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January 26, 2016

The Honorable Orrin Hatch

Chairman

Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden

Ranking Member

Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Johnny Isakson
131 Russell Senate Office Building
Washington, DC 20510

The Honorable Mark Warner
475 Russell Senate Office Building
Washington, DC 20510

Dear Chairman Hatch, Ranking Member Wyden, Senator Isakson and Senator Warner:

On behalf of more than 93,000 physical therapists, physical therapist assistants, and students of physical therapy, the American Physical Therapy Association (APTA) thanks you for the opportunity to provide feedback and recommendations regarding the committee's effort to improve care for patients with chronic conditions. APTA applauds the Senate Finance Committee and the chronic care working group for the hard work crafting and assembling the Bipartisan Chronic Care Working Group Policy Options Document.

As experts in movement and the musculoskeletal, neuromuscular, cardiovascular pulmonary, and integumentary systems, physical therapists provide critical services to Medicare beneficiaries with chronic conditions to assist individuals in remaining in their homes and preserve their quality of life as they actively contribute to their communities and society. Physical therapy allows the patient to maintain independence and mobility, and ultimately reduces overall costs on the health care system. Examples of physical therapists managing chronic conditions include:

- For a patient with Parkinson's Disease, a physical therapist can evaluate and manage impairments, activity limitations and participation restrictions as a result of the disease process and recommend treatment to obtain the individual's highest functional level. This may include strategies to enable walking and movement, the use of assistive devices, interventions to efficiently and safely carry out tasks, and/or evaluating the individual's risk for falls. Physical therapists create a plan of care and adjust the plan as needed as functional levels change.

- For a patient with Diabetes, physical activity is a cornerstone for prevention and management of the condition. Regular physical activity may also reduce the need for medications, particularly if an individual has pre-diabetes. A physical therapist will perform an evaluation, including a review of the patient's medical history and medications, and develop an individualized plan of care for a patient while monitoring and screening for other conditions.

With the three main bipartisan goals that the Policy Options Document outlined in mind, APTA is pleased to provide the following input and feedback for several of the Document's policy considerations. In our comments, we seek to focus on policies that will improve access and care to patients, as well as reduce expenditures in the health care system in the future.

Receiving High Quality Care in the Home **Expanding the Independence at Home Model of Care**

The working group is seeking feedback on changes that could improve the current program design of the Independence at Home (IAH) model should it be expanded nationwide. While APTA strongly supports efforts to retain a beneficiary's right to remain in their homes and retain their independence, we believe certain safeguards should be in place if this model is expanded. Specifically, Congress should direct the Department of Health and Human Services (HHS) to implement requisite policies to ensure elimination of any institutional bias in care as articulated in the Olmstead Decision. In addition, there should be policies that de-incentivize choosing one setting over another which can be accomplished through the use of standardized assessment tools as mandated in the Improving Post-Acute Care Transformation Act (IMPACT). The ability to compare quality across post-acute care settings will help inform future payment policy. Getting patients the right care from the right provider at the right time is vital in improving patient outcomes, reducing hospitalizations, and lowering health care costs.

We also encourage the working group to recognize the vital importance of skilled maintenance to these patient populations. While there may be cases where physical therapists provide restorative therapy and expect a functional improvement, many patients with chronic conditions require therapeutic interventions to maintain their level of function, prevent decline or slow down the progression of deterioration. Skilled maintenance therapy is a critical component of achieving long-term functional independence and should be accounted for in any policy or model of care.

As the document looks for input on whether hierarchical condition categories are available for fee-for-service beneficiaries, APTA would simply recommend that there is a focus on functional outcomes. We are hopeful for the current models being tested under the Center for Medicare and Medicaid Innovation's (CMMI) Bundled Payment for Care Improvement (BPCI) Model that breakdown patient

populations into the different condition categories and we would recommend that Congress take note of the findings derived in these models before mandating specific hierarchical condition categories.

