Outpatient Therapy: Escalating Risk

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Today’s Topics

1. Therapy Caps: No Safe Haven
2. Functional Limitation Reporting
4. Reports: GAO, MedPAC, OIG
5. Best Practice Navigating Risk

Therapy Caps
Therapy Caps – No Safe Haven

- Hospitals – October 2012
  - CY 2013
  - Surprises?
- CAH – 2014 MPFS Proposed Rule
- Beneficiary impact?

Advanced Beneficiary Notice

- 2012 – Voluntary notice
  - Providers pre-emptively shift risk
  - Beneficiaries – notified by CMS
- 2013 – Mandatory notice
  - Medically necessary = KX modifier
  - Not medically necessary = GA modifier
  - GA cannot be used with KX
  - CMS system notices

Functional Limitation Reporting
G Codes & Severity Modifiers

- CMS mandated to collect information on function and condition
  - Onset of every therapy episode, every 10th visit at a minimum, discharge
  - July 1st mandatory report
- Industry concerns
- How is it going for you?
- MM SE1307, eff: 7/2/2013

Hospitals – Special Concerns

- Inpatients with Part B only
- Part A to Part B
- Observation
- OP documentation requirements
- Has this been thought out?

Tied to Long Term Goal

- Long term treatment goals should be developed for the entire episode of care in the current setting. When the episode is anticipated to be long enough to require more than one certification, the long term goals may be specific to the part of the episode that is being certified. Goals should be measurable and pertain to identified functional impairments. When episodes in the setting are short, measurable goals may not be achievable; documentation should state the clinical reasons progress cannot be shown.
- The functional impairments identified and expressed in the long term treatment goals must be consistent with those used in the claims-based functional reporting, using nonpayable G-codes and severity modifiers, for services furnished on or after January 1, 2013. (Reference: 42CFR410.61 and 42CFR410.105 (for CORFs))
If Not One of the “Four”…

- Documentation required to indicate objective, measurable beneficiary physical function including, e.g.,
  - Functional assessment individual item and summary scores (and comparisons to prior assessment scores) from commercially available therapy outcomes instruments other than those listed above; or
  - Functional assessment scores (and comparisons to prior assessment scores) from tests and measurements validated in the professional literature that are appropriate for the condition/function being measured; or
  - Other measurable progress towards identified goals for functioning in the home environment at the conclusion of this therapy episode of care.

Some (Deceivingly) Simple Questions…

1. What is the patient’s primary functional limitation? (Hint: try asking the patient) Is it important? What was the patient’s prior level of function?
2. What is the functional limitation category for the primary limitation?
3. Based on your findings, what is the current functional status (impairment modifier) on the 7 point functional scale?
4. What is the rationale for your assessment of the impairment/functional status?
5. What is the projected functional goal (impairment modifier) on the 7 point functional scale?
6. What is your rationale for the functional goal? Why is it reasonable and achievable?

Manual Medical Review
Medical Review (MR) Program

- CMS instructs contractors to use four parallel strategies to assist in meeting this goal:
  1. Preventing inappropriate payments through accurate and effective enrollment of providers and beneficiaries;
  2. Detecting program aberrancies through data analysis and on-going medical review;
  3. Making fair and firm medical review decisions enforcing local and national policies in accordance with Progressive Corrective Action (PCA); and
  4. Coordinating activities and communicating information with internal and external partners, including other contractors, law enforcement agencies, and others.

Medical Review (MR) Program

**MR Facts**
- Published guidelines for MR in PIM 100-08
- Review based on LCD and NCD
- Expectation of education
- Appeal rights

**Action Items**
- Documentation organized and legible
- Comparative objective data sup medical necessity, skilled care and care beyond cap
- PLOF:CLOF:Function
- Minutes, minutes, minutes
- Create “phrases”

Recovery Auditors (RAC)

- Permanent CMS Program – 4 regions
- RACs paid on % of errors $$$
- Automated reviews
- Semi-automated reviews
- Complex reviews
- Special programs and demonstrations
  - Prepayment Review
Recovery Audit Contractor (RAC)

RAC Facts
- IRF targeted in the CA Demo
  Most that appealed won ALJ
- “Current” OP therapy issue is untimed codes (automated)
- MMR 4-15-2013
  - Therapy over $3700
- Likely to move to other items identified by CERT or OIG
  - “Minutes” in Part B
  - RUGs in SNF

Action Items
- RAC Coordinator?
- Visit RAC website(s)
  - “Register” and verify or update contact information
  - Review approved issues
  - Understand/use the process
  - Stay ahead of the process by having an audit program in place, e.g. Untimed Codes

Manual Medical Review: Top 5 Things We’ve Learned

Manual Medical Review Process Takeaways
1. CMS rules are the same, MAC interpretation not all the same
2. Timing is everything, and the 10 days was measured differently
3. Patient receives approval letter, clinic receives denial letter
4. Providers send, but the MAC did “not receive” despite fax or USPS receipt
5. CMS oversight process did not provide clarity to problems that the therapy community reported

