



# POLARIS PULSE®

*A Bi-monthly Informational Bulletin Brought To You By Polaris Group*

## Part B Therapy Cap Relief for 2007

The Tax Relief and Health Care Act of 2006 authorized the continuation of a Therapy Cap Exception Process through 2007. The Act also set the 2007 conversion factor for physician payment at the same level as in 2006 (\$37.8975), reversing the statutorily mandated 5.0 percent negative update. However, it does not maintain 2007 Physician Fee Schedule (PFS) at 2006 levels as there are a number of other factors that affect the 2007 payment rates.

On December 29, The Center for Medicare and Medicaid Services issued revisions to the Medicare Benefit Policy Manual (Transmittal 63), the Program Integrity Manual (Transmittal 181) and the Claims Processing Manual (Transmittal 1145) to address the 2007 Therapy Cap Exception Process. The transmittals include instructions to contractors indicating they are *a short term implementation of the legislation*.

Local contractors controlled the therapy cap exception during 2006, however, a nationally consistent systematic process is preferred according to CMS. In order to meet legislated timeframes, CMS continued the local processes for the short term and will replace them with a national system change as soon as is practicable. The national process will be described in a future transmittals from CMS. Polaris will provide additional information as it becomes available.

**Key points highlighted in Transmittal 63 (Medicare Benefit Policy Manual, Chapter 15, Section 220: Coverage of Outpatient Rehabilitation Therapy Services) include:**

- COMPLEXITIES are complicating factors that may influence treatment, e.g., they may influence the type, frequency, intensity and/or duration of treatment. Complexities may be

represented by diagnoses (ICD-9 codes), by patient factors such as age, severity, acuity, multiple conditions, and motivation, or by the patient's social circumstances such as the support of a significant other or the availability of transportation to therapy.

- Rehabilitative Therapy - The concept of rehabilitative therapy includes recovery or improvement in function and, when possible, restoration to a previous level of health and well-being. Therefore, evaluation, re-evaluation and assessment documented in the Progress Report should describe objective measurements which, when compared, show improvements in function, or decrease in severity, or rationalization for an optimistic outlook to justify continued treatment.
- Potential for Improvement Due to Treatment - If an individual's expected rehabilitation potential would be insignificant in relation to the extent and duration of physical therapy services required to achieve such potential, therapy would not be covered because it is not considered rehabilitative or reasonable and necessary.
- Improvement is evidenced by successive objective measurements whenever possible.
- Services are of appropriate type, frequency, intensity and duration for the individual needs of the patient.
- Documentation should establish the variables that influence the patient's condition, especially those factors that influence the clinician's decision to provide more services than are typical for the individual's condition.
- The fact that services are typically billed is not necessarily evidence that the services are typically appropriate. Services that exceed those typically billed should be carefully documented to justify their necessity, but are payable if the individual

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patient benefits from medically necessary services.

- Documentation should establish through objective measurements that the patient is making progress toward goals. It is recommended that the reasons for lack of progress be noted and the justification for continued treatment be documented if treatment continues after regression or plateaus.
- Patients who need therapy generally respond to therapy, so changes in objective and sometimes to subjective measures of improvement also help establish the need for services.
- The use of scientific evidence, obtained from professional literature, and sequential measurements of the patient's condition during treatment is encouraged to support the potential for continued improvement that may justify the patients need for therapy.
- Documentation of the evaluation should list the conditions and complexities and, where it is not obvious, describe the impact of the conditions and complexities on the prognosis and/or the plan for treatment such that it is clear to the contractor who may review the record that the services planned are appropriate for the individual.
- Results of one of the following four measurement instruments are recommended, but **not** required:
  - \* National Outcomes Measurement System (NOMS) by the American Speech-Language Hearing Association
  - \* Patient Inquiry by Focus On Therapeutic Outcomes, Inc. (FOTO)
  - \* Activity Measure – Post Acute Care (AM-PAC)
  - \* OPTIMAL by Cedaron through the American Physical Therapy Association
- If results of one of the four instruments above is not recorded, the record shall contain instead the following information indicated by asterisks (\*) and should contain (but is not required to contain) all of the following, as applicable.
  1. Documentation supporting illness severity or complexity
  2. Documentation supporting medical care prior to the current episode, if any
  3. Documentation required to indicate beneficiary health related to quality of life
  4. Documentation required to indicate beneficiary social support including, specifically,
  5. \*Documentation required to indicate objective, measurable beneficiary physical function

### **Financial Limitation – Transmittal 1145 Medicare Claims Processing Manual**

Beginning January 1, 2007, there is no manual process for exceptions to therapy caps. All services that require exceptions to therapy caps shall be processed using the automatic process. All requests for exception are in the form of a KX modifier added to claim lines. Deletion of the manual process for exceptions increases the responsibility of the provider/supplier for determining and documenting that services are appropriate for use of the automatic exception process.

