

## **APTA Advocacy Network Newsletter — May 2023 Edition**

### A Summer of Advocacy

As we approach the Memorial Day holiday and the start of summer, all eyes are on the U.S. Congress as they wrestle with a path forward to raise the debt ceiling and prevent the United States from financial default. While there may be gridlock on Capitol Hill, APTA and APTA member advocates have been busy advancing key bipartisan priorities at both the federal and state levels.

On Tuesday, April 4, the Strengthening Medicare for Patients and Providers Act (H.R. 2474), was introduced in the U.S. House of Representatives by Reps. Raul Ruiz, D-Calif., Larry Bucshon, R-Ind., Ami Bera, D-Calif., and Mariannette Miller-Meeks, R-Iowa. This bipartisan legislation would provide an annual inflationary payment update to the Medicare Fee Schedule's Conversion Factor based on the Medicare Economic Index. MEI is a measure of inflation faced by health care providers with respect to their practice costs and general wage levels.

Congress has stepped in over the past few years to ameliorate cuts to dozens of providers under the Medicare Fee Schedule that were triggered by coding changes and the statutory budget neutrality requirement affecting the MFS. Unfortunately, even with these stopgap measures, [a wide range of providers including PTs](#) continue to see Medicare payments decrease amidst record-setting inflation and rising practice costs, underscoring the need for permanent solutions. Unlike other Medicare payment systems, the Medicare Fee Schedule does not receive an annual payment update; if enacted, this legislation would ensure that the fee schedule would be given an annual increase based on MEI.

This legislation takes a first step in the right direction by providing a common-sense annual adjustment to payment and highlights the increased costs of running a practice under the current broken fee schedule. It's an indicator that even bigger reform needs to happen. The legislation falls squarely in line with APTA's advocacy priorities and more than 100 other provider and patient organizations that have been [pressing for an overhaul of the outmoded fee schedule system](#). APTA urges members, patients, and supporters to use the [APTA Patient Action Center](#) to voice their support for H.R. 2474 to lawmakers.

In addition to legislation [expanding locum tenens for physical therapists](#), other APTA-supported legislation has been introduced in the new session of Congress. On April 6, Rep. Don Bacon, R-Neb., and Rep. Lisa Blunt Rochester, D-Del., reintroduced the [Optimizing Postpartum Outcomes Act](#) in the House of Representatives. This APTA-

supported bipartisan legislation is aimed at increasing awareness of the importance of pelvic health physical therapy. The legislation would require CMS to issue guidance on prenatal and postpartum pelvic health physical therapy under Medicaid and CHIP; direct GAO to identify and report to Congress on gaps in coverage for pelvic health physical therapy and related services for women who are postpartum; and instruct the Centers for Disease Control and Prevention to educate providers and women who are postpartum on the importance and availability of pelvic health physical therapy.

At the state level, APTA chapters have been busy advocating on bills addressing a wide range of issues from prior authorization and Medicaid payment to scope of practice and the PT licensure compact. So far this year, we have seen two big wins on expanding direct access in Missouri and Virginia. In addition, Tennessee and North Dakota were successful in enacting legislation that add PTs to the list of providers who may determine disability for the purposes of disability parking placards. In Washington, legislation adding dry needling to the PT scope of practice was signed into law.

One of the best ways to have your voice heard is by meeting with your members of Congress. APTA is busy preparing for its [2023 APTA Capitol Hill Day](#), scheduled for July 24-25 in Washington, D.C. The deadline to register is June 15. For those coming, please join us for PTPAC's 50th anniversary party, 8-10 p.m. at the LINE Hotel in Washington, D.C. Buy tickets when you register for Capitol Hill Day or on-site at the House of Delegates on July 24.

As always, we appreciate your continued advocacy and support and thank you for being members of APTA!

Justin Elliott, Vice President, Government Affairs

## **Congressional Update**

### **The End of the COVID-19 Public Health Emergency**

On Thursday, May 11, the COVID-19 public health emergency officially ended and with it the [various waivers](#) that have been in place since early 2020.

