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# Program Memorandum Intermediaries/Carriers

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Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
Medicaid Services (CMS)

Transmittal AB-03-097

Date: JULY 3, 2003

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## CHANGE REQUEST 2837

**SUBJECT: Delay in Implementation of Outpatient Therapy Caps to September 1, 2003**

This Program Memorandum (PM) delays implementation of PM AB-03-018, (CR 2183), dated February 7, 2003. It modifies only the implementation date for the limitations on therapy services from July 1, 2003, to September 1, 2003, in all PMs that state July 1, 2003, as the beginning of therapy caps including: AB-03-057 (CR 2709), AB-03-085 (CR 2792), and AB-03-072 (CR 2603). All other information remains the same.

### Background

Section 4541(a)(2) of the Balanced Budget Act (BBA) (P.L. 105-33) of 1997, required payment under a prospective payment system for outpatient rehabilitation services. Outpatient rehabilitation services include the following services:

- Physical therapy (which includes outpatient speech-language pathology); and
- Occupational therapy.

Section 4541(c) of the BBA required application of a financial limitation to all outpatient rehabilitation services (with the exception of outpatient departments of a hospital). These limits were in effect in 1999, but were removed by law in 2000-2002. The statutory limits went back into effect in 2003. The Centers for Medicare & Medicaid (CMS) initially announced implementation of the caps beginning July 1, 2003.

### Delay in Implementation

To address issues arising in litigation in Federal Court, the Centers for Medicare & Medicaid Services has elected to delay implementation of the outpatient therapy limitations from the previously announced implementation date of July 1, 2003, to a new implementation date of September 1, 2003.

Therapy caps will not affect outpatient therapy services provided between January 1, 2003, and August 31, 2003. Services rendered on or after September 1, 2003, will be subject to outpatient therapy caps as described in prior Program Memoranda including AB-03-018, AB-03-057, AB-03-073, and AB-03-085. Only the date of implementation has been changed.

The full amount of \$1590 for each cap may be used for therapy services rendered between September 1, 2003, and December 31, 2003.

### Denied Claims

CWF will adjust the implementation date so that claims with dates of service July 1 through August 31, 2003, are not subject to financial limitations. Although unlikely, if a claim is denied due to amounts exceeding the therapy limitations between July 1, 2003, and August 31, 2003, carriers and intermediaries should treat these claims as claims denied in error. Adjust the claim to pay the amount that would be appropriately paid without regard to outpatient therapy financial limitations.

**CMS-Pub. 60AB**

## **Notice to Beneficiaries of Implementation of Therapy Limitations**

A Joint Signature Letter (JSL) was sent to all contractors on July 1, 2003, announcing this change. The letter requires contractors to amend the current therapy caps alert (sent to you on June 30, 2003) that is included on all Medicare Summary Notices (MSN). The MSN change is required as soon as possible but no later than July 7, 2003. You are directed to print the message in bold, to the extent that it is feasible without shared systems changes. The MSN message required by that joint signature letter is repeated here for your information:

**ALERT: Starting with services received on September 1, 2003, coverage by Medicare will be limited for outpatient physical therapy (PT), speech-language pathology (SLP), and occupational therapy (OT) services. For the period September 1, 2003 through December 31, 2003, the limits are \$1,590 for PT and SLP combined and \$1,590 for OT. Medicare pays up to 80% of the limits. These limits don't apply to therapy you get at hospital outpatient departments, unless you are a resident of and occupy a Medicare-certified bed in a skilled nursing facility. If you have questions, please call 1-800-MEDICARE.**

### **Spanish Translation**

**ALERTA: Comenzando el 1 de septiembre del 2003, la cubierta de Medicare será limitada para los servicios ambulatorios de terapia física, patología del habla y terapia ocupacional. Durante el periodo del 1 de septiembre del 2003 hasta el 31 de diciembre del 2003, el límite combinado para las terapias físicas y del habla es de \$1,590. Además, hay un límite separado de \$1,590 para las terapias ocupacionales. De estos límites, Medicare paga hasta el 80%. Estos límites no se aplican a la terapia que usted recibe en un hospital ambulatorio, a menos que usted resida en un centro de enfermería especializada y que ocupe una cama certificada por Medicare. Si tiene alguna pregunta, por favor llame al 1-800 MEDICARE.**

### **Provider Education**

Intermediaries and carriers shall inform affected provider communities by posting relevant portions of this instruction on their Web sites within two weeks of the issuance date of this instruction. In addition, this same information shall be published in your next regularly scheduled bulletin. If you have a listserv that targets the affected provider communities, you must use it to notify subscribers that information about "Delay in Implementation of Outpatient Therapy Caps to September 1, 2003" is available on your Web site.

**The *effective date* for this PM is July 1, 2003.**

**The *implementation date* for this PM is July 21, 2003.**

**This PM may be discarded after July 1, 2004.**

**These instructions should be implemented within your current operating budget.**

**If you have any questions, contact your local regional office.**