care providers continue to face unique economic challenges due to COVID-19, with many small outpatient clinics facing significant financial barriers that could impact patient access. Congress should include in the COVID Phase 4 package (and expand upon) the language from the Immediate Relief for Rural Facilities and Providers Act sponsored by Senators Michael Bennett and John Barrasso, and Representatives Terri Sewell, Phil Roe, and Kim Schrier. This legislation includes relief for health care providers with an emergency, one-time grant equal to their total payroll from January 1, 2019, to April 1, 2019, and provides funding for health care providers by authorizing the Small Business Administration to provide low-interest loans to

providers at a 0.25% interest rate that will not accrue until two years after the COVID-19 public health emergency has ended.

Implement a Long-Term Policy Solution on Telehealth

Patients, as well as their providers, are put at risk while seeking or providing in-person health care services. APTA appreciates the work that Congress did in passing the CARES Act, which provided additional temporary authority to the U.S. Department of Health and Human Services to provide waivers to current telehealth restrictions; however, a long-term solution is still needed. APTA urges Congress to include in any future legislative package the Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act (H.R. 4932/S. 2741). This bipartisan legislation would provide a permanent policy solution on expanded use of telehealth services.

Protect Students With Disabilities

APTA believes that no additional waivers for either the Individuals with Disabilities Education Act (IDEA) or the Rehabilitation Act of 1973 are warranted in the next COVID-19 relief package. Students with disabilities are always best served when school leaders, teachers, specialized instructional support personnel, parents, students, and advocates work as a team to address complex issues. During this crisis, flexibility, patience, and innovation will be needed. Families, teachers, and specialized support personnel are reporting on not only challenges but also on opportunities to collaborate together. APTA appreciates the clarification provided to schools by the Secretary of Education that “provision should be made to maintain education services” [for students eligible under the IDEA or the Rehabilitation Act] and the emphasis further reflected that “federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities.” Given that IDEA offers flexibility by design, and states, districts, communities, and families are working together to find solutions to the problems they face in the next several months, we firmly believe that this is not the time to roll back civil rights protections for students with disabilities.

Small Business Workforce Flexibility

In addition, during this time many small clinics face uncertainty with staffing. The ability to bring in a replacement health care professional during a provider’s temporary absence for illness or other reason is known as locum tenens. The 21st Century Cures Act of 2016 added physical therapists to the list of health care professionals who may use locum tenens under Medicare. This allows a physical therapist to bring in another licensed physical therapist to treat Medicare patients and bill Medicare through the practice provider number during temporary absences. The law, however, applies only to outpatient physical therapist services furnished in a health professional shortage area, a medically underserved area, or a rural area. This limitation prohibits many physical therapists in private practice from taking sick leave without interrupting patient care. Locum tenens arrangements are beneficial to both patients and providers, as care is continued by another licensed, qualified provider during a temporary absence due to illness. Inclusion of the Prevent Interruptions in Physical Therapy Act (H.R. 5453) in any legislative package would relieve potential staffing shortages faced by small clinics as well as ensure that uninterrupted care is continued for Medicare beneficiaries.

Improve Access to Rehabilitation for COVID-19 Patients at Community Health Centers

Many patients recovering from the coronavirus face a long and difficult road to recovery. The lasting postacute impact of the virus on many patients' cardiopulmonary systems, as well as muscle weakness due to hospitalization, will require extensive rehabilitation to assist with their long-term recovery. In addition, the shelter-in-place orders are expected to increase sedentary behavior and mental conditions initiated or exacerbated by prolonged physical distancing and social isolating, and the resulting deconditioning in the elderly, child, and well and ill adult populations. Ensuring that patients have access to medically necessary rehabilitation, particularly Medicare and Medicaid beneficiaries, will be critical in the months ahead. APTA strongly urges Congress to include the Primary Health Services Enhancement Act (H.R. 5693) as part of any future COVID-19 relief package. This bipartisan legislation would expand patient access to essential physical therapy services to children and adults who receive care at rural health clinics and federally qualified health centers, also known as community health centers.

These community health centers provide primary health services to more than 29 million people in over 12,000 rural and urban communities across America, including nearly 3 million Medicare beneficiaries and one in 5 Medicaid beneficiaries. These facilities provide a lifeline to communities in need of essential health services whose barriers to health care include cost, lack of insurance, distance, and language. Presently, these facilities offer a range of health services, including access to physicians, advanced-practice nurses, dentists, clinical laboratories, emergency medical services, and behavioral health services. However, community health centers are restricted in how physical therapy services are provided and reimbursed. H.R. 5693 would address this problem by allowing physical therapists to provide care to patients in these facilities and bill Medicare and Medicaid for the benefits covered by their plans.

Thank you for your consideration. We look forward to continuing to work with you during this critical time to protect the health of our nation. If you would like additional information, please contact Justin Elliott, vice president of government affairs, at justinelliott@apta.org.

Sincerely,



Sharon L. Dunn, PT, PhD
Board-Certified Clinical Specialist in Orthopaedic Physical Therapy
President

cc: Members, U.S. House of Representatives
Members, U.S. Senate
Vice President Michael Pence
HHS Secretary Alex Azar
HHS Assistant Secretary for Health Admiral Brett Giroir, MD

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APPENDIX A

SEC. XX. SUSPENSION OF BUDGET NEUTRALITY PERTAINING TO CERTAIN CODING REVALUATION CHANGES.—Section 1848(c)(2) of the Social Security Act is amended—

(1) By adding at the end of subparagraph (B), clause (iv), the following new subclause—

“(V) Subparagraph (P) shall not be taken into account in applying clause (ii)(II) for the years 2021 through 2026.”

(2) by adding at the end the following new subparagraph—

“(P) EVALUATION AND MANAGEMENT POLICIES.—The Secretary shall suspend budget neutrality for the evaluation and management codes scheduled for implementation in 2021 as described in the final rule published by the Secretary in the Federal Register on November 15, 2019 (84. Fed. Reg. 62586, 62847-62860) through December 31, 2026.