Use of the automatic process for exception does not exempt services from manual or other medical review processes. Rather, atypical use of the automatic exception process may invite contractor scrutiny. Particular care should be taken to document improvement and avoid billing for services that do not meet the requirements for skilled services, or which are described as maintenance rather than rehabilitative treatment.

The KX modifier is added to claim lines to indicate that the clinician attests that services are medically necessary and justification is documented in the medical record.

CMS updated the table of Conditions and Complexities included in the automatic exclusion process and added information on when an ICD-9 Code does not serve as a qualifying diagnosis for a specific discipline. The table is included in Transmittal 1145, available on the CMS website.

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### **CMS Revised Guidance to Surveyors For Drugs and Pharmacy Services**

Revised surveyor guidance for Unnecessary Drugs, Pharmacy Services, Drug Regimen Review, and Labeling and Storage of Drugs and Biologicals became effective on December 18, 2006.

CMS entirely revised interpretive guidelines for F329, Unnecessary Medications, including clarifications of several aspects of medication management and a new medication table that includes medications that are problematic to the nursing home population. The revisions include an Investigative Protocol that covers both Medication and Medication Regimen Review issues and severity guidance for F329.

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Regulatory guidance at Tags F425-431 were combined into three tags, F425 Pharmacy Services, F428 Drug Regimen Review, and F431 Labeling and Storage of Drugs and Biologicals. The new guidance speaks to the provision of pharmaceutical services for the entire distribution system, from ordering and acquisition to administration and disposal of medications to assure a safe system for each resident. CMS also provided severity guidance for each of these F Tags.

Due to these changes to surveyor guidance in Appendix PP, CMS made corresponding changes to certain survey tasks as follows:

- **Task 5**—Text added that describes the assessment of pharmaceutical services
- **Sub-Task 5A**—Text revised to state that each surveyor completing a medication pass observation will review drug storage on their assigned unit(s)
- **Sub-Task 5C**—Text added to guide the surveyor to use the investigative protocol for F329 for each Resident Review, deleted adverse drug reactions section of 5C
- **Sub-Task 5E**—Complete revision of text and renaming of 5E as Medication Pass and Pharmacy Services.

Polaris will present a live audio teleconference - “New Pharmacy Survey Protocols” in January 2007. The training will provide detail about the revisions and the significant impact the new guidelines will have on how you manage your medications and work with your pharmacy consultant.

### SOLUTION CENTER Q&A

**“Where No Question Goes Unanswered”**

**Q:** Last year the RUG rates changed on October 1, 2005 and again January 1, 2006. Since the rates changed on October 1 again this year, will there be RUG rate changes on January 1, 2007?

**A:** No, the January 2006 RUG rates were a result of the new Rehab Plus Extensive Services RUG category that went into effect on January 1. The 2007 SNF Final Rule did not include new RUGs or changes to RUG calculations. The CMS Fiscal Year begins October 1 and ends September 30 annually. The October 1, 2006 rates will remain in place through September 30, 2007.

### **TELECONFERENCE TRAININGS**

Polaris Group is pleased to present the following *CEU approved* teleconference trainings

#### Live Teleconference Trainings

<u>Topic</u>	<u>Date</u>
New Pharmacy Survey Protocol	1/4
Medicare Basics	1/9
Pressure Ulcer Management	1/10
Activity Protocol	1/11
SNF Denial Notices	1/16
Fall Prevention	1/17
New Pharmacy Survey Protocol	1/18
Medicare Skilled Nursing Documentation	1/23
Urinary Continence	1/24
Behavior Assessments	1/25

*Please join us in our Teleconferences .  
For further information regarding these seminars,  
please contact the  
Seminar Department at: 800-275-6252 ext. 233  
Or register at: [www.polaris-group.com](http://www.polaris-group.com)*



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