Advancing Team-Based Care
Providing Continued Access to Medicare Advantage Special Needs Plans for Vulnerable Populations

While APTA is not opposed to the Document’s consideration of extending or making a permanent Special Need Plan (SNP) authorization, we feel that it is important all plans have access to physical therapy services. These plans should have parity with other SNPs and Medicare Advantage plans. The complex beneficiaries for whom SNPs enroll require a comprehensive plan of care by an interdisciplinary care team and it is critical that any plan developed be aligned with other plans so the patient does not receive disjointed care.

Expanding Innovation and Technology
Adapting Benefits to Meet the Needs of Chronically Ill Medicare Advantage Enrollees

APTA believes that allowing Medicare Advantage plans flexibility to tailor benefits based on the chronic condition of individual enrollees presents some significant benefits that can improve patient care. Reductions in cost sharing for services that treat or prevent chronic conditions will increase beneficiary access to medically necessary services. One such reduction would be that of high-co-pays.

The Medicare Managed Care Manual offers guidance on cost-sharing standards for MA plans, including a maximum out-of-pocket (MOOP) limit on enrollee cost-sharing that includes costs for all Parts A and B services. These cost-sharing standards refer to co-payments, coinsurance, and deductibles. The yearly MOOP amount can be different between Medicare Advantage plans. Copays for physical therapy can be as much as \$40 per visit. Per the Medicare regulations, MA plans are prohibited from using different co-payment amounts that are based on the cumulative number of visits. Considering the fact that a patient may require physical therapy services multiple times per week, high copays are a severe disincentive to continue receiving care. This not only compounds the patient’s need for therapy, but the chronic nature of the problem.

Wellness and prevention programs can also be very beneficial to patients. As the Document states, these can be tailored to specific chronic conditions and may be able to prevent the progression of chronic conditions, or at least slow them down. APTA supports preventative measures and wellness programs and is integrally involved in developing ways to help patients before they develop chronic conditions.

The Document stated it may make “adjustments to provider networks that allow for a greater inclusion of providers and non-clinical professionals to treat the chronic

condition or prevent the progression of chronic disease.” While APTA is supportive of a collaborative, team-based approach to treating patients with chronic disease, we would like clarification on the definition of “non-clinical” professional within the Document. Only qualified physical therapists or physical therapist assistants under the direction of a physical therapist can provide physical therapy. Any deviation from using licensed physical therapists and physical therapy assistants to provide physical therapy services could put patients at serious risk. APTA would encourage Congress to put policies in place that assure only qualified providers are delivering care as outlined by federal and state law

APTA also has concerns with MA operations and oversight. While MA plans are offered by private insurance companies, all providers accepting MA patients must adhere to the terms and payment conditions of the specific MA plan and also meet federal Medicare requirements that apply to MA plans. MA plans must also meet CMS-set guidelines, such as limits to cost-share for specific services that, as of 2015, include physical therapy. We strongly encourage Congress to direct HHS to enact greater oversight of MA plans to ensure that the plans strictly follow Medicare coverage regulations. APTA also wants to ensure that providers, such as physical therapists, and patients are not unfairly penalized by arbitrary caps on care, onerous compliance requirements, and confusing policies. APTA urges the working group to require that MA plans and subsequent correspondence is clearly written and easily understood by providers and patients.

Expanding Supplemental Benefits to Meet the Needs of Chronically Ill Medicare Advantage Enrollees

The working group has stated it is looking for criteria that could help determine what new supplemental benefits could be offered and whether safeguards should be put in place so these new benefits do not lead to abusive practices. APTA generally believes that the more options available to patients is beneficial, assuming the appropriate licensed providers are providing the care. We believe that if additional supplemental benefits are included, they should be clear, distinct and that the benefits should not overlap. Otherwise this policy could cause confusion among beneficiaries over which providers can provide what care.

APTA encourages the working group to ensure coverage for prevention services that help manage chronic conditions and screen for further comorbidities. Coverage and payment for routine physical therapy visits could allow for better management of chronic conditions. Routine physical therapy visits will ensure that patients can maintain their level of function and actively prevent further decline in the function of patients with chronic conditions. Physical therapists are integral team members in ensuring patients have a safe home environment that would allow for individuals with chronic conditions to remain at home and in the community.

