

MEMBER ACTION PACKET

\$1500 CAP

March, 1999

Dear Colleague:

Thank you for your interest concerning the Medicare \$1500 cap on speech-language pathology services. I want to assure you that ASHA has been actively pursuing both Congressional and regulatory actions, such as the Senator Grassley's introduction of S.472 – the "Medicare Rehabilitation Benefit Improvement Act of 1999." This legislation would in part remedy the arbitrary dollar limit, which severely limits access to medically necessary speech-language pathology services, and would ensure that patients are allowed to continue with needed rehabilitation services.

However, we need your help to focus your federal legislators' interest on this serious problem and humanize the negative effect the cap is having on patient care. As a constituent of your elected U.S. Representative and Senators, you and your patients have the best chance to gain your lawmakers attention and educate them about the legislation's harmful impact on their constituents.

Enclosed are a series of action steps that I would ask you to take in an effort to help rectify this ill-advised policy.

Thank you for your efforts and never under-estimate the power that one person can make to better the future for our patients and the professions!

Sincerely,



Donna Geffner
President

enclosures

Member Action Packet – \$1500 Cap

Action Steps:

The following actions steps are intended to focus your federal lawmakers' interest on this serious problem, and humanize the negative effects the \$1500 cap is having on patient care.

Step 1: Contact Your Members of Congress

Enclosed is a model letter to help you explain how the \$1500 cap is negatively impacting your patients. Remember, your own words and experiences work best! Please use your personal or business stationery, and identify yourself as a constituent. Make sure your return address is included in your letter or on your letterhead.

If you do not know your federal legislators' names or addresses, you can find these through either ASHA's Gateway to Action on the Web at <http://congress.nw.dc.us/asha>, or call our Action Center at 800-498-2071.

Step 2: Encourage Patients and Their Families to Write

Also enclosed is a model letter that you can provide to your patients and their families regarding the negative impact of the Medicare cap. You can have these available at your workplace and distributed for information, or in response to a negative situation arising from the cap.

Step 3: Write for Those Patients Affected by the \$1500 Cap Who Can't Write for Themselves

In addition, a case study form has been included that may be completed for patients who are being negatively affected by the \$1500 cap and can not write on their own behalf. Use the form to become their advocate.

Step 4: Continue to be Involved

Sign up and participate in ASHA's grassroots network (HealthNet) so that you will receive further Action Alerts on this issue, as well as other key legislative and regulatory issues that affect our professions. Included is a form to join the network or follow the instructions on ASHA's Gateway to Action web site at <http://congress.nw.dc.us/asha>.

Step 5: Share These Letters and Case Studies with ASHA

Please share a blind copy of any communications that you or your patients send to your lawmakers with ASHA, in addition to the case study forms. Send the copies of your letter to Steve White, Ph.D., by mail: 10801 Rockville Pike, Rockville, MD 20852, or fax: 301-897-7356. This will allow us to carry forward information about your patients' situation, follow-up with your legislators, and track their support to rectify this situation.

Thank you for taking the time to advocate for your patients and the professions. If you have any questions about the details the \$1500 cap, please contact: Steve White, Ph.D., at 800-498-2071, ext. 4126 or email: swhite@asha.org.

Background Brief:

Origin of the Medicare Outpatient Rehabilitation Cap

In 1972, the Medicare statute was amended to add “speech pathology services” as a benefit that could be provided by Medicare-certified rehabilitation agencies. At that time, the only reference to Medicare-certified rehabilitation agencies was found in the Outpatient Physical Therapy section of the Medicare statute [Section 1861(p) of the Social Security Act] and speech-language pathology services were incorporated under the outpatient physical therapy section. Occupational therapy was later incorporated in a separate section. The Balanced Budget Act of 1997 (BBA) changed the makeup of the 1972 rehabilitation agency amendment.

During the early stages of drafting of the Balanced Budget Act of 1997 (BBA), the staff of the House Ways and Means Health Subcommittee concluded that something had to be done to limit the steep growth of Medicare costs for outpatient rehabilitation. They had read the General Accounting Office (GAO) report, *Tighter Rules Needed to Curtail Overcharges for Therapy in Nursing Homes* (March 1995) that said: “Therapy charges for claims submitted to Medicare by outpatient rehabilitation agencies and SNFs combined have tripled, from approximately \$1 billion in 1990 to \$3 billion in 1993, or 30 percent of the \$10 billion in therapy claims in all institutional providers.” The GAO went on to report that billing abuses and its impact on Medicare outlays had reached national proportions. More recently, Congress’ Prospective Payment Assessment Commission found that “...improved rehabilitation techniques, greater service capacity, and provider financial incentives, have fueled the growth in Medicare expenditures for post-acute care” (June 1996).

