



JAN 27 2006

The Honorable Joe Barton
House of Representatives
Washington, DC 20515

Dear Mr. Barton:

As you know, a delay in final Congressional action on the House- and Senate-passed Deficit Reduction Act (DRA) has resulted, in the implementation of financial limitations on outpatient physical therapy, speech-language pathology and occupational therapy, known as therapy caps, effective January 1, 2006. Since the pending legislation would direct the Secretary to develop a process to allow for exceptions to the caps in cases where continued therapy services are medically necessary, we are working on plans to implement this provision of the legislation in a timely and efficient manner with the least disruption to providers and beneficiaries. In this regard, we are looking at taking actions in the following areas upon enactment of the DRA.

The Exception Process

The legislation provides for a process of allowing exceptions to the financial limits on therapy services furnished in 2006, if the services are determined to be medically necessary. This provision would affect services provided between January 1, 2006, and December 31, 2006.

We are looking at several options to identify the best method to implement this exception process. We are exploring whether beneficiaries with certain conditions might be excepted from therapy caps without a written request whenever there is documented need for therapy services. These medical conditions might include, for example, a closed head injury, or therapy relating to a broken arm in the same year that the patient received a hip replacement.

Other medical conditions or circumstances may occur which, while not likely to cause a need for extensive services in the typical patient, may require more services than usual for a particular individual. In these cases, providers or beneficiaries would submit written requests for exceptions, along with justification to demonstrate the medical necessity of the additional therapy services. These requests could be reviewed by contractors who could approve a number of services beyond the caps when they are justified by medical necessity.

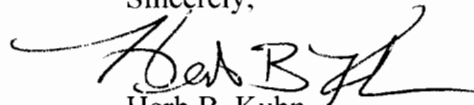
These approaches represent two examples of how this program could work. We continue to evaluate these and other options in order to be in a position to implement this provision as soon as possible after Congress acts.

Claims Denied Immediately After Enactment

In the first phase of implementation, on approval of a request, the Centers for Medicare & Medicaid Services (CMS) would allow adjustment of any claims denied due to application of the caps for services provided in the period between January 1, 2006, when the caps went into effect, and our implementation of the therapy cap exception process.

The CMS is currently developing draft instructions and will do everything we can to implement any statutory revision of the therapy cap provisions as quickly as possible. We look forward to working with you and your colleagues to implement the DRA and its improvements to the Medicare program.

Sincerely,

A handwritten signature in black ink, appearing to read "Herb B. Kuhn". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Herb B. Kuhn

Director

Center for Medicare Management