A specific example of an area where physical therapy makes a great impact is falls. Falls is a significant risk for patients with chronic conditions and can result in

serious injuries requiring hospital inpatient admissions. Physical therapists can provide interventions that can effectively reduce falls risk in the chronic care population.

Increasing Convenience for Medicare Advantage Enrollees through Telehealth

The working group asked whether telehealth services provided by a Medicare Advantage plan be limited to only those allowed under traditional Medicare. It also asked whether additional telehealth services be permitted and if so, which ones?

APTA strongly urges the working group to cover prevention and telehealth services in the future. Telehealth may be used to overcome barriers of access to services caused by distance, unavailability of specialists and/or subspecialists, and impaired mobility. Telehealth offers the potential to extend physical therapy services to remote, rural, underserved, and culturally and linguistically diverse populations. Telehealth will not replace traditional clinical care, but it will give PTs and PTAs the flexibility to provide services in a greater capacity.

We believe that incentives and pathways for non-physician providers, such as physical therapists, to participate in telehealth are essential to the success of managing a patient's condition through the use of technology. Currently, Medicare provides for limited coverage of telehealth services and physical therapists are not eligible providers under Medicare for reimbursement of these services. Many stakeholder groups have endorsed the idea of telehealth therapy coverage as the next thoughtful step in providing access to critical health care services, including those for chronic conditions.

Beneficiaries who would benefit from care delivered via telehealth are more likely to avoid readmissions or expensive hospital stays if their care can be delivered with lower costs by more than one provider. APTA believes episodes of care delivered via telehealth have the potential to reduce Medicare expenditures but only if the full episode of care, including full coverage of all services in the episode, is deemed reimbursable.

Providing ACOs the Ability to Expand Use of Telehealth

The working group requested feedback on whether to lift the originating site requirement entirely or to specify additional originating sites. APTA supports this expansion of telehealth, and we recommend that telehealth be expanded through Medicare to encompass the service of a wider range of providers as articulated above. As payment shifts to innovative, valued-based payment methods, telehealth is an essential tool for providers to improve the quality of care. Telehealth can improve care, access, cost and quality. Telehealth can offer patients access to providers in rural and underserved areas, as well as medical services without the need to travel long distances. Therefore, we believe that providers in valued-based payment models should have the flexibility to fully use telehealth. APTA encourages Congress to direct HHS to maximize the ability of multiple types of

providers to use telehealth services to effectively manage patients throughout continuum of care.

Expanding Use of Telehealth for Individuals with Stroke

The working group discussed eliminating the originating site geographic restriction for the purpose of quickly identifying and diagnosing strokes. As stated above, APTA supports the expansion of the use of telehealth and this change will help patients get appropriate care in an expedited manner. While a patient should be evaluated by a neurologist or the appropriate physician, it is important for that patient to have access to all medically necessary services such as physical therapy.

For a patient that had a stroke, a physical therapist may use telehealth to help continue and progress the patient through their rehabilitation. This would likely be part of a plan of care that includes in person visits in addition to telehealth visits. The physical therapist would use clinical judgement to ensure that providing care via telehealth is safe and providing clinical benefits for the patient; use HIPAA compliant systems; and confirm that the patient consents to receiving the care remotely. The treatment may include the physical therapist observing the patient perform physical therapist prescribed exercises to increase strength and decrease tone in muscles that will improve mobility. During the observation the therapist may use verbal cues and suggest modifications to the activity to ensure proper performance while monitoring response to the activities such as movement patterns, heart rate and blood pressure as indicated. In addition, the physical therapist may direct the patient to perform activities such as walking. During the activity, the patient may be instructed to shift their weight over their hemiparetic limb; keep their knee straight; engage their trunk muscles; and keep their head up to help improve their walking and postural control. The physical therapist would use clinical judgement to ensure that the patient is progressing appropriately and would have the patient come to the clinic for in person visits if there were concerns that the telehealth visit is not effective or appropriate.

