

Centers for Medicare and Medicaid Services (CMS) Outline Therapy Cap Exceptions Process for 2006

On January 1, 2006, seniors and persons with disabilities became subject to a \$1740 per beneficiary annual financial limit on outpatient physical therapy and speech language pathology services and a separate \$1740 per beneficiary limit on occupational therapy under Medicare, known as the “therapy caps.” To ensure beneficiary access to necessary rehabilitation services provided by physical therapists, occupational therapists and speech language pathologists, Congress passed an exceptions process to the therapy caps as part of the Deficit Reduction Act of 2005 (S. 1932). This exceptions process is authorized ONLY for calendar year 2006. Legislation to completely repeal the therapy caps (HR 916 and S. 438) continues to gain support in Congress. APTA will assess the implementation of the exceptions process in the next few months to ensure that patients continue to have access to physical therapy, occupational therapy, and speech language pathology services to meet their health care needs.

The Deficit Reduction Act of 2005 (DRA), signed into law on February 8th, authorized the Department of Health and Human Services (HHS) and its Centers for Medicare and Medicaid Services (CMS) to outline an exceptions process for beneficiaries who exceed the \$1740 therapy caps. In response to this provision, CMS issued three transmittals outlining the exceptions process for care above the financial limitation for beneficiaries that need medically necessary services under Medicare. Medically necessary therapy services beyond the \$1740 limit can be obtained two ways: an automatic exception or a manual exception.

Automatic Exceptions: This process requires no specific or additional documentation or request is required on behalf of the beneficiary or provider. The automatic exceptions process is designated by the use of a modifier (the KX modifier) to the claim. CMS defines the following as indicators for automatic exceptions to the \$1740 per beneficiary annual financial limit:

- Evaluation services to determine if the beneficiary requires additional therapy services.
- Designated conditions and diagnoses when supported by documentation. CMS identified a list of more than 90 International Classification of Disease Version 9 (ICD-9) codes as meeting the qualifications of an automatic exception to the \$1740 per beneficiary annual financial limit. This list represents approximately 15% of the composite of ICD-9 codes utilized by physical therapists.
- Designated complexities and co-morbidities that are present in patients who do not have a primary diagnosis or condition identified by CMS’s list of ICD-9’s that qualify for an automatic exception to the \$1740 per beneficiary annual financial limit.
- Additional considerations that compound medical necessity therapy cap such as a patient requiring physical therapy and speech language pathology services or limited access to hospital outpatient departments. The mere existence of these considerations does not qualify for an exception unless medical necessity requirements are met.

CMS anticipates that a majority of beneficiaries who require clinically appropriate services above the financial limit will qualify for an automatic exception. To view the list of conditions and diagnosis as identified by ICD-9 codes and complexities that qualify of an automatic exceptions, please see the attached fact sheet from CMS.

Manual Exceptions: This process includes a manual application that requires a written request by the beneficiary or provider for patients that do not qualify for an automatic exception. This process will utilize medical review by the CMS contractor responsible for processing the claim. The manual exceptions process will allow up to 15 days of additional treatment if determined to be medically necessary. Contractors must make the determination on manual exceptions within 10 business days as required by DRA.

To view these [three transmittals](#) in detail, visit APTA’s website at www.apta.org and click on the blue therapy cap banner notice. If you have any questions or need additional information, please feel free to contact Justin Moore at 703-706-3162 or justinmoore@apta.org. Thank you for your efforts to ensure that beneficiaries retain access to clinically appropriate physical therapy services without an arbitrary financial limit.

The American Physical Therapy Association (APTA) is a national professional organization representing more than 65,000 members. Its goal is to foster advancements in physical therapy practice, research, and education.