

American Academy of Physical Medicine and Rehabilitation
Position Statement
Medicare Physician Self-Referral Law (Stark Law)

American Academy of Physical Medicine and Rehabilitation (AAPM&R) Position:

AAPM&R is the national medical society representing more than 8,000 physiatrists. Physiatrists treat adults and children with acute and chronic pain; persons who have experienced catastrophic events resulting in paraplegia, quadriplegia, traumatic brain injury, spinal cord injury, limb amputations, rheumatologic conditions, musculoskeletal injuries; and individuals with neurologic disorders or any other disease process that results in impairment and/or disability.

Patients with these conditions are some of the most complex and expensive patient populations to manage under the Medicare program. These beneficiaries often have long recoveries, require ongoing medical management, and have intensive rehabilitation needs in order to attain the ability to function as they did prior to their injury or illness. However, with appropriate rehabilitative care, long term costs for treating this population can be dramatically reduced, unnecessary readmissions can be prevented, and institution-based care in nursing homes and other high-cost settings can be avoided. With appropriate rehabilitation, many patients can regain significant function, thrive independently, and live fulfilling lives.

While we share concerns about inappropriate use of ancillary services, we believe removing therapy services from the exceptions provision of the Medicare physician self-referral law¹ could significantly limit the ability of physical medicine and rehabilitation physicians, or “physiatrists,” to provide appropriate rehabilitation services to their patients in a timely and accessible manner. **Thus, it is the position of AAPM&R that the provisions related to physical therapy be maintained as an ancillary service and as an exception to the Medicare physician self-referral law.**

AAPM&R Urges Congress to Maintain Physical Therapy As an Excepted Ancillary Service in the Medicare Physician Self-referral Law. Specifically:

- (1) Physiatrists direct rehabilitation departments and supervise rehabilitation personnel in hospital inpatient and outpatient settings as well as in skilled nursing facilities, free standing rehabilitation clinics, and in their offices. Consistent with current trends in reforming the medical system, physiatrists have been at the forefront of a patient-centered, team-based approach to medicine. Physiatrists lead groups of medical professionals in the non-surgical treatment of disabilities and chronic conditions in order to help restore or maintain functioning in those who have lost the ability to ambulate or perform daily

¹ [42 U.S.C.S. §1395nn], §1877 Social Security Act

activities. When physiatrists provide rehabilitation services in the office setting, they often work collaboratively with other clinical professionals including physical therapists who form part of the rehabilitation team. When the therapist and the physiatrist are part of the same group or practice entity, their ability to function as a team is enhanced. The physiatrist is in a better position to monitor the patient's rehabilitation progress and to modify the plan of care to address changes in the patient's condition. It also allows patients to receive their therapy and medical rehabilitation services at the same site, which can be of significant benefit to patients, especially those with mobility impairments. These types of arrangements would be prohibited if the Medicare physician self-referral law were to be amended to eliminate physical therapy services as an excepted ancillary service.

- (2) Currently, the law allows certain ancillary services, including physical therapy, to be furnished by a physician under the "in-office ancillary services" exception to the law provided certain safeguards are met. Among those safeguards are requirements that the physician not receive compensation that is directly tied to his or her referrals of certain designated health services, including physical therapy. If this exception were to be eliminated, it would make it impossible for physiatrists to work together with physical therapists in their offices. Rather, physical therapy would have to be furnished by separate therapy practices without the collaborative approach that comes from being part of the same group. This would undercut the primary practice pattern for rehabilitation treatment; the multidisciplinary, coordinated team approach.
- (3) Currently, for those physiatrists who provide therapy services through their practice, patients have a choice as to whether to receive therapy in the physician's office or from an independent therapy practice. Many patients value the option of receiving therapy at the physiatrist's office and the convenience of being able to see their physiatrist and their therapist at the same location. Others, especially those with complex therapy needs, feel more comfortable knowing that a physician is providing oversight of their therapy program. Any change to this exception would eliminate this level of patient choice and cause therapists employed by physician practices to have their employment terminated.
- (4) Coordination of care, particularly for those with chronic and complex conditions, is being encouraged through a number of government and private initiatives; however, the elimination of this exception would reverse this trend—resulting in care that is more fragmented.
- (5) The apparent justification for eliminating physical therapy from the in-office ancillary services exception is that only a small percentage of physical therapy services are provided on the same day as an office visit and that, consequently, those services are not integral to the physician's diagnosis and do not improve patient convenience. We believe this statement misses the point. First, the reference to the physician's diagnosis is irrelevant since physical therapy is, by definition, a therapeutic rather than a diagnostic service.

Second, it ignores the fact that rehabilitation is a team effort and having members of the team under the same roof allows for better coordination and management—all of which benefits the patient.

- (6) Further, to the extent in which over-utilization of therapy services is a concern of Congress and the Centers for Medicare & Medicaid Services, the mandated cap on Medicare outpatient therapy services already addresses this issue.
- (7) On June 2, 2014, the Government Accountability Office issued a report that examined Medicare claims from 2006-2010 for physical therapy services among physician employed physical therapists (self-referrers) and non-physician providers non-self referrers). The report concluded that non-self-referred physicians utilized physical therapy services at a significantly higher rate than self-referring physicians. The GAO findings are consistent with other studies of utilization of physical therapy that found that self-referring physicians order and provide fewer units of physical therapy services per beneficiary. The study also confirmed the efficiencies generated by integrated care provided in physician offices for both the patients and the overall health system¹.

In summary, no convincing policy reason has been advanced for prohibiting physicians from providing physical therapy services in their offices. Further, as explained above, such a change in the law would limit the ability of physiatrists to provide high quality rehabilitation care in their offices.

Disclaimer

This AAPM&R Position Statement is intended to provide general information to physiatrists and is designed to complement advocacy efforts with payers and policymakers at the federal, state and regional levels. The statement should never be relied on as a substitute for proper assessment with respect to the specific circumstances of each case a physiatrist encounters and the needs of each patient. This AAPM&R statement has been prepared with regard to the information available at the time of its publication. Each physiatrist must have access to timely relevant information, research or other material which may have been published or become available subsequently.

Approved by _____
Date _____



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¹ GAO-14-270 Medical Physical Therapy: Self-Referring Providers Generally Referred More Beneficiaries but Fewer Services per Beneficiary; April 2014