Identifying the Chronically Ill Population and Ways to Improve Quality Ensuring Accurate Payment for Chronically Ill Individuals

The workgroup stated it believes plans and providers that participate in the Medicare program should be appropriately paid for and evaluated on the care that they provide to chronically ill Medicare beneficiaries. The workgroup considers making changes to the CMS-HCC Risk Adjustment Model regarding costs. APTA is generally supportive of more accurate risk-adjusted payments. In order to effectively manage and treat chronic conditions, and thus appropriately pay for care, barriers to access should be eliminated to provide access to medically necessary services. We urge the working group to include a full repeal and reform of the Medicare therapy cap in any effort to improve care for patients with chronic conditions. Individuals with chronic conditions such as Parkinson's disease, multiple sclerosis, and arthritis are particularly hard hit by the therapy cap as they

need extensive therapy services to maintain their level of function, prevent decline or slow down the progression of deterioration and to reduce downstream Medicare expenditures. APTA also firmly believes that improvement ability never should be the sole factor in determining whether a patient requires the services of a physical therapist. When skilled services are required to maintain the patient's current condition or to prevent or slow further deterioration, coverage cannot be denied because of the lack of potential for improvement. Payment policies should follow this standard.

As alternative payment models are developed and implemented, APTA strongly supports the need to waive certain statutory requirements. Examples include the Medicare therapy cap, the 3 day prior hospital stay for Skilled Nursing Facilities, and restrictions on telehealth. It is imperative that there are no impediments to the patient getting the proper care at the proper time.

Providing Flexibility for Beneficiaries to be Part of an Accountable Care Organization

The working group is considering recommending Accountable Care Organizations (ACOs) be given the choice regarding either the prospective or retrospective assignment of beneficiaries, as well as giving Medicare fee-for-service beneficiaries the ability to voluntarily elect being assigned to the ACO in which their main provider is participating.

Feedback is requested on whether a beneficiary who voluntarily elects to be assigned to an ACO should be allowed to receive services from providers that are not participating in the ACO. APTA strongly believes that the decision to participate or not to participate in an ACO should be solely decided by the patient and/or the provider/supplier. Both entities must make decisions free of coercion or pressure from outside influences.

Feedback was requested on whether ACOs that provide services to beneficiaries who voluntarily elect to enroll in the ACO should receive an upfront collective payment for all services provided to these beneficiaries. APTA does not support this and strongly urges that there is a robust set of safeguards and quality measures that apply to ACOs to reduce any financial incentives to decrease utilization and to ensure that ACOs are meeting the goals of the program. We urge Congress to ensure that rehabilitation services such as physical therapy are integral components of ACOs. If strong quality measures are not in place, there is the potential for lack of beneficiary protection against underservice. We believe that payments under the ACO and other innovative models should be intricately tied to quality and outcomes. Congress should enforce measures that penalize ACOs that fail to take appropriate measures to maximize care coordination.

Developing Quality Measures for Chronic Conditions

APTA supports the development of quality measures for chronic conditions and would encourage measures on patient function. Measures of patient function cross several of the topic areas listed above including patient-reported measures, care coordination and care transitions and outcomes of care for chronic populations. Measures of patient function are critically important to the chronic care population as a patient's level of function impacts many aspects of care. A patient's level of function does impact a patient's ability to transition successfully back to the community. Recent evidence indicates that patient function is associated with increased risk of 30-day all-cause hospital readmissions and may be an important factor in preventing readmissions for Medicare seniors that is not currently accounted for in measure methodologies (Greysen SR, et al. JAMA Intern Med. 2015;175(4):559-565). APTA also believes that physical therapists should have a role in community-level measures like obesity and diabetes prevention, similar to what the working group laid out in its white paper.

APTA strongly urges Congress to ensure that there is a robust set of quality measures aimed at reducing any financial incentives to decrease utilization and to ensure that a program aimed at chronic care management is meaningful. We strongly recommend that CMS ensure that rehabilitation services such as physical therapy are integral components of this care and therefore, appropriate measures that address function and show the value of physical therapy for this patient population is integral. If strong quality measures are not in place, there is the potential for lack of beneficiary protection against underservice.

