



American Therapeutic Recreation Association

VIA HAND-DELIVERY

October 3, 2003

Dear Administrator Scully:

On behalf of the undersigned national organizations representing medical rehabilitation hospitals and units and the physicians, therapists, orthotists and prosthetists who practice in them, we respectfully request your intervention in an issue of utmost importance and concern to our members and the patients they serve.

Fiscal intermediaries that contract with the Medicare program in Georgia, Alabama, Tennessee, New Jersey, North Carolina, and Pennsylvania have promulgated draft local medical review policies (LMRPs) intended to constrain and limit the coverage guidelines set forth under the Medicare Hospital Manual, Pub.10, Coverage of Hospital Services, Section 211, Inpatient Hospital Stays for Rehabilitation Care. This effort is being pursued while CMS is in the midst of a rulemaking process to modify the inpatient prospective payment system (IPPS) exclusion criteria for rehabilitation hospitals and units known as the "75% Rule."

Given CMS' ongoing actions to revise the 75% Rule, we consider the timing of this additional LMRP process to be inappropriate and ill advised. Because LMRPs must be consistent with all statutes, rulings, regulations, and may not conflict with CMS National Coverage Decisions or interpretive manuals, the fiscal intermediaries should await CMS guidance before implementing revisions to coverage policies for inpatient rehabilitation stays. See CMS-Pub. 83, sec. 1.3; CMS-Pub. 83, sec. 5.

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Moreover, we believe that the draft LMRPs published to date are seriously flawed, and do not represent appropriate interpretations of medical necessity or Medicare's intent to meet the rehabilitation needs of America's seniors. There are more clinically appropriate and administratively sound methods to define inpatient rehabilitation services and establish reasonable medical coverage guidelines that ensure all patients who truly need medical rehabilitation hospital services will receive them in the future.

We therefore urge you to require that the intermediaries withdraw their current and planned inpatient rehabilitation LMRPs and discontinue further action in this regard until an independent panel of national clinical experts on inpatient rehabilitative care is convened - preferably under the auspices of the Institute of Medicine - and has fully examined the issues associated with medical necessity. Once that study is completed, then CMS should either commence a national coverage process or disseminate the study and its findings to the intermediaries to incorporate in local medical review policies.

We look forward to working with CMS and the intermediaries to help create efficient, effective, and appropriate methods of addressing both of these issues in the coming months.

Sincerely,

American Academy of Neurology
American Academy of Physical Medicine and Rehabilitation
American Congress of Rehabilitation Medicine
American Hospital Association
American Medical Rehabilitation Providers Association
American Occupational Therapy Association
American Physical Therapy Association
American Therapeutic Recreation Association
Association of Academic Physiatrists
Association of Rehabilitation Nurses
Catholic Health Association of the United States
Federation of American Hospitals
National Association for the Advancement of Orthotics and Prosthetics