Prepayment Review Process

Prepayment Demonstration Project States
- 7 High Fraud States
  - Florida, California, Michigan, Texas, New York, Louisiana, Illinois
- 4 High States with high volume short stay admissions
  - Pennsylvania, Ohio, North Carolina and Missouri

MAC Receives Claim → MAC sends ADR Letter to Provider → Provider Responds to RAC → RAC Reviews – 10 days → Findings to MAC → MAC Adjudicates
Post-Payment Review Process

1. MAC Receives Claim
2. Claim is Paid
3. RAC Sends ADR Letter to Provider
4. Provider Responds to RAC
5. RAC Reviews 10-days※
6. Findings to MAC, Letter to Provider※
7. MAC Adjudicates

※ 10 days means any day from the following day to the 10th day inclusive.

Rehab Issue – Untimed Codes

- Issue Name: Untimed Codes
- Issue Number: 04663/2009
- Unclassified: Yes
- Provider: Outpatient Hospital and Physicians
- Affected States: Alabama, Arkansas, Colorado, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Ohio, North Dakota, South Carolina, Tennessee, Texas, Virginia, and Virginia, South Carolina with certain exceptions.
- Additional Information: The issue affects the calculation of the total therapy time for outpatient therapy services provided to Medicare beneficiaries.

RAC Rehab Issue - MMR

- CMS Approved Audit Issues
- Issue: Transitional Care MMR
- Issue Number: 19359/2009
- Provider: Outpatient Hospital and Physicians
- Affected States: Alabama, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Ohio, North Dakota, South Carolina, Tennessee, Texas, Virginia, and Virginia, South Carolina.
- Additional Information: The issue affects the calculation of the total therapy time for outpatient therapy services provided to Medicare beneficiaries.
MMR - 2013

- One program or four programs?
- Issues, issues, issues, how can they be so different?
- Prepayment or post payment?
- Form letters – technical issues
- Provider response
- How is this working for you?

GAO – Manual Medical Review

- Mandated report to Congress
  - 2012 MMR implementation
- Told from MAC viewpoint
  - 3 MACs interviewed
  - Missing: beneficiary input; provider input

Reports

- GAO – Manual Medical Review
- MedPAC – June 2013 Report
- OIG – Spectrum Rehabilitation LLC
MedPAC – June 2013

- Recommendations made in 2012
  - Hard therapy cap
  - MMR over $1270 – prepayment
  - 50% MPPR
  - And more...
- June 2013 report – reopens the wounds
- What are the numbers really telling us?

OIG – Spectrum Rehabilitation

- 2013 - OIG Work Plan
- Lessons learned: hiding in plain sight...
- The OIG hard line...
- Provider vulnerabilities...
- Time to change your audit checklist?

Rehab Case Studies: Best Practice in Navigating Risk
Outpatient Therapy: Escalating Risk

Reasonable and Necessary

- Treatment should be consistent with the nature/ severity of illness / injury
- Is this an exacerbation of a condition?
- Cognitive performance can impact care

Reasonable & Necessary

Assessing Objective Measurable Gains for Rehabilitation Therapy

Look at:
- Changes in the level of assistance
- Changes in the types of functional activities / tasks
- Changes in the types of assistive devices
- Improvement in rating of reported pain levels and changes in the ability to perform tasks

Reasonable & Necessary

Considerations:
- Beneficiary’s goals?
- Were goals realistic?
- Change goals/ treatment plan…. improvement or lack of improvement?
- Objective, measurable changes using standard scales and assessment tools?
- What was the beneficiary’s response to treatment?
- Did this change over time?
- Was it sustained?

Source: CMS Open Door Forum Slide Show 9/5/12
The Reason for More Therapy

$3,700 to be exceeded...
1. PT & SLP therapies both utilizing same cap
2. Complicated single episode of therapy
3. Multiple episodes of therapy this year
4. Impact of co-morbidities and complexities

Tee it up...
1. Establish probability for more therapy in POC
2. Restate in first progress note
3. Emphasize in progress notes as approaching $3,700

Manual Medical Review – Documentation
Top 7 Things We’ve Learned

1. Documentation rules are the same, the reviewers are not!
2. Certified POC, means “now,” not in 30 days
3. Orders are required even if POC certified
4. Interaction of complexities and comorbidities must be described as it relates to the need for more therapy
5. Differentiate the PLOF in functional detail as it relates to impairments & CLOF
6. Identify therapy needs as specific, objective, and measurable
7. Document social history & support, and it may backfire

Case Study: Uncomplicated Anterior Knee Pain in an 89-year-old man

George is an 89-year-old man living independently. He lives alone in a two story house and his bedroom is upstairs. Within the past two months, he has developed right anterior knee pain and he is no longer able to get up and down the stairs in his house without pain. He is concerned that if his knee pain continues to worsen, he will no longer be able to continue living on his own. He is in otherwise excellent health, has no cognitive impairments, and he has a strong desire to continue living independently.