Empowering Individuals & Caregivers in Care Delivery Eliminating Barriers to Care Coordination under Accountable Care Organizations

The working group stated it is considering allowing ACOs in two-sided risk models to waive beneficiary cost sharing, such as co-payments, for items or services that treat a chronic condition or prevent the progression of a chronic disease. The workgroup seeks feedback on whether the items or services eligible for reduction should be defined through rulemaking or be left to the discretion of the ACO.

APTA believes that this should be defined through rulemaking. Currently, there is a great deal of latitude in which an ACO can operate and APTA is very concerned about the ability of the ACO restricting referrals to other providers outside of the ACO such as physical therapists in private practice. Rulemaking that defines the items or services for which costs are waived or reduced would make it clear for patients, providers, and the ACO itself. Clearly defined rules would also help prevent cherry-picking of patients by the ACO.

The working group requested input on the extent that waiving cost sharing would incentivize beneficiaries to receive these services. APTA believes that this would

create an unfair playing field. This would create incentives to have care administered by one provider over another. The determining factor should be the selection of the provider that will give the best and most appropriate care to the patient at that time.

APTA strongly believes that the success of ACOs in improving the quality of care and decreasing costs will depend on the collective efforts of all health care providers throughout the health care continuum, including independent physical therapists, group physical therapy practices, home health agencies, rehabilitation agencies, inpatient rehabilitation facilities, skilled nursing facilities and other provider types.

Increasing Transparency at the Center for Medicare and Medicaid Innovation

The workgroup is exploring whether to require CMMI to issue required notice and rulemaking for models that impact significant providers or beneficiaries, or to require CMMI to issue notice and comment rulemaking for all mandatory models and at least a 30 day public comment period for all other innovation models. While APTA is very appreciative of the work that has taken place under CMMI, we believe that there is a greater capacity to implement more meaningful innovative models that impact patient care. Physical therapists are central to the quality of care throughout the health care continuum and work cohesively as members of the health care team to ensure the success of innovative delivery models such as bundled payment and accountable care organizations. The care provided by physical therapists is critical to impact function, improve care and to successfully transition patients from one setting to the next. Therefore, we remain steadfast in our efforts to work with the Administration to craft appropriate laws and regulations that support and foster the role of non-physician providers such as physical therapists in the work of CMMI.

Specifically, we urge that CMMI create more grant funding opportunities aimed at providers such as physical therapists. Unfortunately, most of the current funding opportunities are for physicians, hospitals, or large health systems. With health care reform's emphasis on developing new models of care that reduce costs and increase patient outcomes, it is important that physical therapists (PTs) play an active role in the care and management of patients under innovative models of care. We also would encourage the working group to find opportunities to leverage associations in this process. Professional associations not only represent their providers, but offer a wealth of information and assistance.

APTA was pleased to see the Affordable Care Act include innovative models of care, like direct access to physical therapy services. We urge the working group and Congress to continue working with CMMI on innovative models of care, and to push for those models already statutorily suggested to CMMI forward. Currently, Medicare beneficiaries must receive a referral from a physician or have their physical therapy plan of care certified by a physician to receive outpatient physical therapy services. This is burdensome and delays access to services, particularly in

rural and urban underserved communities. We believe that CMMI can achieve cost savings and speed access to care if this model is studied and implemented.

Conclusion

Thank you for your hard work and continued scrutiny on this pressing health and payment policy issue. APTA stands ready to assist the working group and would be pleased to provide additional information on the topics listed above. If the working group has questions or needs additional resources, please contact Justin Elliott, Vice President of Government Affairs at justinelliott@apta.org or 703-706-3161.

Thank you for the opportunity to provide recommendations.

Sincerely,

A handwritten signature in black ink that reads "Sharon L. Dunn". The signature is written in a cursive, flowing style.

Sharon L. Dunn, PT, PhD, OCS
President

SLD: mjh