Of note for PTs and PTAs the ability to utilize telehealth under Medicare, which was a critical waiver allowed during the PHE, was extended by Congress through the end of 2024. APTA also was successful in [getting confirmation from CMS](#) (see question 21) that the continued use of telehealth by therapists

### **PT Compact Legislation Gains Support**

[H.R. 1310, the States Handling Access to Reciprocity for Employment \(SHARE\) Act](#), was introduced by Reps. Tracey Mann, R-Kan., and Joe Neguse, D-Colo. The SHARE act would ensure that federal background checks are completed so PTs can participate in the PT compact and provide critical therapy care for patients in multiple states, and especially for those in medically underserved areas. This bipartisan bill is already co-sponsored by 18 members of Congress.

is allowed for hospital-based outpatient departments. CMS responded to advocacy by APTA and other organizations and now says that hospitals can bill Medicare for services provided via telehealth until the end of 2023. Previously, CMS had suggested any setting that used a UBO4 claim form — the form used by most hospitals — was excluded from billing for telehealth after the end of the PHE.

While the PHE may be over, advocacy aimed at addressing the impact of the pandemic on the health care workforce continues, as well as providing resources to support providers and patients. The [APTA-supported legislation](#) TREAT Long COVID Act was introduced in the U.S. House of Representatives to increase access to medical care and treatment for communities and individuals struggling with long COVID and its associated conditions. The bill will fund the expansion of long COVID clinics and empower health care providers to treat patients with it in their own communities. Finally, to help educate consumers, patients, and other providers about the role of PTs and PTAs in the treatment of long COVID, APTA recently released its latest [ChoosePT public service announcement](#).

According to the Congressional Budget Office, which estimates what a bill could cost, it does not require additional federal spending to implement. APTA learned that the House Education and Workforce Committee, where the bill is referred, does not have any objection to it. The House Judiciary Committee, where it is also referred, is reviewing the SHARE Act. APTA is working with other provider groups to lobby members in both parties and chambers to get the bill enacted.

## State Update

### Two Chapters Achieve Major Direct Access Wins

The 2023 state legislative season has been quite successful for many state chapters, especially in improving patient access to physical therapist services. While all 50 states, the District of Columbia, and the U.S. Virgin Islands allow for some form of direct access to evaluation and treatment, 27 states, the District of Columbia, and the U.S. Virgin Islands have provisions tied to treatment without referral, such as time or visit limits. Many APTA chapters are now pursuing legislation to remove such provisions tied to direct access. While some state legislatures are still in session, APTA's State Affairs department wants to highlight two direct major wins that have been signed into law in Missouri and Virginia.

## **Missouri**

On Thursday, April 27, Missouri Governor Parsons signed legislation expanding direct access to physical therapist services without a referral. Prior to this, Missouri had one of the most restrictive direct access laws in the country. Under the new law, physical therapists may treat without a referral but shall refer to an approved health care provider patients who do not demonstrate measurable or functional improvement within 10 visits or 30 days, whichever occurs first. A physical therapist shall consult with an approved health care provider after 10 visits or 30 days, whichever occurs first, before continuing physical therapy if a patient's condition has improved and the physical therapist believes that continued physical therapy is reasonable and necessary. Afterward, the physical therapist shall notify the provider of continuing physical therapy every 10 visits or 30 days unless the provider directs otherwise.

Below is a photo from the Missouri governor's signing ceremony.



*Please note: the picture is best viewed in a web browser or on your mobile device and may not appear on a desktop email application (ie, Outlook on your computer). Thank you!*

## **Virginia**

On Tuesday, March 21, Virginia Governor Youngkin signed legislation eliminating the provision that limited treatment without a referral by a licensed physical therapist to 60 consecutive days after evaluation of the patient. The bill also eliminates the requirement that a physical therapist only may practice dry needling under a referral. Finally, the legislation clarifies that a referral is not required for physical therapist services for infants and toddlers, birth to age 3, who require physical therapy services

to fulfill the provisions of their individualized services plan under Part C of the Individuals with Disabilities Education. This law takes effect Saturday, July 1, 2023. Congratulations to the Missouri and Virginia chapters for their legislative wins in removing restrictions tied to treatment without a referral.