The Medicare outpatient rehabilitation payment controlling mechanism that was adopted by Congress was the one used for physical therapists in independent practice (PTIP) and occupational therapists in independent practice (OTIP) since the inception of Medicare coverage of those providers. In 1997, PTIPs and OTIPs had a \$900 cap and that limit was included in the House draft. The House staff also believed that \$900 was sufficient to cover most outpatient rehabilitation services and that by exempting hospitals from the cap, patients who needed extensive treatment would be covered. The BBA also stated that physical therapy services included speech-language pathology services based on a strict interpretation of the Medicare statute.

While ASHA and other professional rehabilitation groups staunchly opposed a cap, intense lobbying accomplished a raise in the cap by the Senate to \$1500 from the \$900 level. However, in implementing this provision, the Health Care Financing Administration (HCFA) ruled that the speech-language pathology and physical therapy were to share \$1500 for those Medicare outpatients who required both, citing the BBA provision that included speech-language pathology services with physical therapy services. Essentially, the 1972 amendment was interpreted by HCFA as meaning that Medicare outpatient speech-language pathology is a part of Medicare outpatient physical therapy, although there is a separate definition in the statute (Section 1861(l) of the Social Security Act) for speech-language pathology services. ASHA protested the interpretation and commissioned a legal analysis of the BBA. The report concluded that the shared cap was a misinterpretation. However, HCFA has held firm on its decision.

Last year, ASHA worked to have the “Reinstatement of the Medicare Rehabilitation Benefit Act of 1998” introduced by Rep. John Ensign (R-NV) in the House and Senator Chuck Grassley (R-IA) in the Senate, legislation calling for the elimination of the cap. Both bills received substantial support that has helped to lay the foundation for new legislation in 1999 to remedy this arbitrary and ill-advised policy.

Step 1: Model Letter To Your Members Of Congress

<On your business or home stationery>

<date>

The Honorable *<full name>*
United States Senate
Washington, DC 20510

The Honorable *<full name>*
U.S. House of Representatives
Washington, DC 20515

Dear Senator/ Representative *<insert last name>*:

Medicare beneficiaries need your help to change a benefit limit policy put in place by the Balanced Budget Act (BBA) of 1997. On January 1, 1999, a new payment cap of \$1500 was placed on Medicare outpatient rehabilitation services. I ask you to co-sponsor or support legislation, such as S. 472, that remedies this detrimental policy by either repealing the cap for speech-language pathology services and/or providing an exceptions process for patients who require medically-needed services and exceed this punitive cap. This arbitrary limit is already creating service disruptions, forcing patients and their families to indirectly ration or forego medically-needed care in *<insert name of your state>*.

To compound the problem, the Health Care Financing Administration (HCFA) interpreted the \$1500 cap as a limit for payment of speech-language pathology and physical therapy services combined. Patients who have had a stroke or head trauma are put in a no-win situation, where they must choose one service over another, or have severely reduced services in both.

The \$1500 cap is arbitrary and unnecessary. Prior to this ill-advised policy, there has never been a limit on Medicare speech-language pathology (SLP) services. To assure appropriate utilization, national guidelines for medical necessity were developed by HCFA and speech-language pathologists. Moreover, at the beginning of this year, the Medicare Prospective Payment System (PPS) instituted a resource-based relative value fee schedule for SLP services that was modeled on the physician payment methodology. The cap only serves to disrupt needed services and is costing my patients in time, anguish, and in the discontinuity of care. Combined, these factors will likely cost Medicare more money.

<Add your own personal experiences. See the following page.>

Speech-language pathology services improve communication skills and swallowing abilities that increase patients' independence, reducing the need for assistance by nurses, family members or other caregivers, (e.g., removing the use of a feeding tube). Without these abilities, that we take for granted, their lives take on a greater burden that extends to their families, caregivers and ultimately the Medicare system.

Thank you for your thoughtful consideration of this important matter.

Sincerely,

<your name>

Step 1 continued – Model Letter to Your Members of Congress

You may also want to add your own personal experiences to the letters:

In writing Senators and Representatives regarding the negative impact of the \$1500 cap on the delivery of quality speech-language pathology services to Medicare beneficiaries, include your own personal experiences with recent patients.

The following questions are intended to help you frame your experiences regarding the detrimental impact this policy has had on patient care in your practice:

- How are meaningful everyday functional outcomes being compromised by the new Medicare payment policies?
- How have patients become more dependent on other caregivers, including family members, as a result of coverage limits?
- Are you aware of any patients in need of your services they are going without, or choosing to ration or “bank” their benefits for fear that a worse situation may follow in the year? How many are missing needed services on a routine basis?
- What are your impressions of the impact the cap has had on the speech-language pathology services in the area? Have available services been restricted or made more difficult for patients to receive appropriate care?

