



# PPAC Briefing Memo

September 2022

## U.S. Congress

**Dobson Report on the SMART Act:** On September 7, 2022, the firm Dobson & Davanzo release [its study](#) that looked at the potential financial impact of the Stabilizing Medicare Access to Rehabilitation and Therapy Act, or SMART Act (H.R. 5536), introduced in the U.S. House of Representatives by Rep. Bobby Rush, D-Ill., and Rep. Jason Smith, R-Mo. The bill aims to exempt rural or underserved areas from a 15% Medicare payment cut when services are provided by a PTA or OTA. That cut was implemented on Jan. 1, and applies to PTA and OTA services under Medicare Part B. While the study finds that the SMART Act's exemption could cost Medicare between \$741 million and \$1.58 billion over 10 years, researchers say that cost could be partially offset by another feature of the legislation: shifting PTA and OTA supervision requirements in outpatient settings from "direct" to "general" supervision.

According to the report, moving to general supervision in outpatient settings could result in estimated savings between \$168 million and \$242 million over 10 years, as outpatient clinics increase access to PTAs and OTAs. The change would also bring the outpatient practice supervision of PTAs and OTAs in line with all other Medicare settings that provide therapy services. In a [news release](#), the study's sponsors describe the findings as a "win-win" for the ways the SMART Act would create Medicare savings while reducing administrative burden — and increasing access to PTAs and OTAs across the country.

**Request for Information on Medicare Reform:** On Friday, Sept. 8, 2022, U.S. Representatives Ami Bera, M.D. (CA-07), Larry Bucshon, M.D. (IN-08), Kim Schrier M.D. (WA-08), Michael Burgess, M.D. (TX-26), Earl Blumenauer (OR-03), Brad Wenstrup, D.P.M. (OH-02), Bradley Schneider (IL-10), and Mariannette Miller-Meeks, M.D. (IA-02) issued a Request for Information (RFI) on actions Congress could take to stabilize the Medicare payment system, without dramatic increases in Medicare spending, while ensuring successful value-based care incentives are in place. The bipartisan Medicare Access and CHIP Reauthorization Act (MACRA) of 2015 replaced the sustainable growth rate (SGR) formula with the Quality Payment Program, consisting of a new Merit-Based Incentive Payment System (MIPS) and processes to adopt Advanced Alternative Payment Models (APMs). Unfortunately, logistical challenges have plagued MACRA almost since its inception. The RFI is seeking responses that could address (but are not limited to):

1. the effectiveness of MACRA;
2. regulatory, statutory, and implementation barriers that need to be addressed for MACRA to fulfill its purpose of increasing value in the U.S. health care system;
3. how to increase provider participation in value-based payment models;
4. recommendations to improve MIPS and APM programs.

APTA will be formulating and submitting in comments in response to the RFI. Comments are due to Congress on October 31, 2022.

**Medicare Fee Schedule:** On September 13, 2022, the *Supporting Medicare Providers Act of 2022* (H.R. 8800) was introduced in the U.S. House of Representatives by Rep. Larry Bucshon (R-IN) and Rep. Ami Bera (D-CA) to address the -4.42% cut to the 2023 Medicare Fee Schedule's conversion factor (CF). The bipartisan legislation would allocate additional funding to the 2023 Medicare fee schedule to increase the conversion factor by +4.42%. As noted in the proposed 2023 rule, physical therapy is slated for an approximately -4% cut in 2023. If the +4.42% increase to the CF is enacted, overall payment to physical therapists should not see a cut in 2023. In addition the legislation includes "sense of the Congress" language stating the Secretary of HHS and the U.S. Congress should take action to ensure the financial stability and predictability of Medicare payment, reward value-based care, safeguard timely access to high-quality care and reduce disparities. This "sense of the Congress" will help set the stage for broader reforms to the fee schedule in 2023.

**Prior Authorization:** On Wednesday, September 14, 2022, the U.S. House of Representatives passed the *Improving Seniors Timely Access to Care Act*, APTA-supported bipartisan legislation aimed at addressing the use of prior authorization under Medicare Advantage (MA) plans.

## Federal Agencies

**CMS:** APTA submitted comments to the Centers for Medicare and Medicaid Services in response to its request for information from the public on various aspects of the Medicare Advantage program. The RFI is seeking stakeholder feedback on how to strengthen MA plans in ways that align with the Vision for Medicare and CMS Strategic Pillars. APTA primarily spoke to how CMS can reduce significant barriers to care faced by both patients and providers. First, we advocated for more plan transparency, asking that CMS provide oversight of MA advertising to ensure that the benefits MA plans market are provided unimpeded to enrollees. We also described how onerous prior authorization procedures are delaying patient care and creating more administrative burden. Consequently, APTA recommended extensive prior authorization oversight and standardized utilization management processes to ease provider workloads and improve patient experiences. Our letter also requested that CMS consider APTA a valuable partner when figuring out how to create effective VBMs that utilize specialty providers. Finally, APTA voiced provider frustrations with MAOs and detailed several reforms that will be necessary to allow MA plans to properly serve a growing number of enrollees over the next decade.

**CMS:** On Aug. 8, 2022, APTA nominated Dr. Matt Janes, a member of APTA's Post-Acute Care Workgroup, to serve on CMS' Health Equity Technical Expert Panel (TEP). To evaluate whether or not a health equity-focused structural composite measure should be included within the Home Health and Hospice Quality Reporting Programs (QRPs), CMS is seeking individuals with differing perspectives and areas of expertise to serve as health equity experts on a TEP. The objective of the TEP is to consider a health equity structural composite measure that includes organizational activities to address access to and quality of hospice and home health care for underserved populations. APTA believes that Dr. Janes will make an outstanding addition to the ten-member panel and awaits the panel's input on the health equity quality measure.

**CMS:** On September 6, 2022, APTA submitted comments on the 2023 Medicare Physician Fee Schedule proposed rule. APTA commented on numerous proposals including the reduction in the

conversion factor, telehealth and remote therapeutic monitoring, supervision of PTAs, underutilized physical therapy services and the quality payment program. APTA's efforts to encourage members to draft their own, unique comment letter was successful with 40 letters written using the form, with potentially many more submitted directly to regulations.gov. *\*copy of APTA's comment letter is on the PPAC HUB,*

## **APTA Articles of Interest**

- [News | Study Bolsters the Case for SMART Act | APTA](#)
- [Roundup | APTA 2022 Legislation Roundup: Prior Authorization Reforms, Telehealth, and More | APTA](#)
- [Perspective | Advocacy in Action: Fee Schedule Comment Letters From APTA Members, Part 1 | APTA](#)
- [News | HHS Secretary to APTA: No Time for Complacency at this Moment in Health Care | APTA](#)
- [Roundup | Commercial Payer Update, August 2022 | APTA](#)
- [Regulatory Review | Final IRF Rule: Payment Increase Grows to 3.2%; Data Collection Postponed | APTA](#)
- [Regulatory Review | Final FY 2023 SNF Rule: An Advocacy Win Brightens the Payment Picture | APTA](#)