Initial Evaluation: Establish Functional Limitation and Goal

Elements Documentation Example

Identification of Primary Functional Limitation
1. Description of current and prior level of function
2. Rationale for Importance

“Inability to ascend and descend stairs in his house because of anterior knee pain. Prior to this episode…"

Functional Limitation Category
1. Category
2. Rationale for Category Assignment

“Inability to ascend and descend stairs places him in Functional Limitation Category G8978: Mobility-Walking and Moving Around, and a current impairment rating of…"

Current Impairment Rating
1. Accepted Functional Instrument Score
2. Performance Testing Score
3. Clinical Tests
4. Patient Interview

“…. CJ: 20% to < 40% Impaired. The rating is based on a LEFS Score of 48, Anterior Step Down Test limited to 2 inches, Knee Flexion AROM of 75 degrees, a positive patellar grind, and reports of inability to ascend and descend stairs in his home.”

Primary Functional Goal
1. Projected Improvement in:
2. Functional Instrument Score
3. Projected Performance Testing Score
4. Clinical Tests
5. Projected Interview

“Well motivated and is otherwise healthy for his age. Since the knee pain is relatively recent onset and there is no other significant pathology other than the patello-femoral tracking issue, patient should be able to achieve a functional goal of CI: 0% to < 20% Impaired.”
Case Study: Uncomplicated Anterior Knee Pain in an 89-year-old man

Goals

The goals listed below are achievable and realistic within the designated time frame and reflect the focus of the treatment plan necessary to achieve these goals within the designated time frame. The functional goals were created based on the patient’s prior level of function. Clinical findings and clinical goals are an indicator of progress toward addressing functional limitations and achieving functional goals. The Functional Goals are based on a combination of Functional Assessment Tools with clinical tests and performance-based tests.

Limitation Category: G8978: Mobility Waking and Moving Around

Current Impairment Rating: CJ: 20-39% Impaired

Goal Impairment Rating: CI: 0% to < 20% Impaired

Projected Goal Completion Date: 2/28/2013

Current Finding: Goal: Unable to ascend or descend stairs without pain. He is concerned that if his knee pain continues to worsen, he will no longer be able to continue living in his home.

Demonstrated ability to ascend and descend stairs with a normal reciprocal gait and no complaint of pain.

Clinical Findings

- Pain Frequency: Constant Sporadic, Less Than Weekly
- Recent Symptom Trend: Worsening Improving
- Stair Climbing Gait: Has to lead with the affected extremity when descending stairs. Has to lead with the unaffected extremity when ascending stairs.
- LEFS Score: 60
- Patellar Grind Test: Positive
- Anterior Step Down Test: 8 inches

Case Study: Post-shoulder Arthroplasty in a 65-year-old woman

Sandra is a 65 year old right handed woman with rheumatoid arthritis living with her husband of 40 years. She underwent a total shoulder arthroplasty six weeks ago. She has had prior bilateral hip and knee replacements. In spite of all of her functional limitations, she enjoys cooking and she is determined to resume cooking for family get togethers. Her kitchen has been extensively modified to accommodate her poor upper extremity function. She has no other health problems or cognitive impairments.
Case Study: Post-shoulder Arthroplasty in a 65-year-old woman

10th Visit Progress Evaluation: Adequate Progress

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of Limitation</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/15/2013</td>
<td>Updated description of limitation</td>
<td>Reports that she is able to reach into shelves of her refrigerator and lower cupboards, but still has difficulty reaching lower shelves or into deep cupboards.</td>
</tr>
</tbody>
</table>

Analysis of Function

<table>
<thead>
<tr>
<th>Date</th>
<th>Functional Limitation Score</th>
<th>Performance Testing</th>
<th>Clinical Tests</th>
<th>Patient Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/15/2013</td>
<td>80% to 99% impaired, limited or restricted</td>
<td>Shoulder Pain and Disability Index Score improvement to 81, 3/5 strength for all shoulder motions, joint no restrictions on active movement being improved, and no restrictions on passive movement.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Professional Opinion

A functional goal of CL (60% to 79% Impaired) is achievable based on...

Discharge Evaluation: Functional Limitation Goal Met

<table>
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<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/15/2013</td>
<td>Updated description of limitation</td>
<td>Able to reach into upper shelves of her refrigerator and cupboards and she is now able to cook for her family with minimal assistance from her husband.</td>
</tr>
</tbody>
</table>

Analysis of Function

<table>
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<tr>
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<th>Patient Interview</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/15/2013</td>
<td>has met the functional goal we established at the initial evaluation (CK: 40% to 60% Impaired). The rating is based on a Shoulder Pain and Disability Index Score improvement to 55, 3+ to 4-/5 strength for all shoulder motions, demonstrated ability to reach forward and lift a 4 lbs. weight at kitchen counter height and patient reports of...</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Compliance – Risk Assessment

- The 8th Element of Compliance
- General rehab risk
- Provider specific rehab risk
- Effectively implemented monitoring program
  - May eliminate most rehab risk
  - Auditing program designed to identify issues
- Documented compliance training and education
Speaker Information

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