Please send a blind copy of your letters to:

*Steven White, Ph.D., American Speech-Language-Hearing Association (ASHA)
10801 Rockville Pike, Rockville, MD 20852; or fax: 301- 897-7356.*

MODEL CO-SPONSOR LETTER REQUEST

To: Your U.S. Senators

Re: S. 472 – “Medicare Rehabilitation Benefit Improvement Act of 1999”

<On your business or home stationery>

<date>

The Honorable *<first and last name>*
United States Senate
Washington, DC 20510

Dear Senator *<last name>*:

I respectfully request that you add your name to the list of co-sponsors of S.472, the “Medicare Rehabilitation Benefit Improvement Act of 1999,” as introduced by Senator Grassley and with the following original cosponsors, including Senators Collins, Conrad, Daschle, Dorgan, Durbin, Hollings, Johnson, and Reid on February 25, 1999.

I support this legislation because it would allow senior citizens on Medicare to receive medically necessary outpatient rehabilitation services without the added worry of or disruption of care caused by exceeding the arbitrary payment caps on speech-language pathology services that were implemented as part of the Balanced Budget Act of 1997.

Sincerely,

<your name>

Please send a blind copy of your letters to:

*Dr. Steven White, American Speech-Language-Hearing Association (ASHA)
10801 Rockville Pike, Rockville, MD 20852; or fax: 301-897-7356.*

MODEL LETTER FOR PATIENTS & THEIR FAMILIES:

TO YOUR MEMBERS OF CONGRESS ON THE NEGATIVE IMPACT OF MEDICARE'S \$1500 CAP

<date>

The Honorable <full name>
United States Senate
Washington, DC 20510

The Honorable <full name>
U.S. House of Representatives
Washington, DC 20515

Dear Senator/Representative <last name>:

I urge you to repeal the \$1500 per year limit on Medicare benefits for outpatient speech-language pathology and other rehabilitation services. I had speech-language pathology services because of [*insert in all that apply: speech, language, swallowing*] problems due to [*insert the cause of the problems, such as., stroke, head injury, a specific neurological condition, etc.*] Before treatment, [*describe your specific problems here, such as:*

Was there a problem in swallowing normal foods?

Could you (or your family member) ask for things that you needed or wanted?

Could you (or your family member) tell the doctors about the condition?

What was your (or your family member's) emotional state?]

I still have some problems, but now [*describe your present condition here, such as:*

How would you (or your family member) answer the above questions now?

Are you (or your family member) at home?]

Medicare's arbitrary limit for outpatient services will force [*me or my father/mother/husband/wife*] to ration this needed rehabilitation care. I believe that it will ultimately increase the costs to the Medicare program as result of insufficient care being delivered because of this policy.

Reversing this ill-advised policy for speech-language pathology services will permit those on Medicare to receive the treatment needed so that [*me or my father/mother/husband/wife*] can leave expensive care settings, go home, and even return to work.

Thank you for considering this important issue.

Sincerely,

Your Name
Your Address

Please send a blind copy of your letters to your speech-language pathologist or to Steven White, Ph.D., American Speech-Language-Hearing Association (ASHA) 10801 Rockville Pike, Rockville, MD 20852; or fax: 301-897-7356.

**Step 3: Impact Of the \$1500 Medicare Cap on Patients
(to be completed for patients who cannot write)**

PATIENT CASE STUDY FORM

Today's Date: _____

Name of Facility and Department: _____

Name of Speech-Language Pathologist: _____

Facility Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____ Email: _____

.....
Age of Patient (in years): _____ Gender: _____

Cause of speech, language, and/or swallowing difficulties: _____

Description of speech, language, and/or swallowing difficulties at the time of evaluation:

Total number of treatment sessions received: _____ Total number of sessions needed: _____

Total number of sessions covered by Medicare: _____

Description of speech, language, and/or swallowing abilities (in terms of everyday life activities):

(1) When Medicare benefits ran out: _____

(2) Current status: _____

Please return this form to: Steven White, Ph.D., ASHA, 10801 Rockville Pike, Rockville, MD 20852;
fax: 301-897-7356; or email: swhite@asha.org.

Step 4: ASHA's Action Alert List

Please include my name to receive additional alerts and information to help advance the care of my patients and the professions.

Yes, I want to Join HealthNet

Name _____

Address _____

City _____ State _____ Zip _____

Email _____

Please return this form by mail or fax to:

**ASHA Government Relations
10801 Rockville Pike
Rockville, MD 20852**

Fax: 301-897-7356

Or visit ASHA's Web site to sign up at: <http://congress.nw.dc.us/asha/>