## **2023 APTA State Legislative Tracking Chart**

Each year, APTA works with state chapters that are pursuing legislation on a variety of topics; everything from reigning in prior authorization and supporting fair PT copays to enacting the PT interstate licensure compact and scope of practice changes. Want to know more about which hot legislative bills are tracked in your state? [Check out some of the 2023 state bills chapters are working on and the State Affairs department is tracking.](#)

## **Regulatory Update**

### **Newly Proposed Medicaid Rules Improve Access to Care**

The U.S. Center for Medicare & Medicaid Services has turned its attention to Medicaid and the Children's Health Insurance Program, or CHIP, in two sets of proposed rules — one focused on [Medicaid managed care plans and CHIP](#), and the second on [overall access to Medicaid services](#) — that include several large-scale changes aimed at improving the patient experience. Based in part on feedback gained from enrollees, provider groups including APTA, and advocacy organizations, the proposed rules are consistent with a larger shift at CMS toward improvements in continuity of care, a focus that was also evident in CMS' recently [finalized rules around prior authorization in Medicare Advantage plans](#) that included many changes advocated by APTA.

The proposals, largely supported by APTA, range from limiting patient waits to increasing provider payment in Medicaid managed care plans, all good news for patients and providers who participate in the nation's largest health programs. And many of the themes of the proposed changes are echoed in a recently finalized [rule adopted by HHS around provisions of the Affordable Care Act](#) that seeks to improve patient access to ACA marketplace plans by simplifying the enrollment process, increasing access to in-network providers, and reducing plan proliferation. APTA will be providing comments on both sets of rules.

For more information on the proposals in these rules, read our [recent article](#) covering the issues.

## **Grassroots Update**

### **Raise Your Voice With Congress at APTA Capitol Hill Day**

Advocating for physical therapy on Capitol Hill with hundreds of other APTA members is an experience like no other. **Join us July 24-25 for [APTA Capitol Hill Day](#).**

To kick off the event, there will be a mandatory advocacy training at 4 p.m. ET on July 24 that will take place at the host hotel, the Omni Shoreham in Washington, D.C. You will learn about the issues we are advocating for, how to be a successful advocate, and meet with others attending from your state to prepare for your meetings.

On July 25, you will be on Capitol Hill meeting with your representatives and senators to talk about important issues that will impact the future of the physical therapy profession. **Please do not schedule Capitol Hill meetings on your own; APTA has hired a vendor that will schedule all meetings for you.**

[Registration is open today!](#) [Learn more](#) and don't miss your chance to raise your voice on Capitol Hill.

## **PTPAC Update**

### **2024 Elections: Presidential Battleground States and Current Senate Ratings**

Inside Elections, from Nathan Gonzales, is an exclusive look at the elections and where they stand at this point. APTA Advocacy Network members [can view this exclusive digest](#) that includes a look at presidential toss-up states and the latest data on critical Senate races.

### **Attend PTPAC's 50th Anniversary Party Overlooking Washington, D.C.**

Planning to attend APTA Leadership Congress? Enjoy an unforgettable view of the Washington, D.C., skyline and support PTPAC's 50th anniversary event during APTA Leadership Congress. This year the event will take place on the rooftop of [The LINE Hotel](#), Monday, July 24, 8-10 p.m. Join your friends and meet new ones while supporting PTPAC!

Tickets cost \$100 each and can be purchased when registering for APTA Leadership Congress.

*Contributions to PTPAC are not tax deductible as charitable contributions. Contributions are voluntary. Your contribution will be used to support candidates for federal office who support physical therapy issues. The amount given by the contributor, or the refusal to give, will not benefit or disadvantage the person being solicited. The suggested amount is only a suggestion. More or less than the suggested amount may be given.*