



FAL Briefing Memo

May 2024

Federal Agencies

- **CMS Data Access Changes:** In mid-February, the Centers for Medicare and Medicaid Services [announced](#) that it would be removing the option of physical access to Medicare and Medicaid claims data that PT researchers use to conduct high-value studies and is requiring investigators to pay a per-head fee for access to the data in CMS' cloud environment. The agency was initially planning to stop disseminating physical data extracts in mid-August however, due to outcry from the broader research community, the agency is postponing this deadline and seeks comments on how researchers will be affected by this change. In consultation with members of the APTA Academy of Research, APTA submitted comments discussing the numerous ways in which this policy change will negatively impact Medicare research.
- **FTC Non-Compete Rule:** In a final rule issued on May 7, 2024, driven by a determination that employee noncompete restrictions are an unfair method of competition in violation of [Section 5 of the FTC Act](#), the U.S. Federal Trade Commission has banned the practice across nearly all employment types, including for PTs, PTAs, and their employers. The final rule prohibits the use of noncompete agreements in all future employment arrangements, renders existing noncompete provisions unenforceable, and requires employers to notify workers with existing noncompete restrictions that they no longer apply.

Noncompete restrictions, a condition of employment that prevents the employee from accepting employment or starting a business in settings deemed to be in competition with the current employer, are used across a wide range of employment settings. The new rule has been praised as a win for workers' rights and criticized as federal overreach. The restrictions are already being [challenged in court](#), but the rule is structured in such a way that should any part of the package be struck down, other portions would remain in effect. APTA is reviewing the final rule and will provide updates to members as necessary.

- **CMS Quality, Safety, and Oversight Group Meeting:** On May 16, 2024, APTA health policy and payment staff met with CMS' Quality, Safety, and Oversight Group to discuss the survey and certification process. At the meeting, APTA discussed the accurate reporting of therapy minutes in the payroll-based journal and the administrative

mandates of care delivery in relation to Medicare's plan of care requirements. APTA was joined by staff from AOTA and ASHA.

- **FY 2025 Skilled Nursing Facility Proposed Rule:** On May 28, 2024, APTA will submit comments in response to the [fiscal year 2025 skilled nursing facility proposed rule](#) which if finalized as proposed provides a 4.1% payment update, the largest in many years. Among other things, CMS introduces multiple technical changes to the value-based purchasing program, looks to add social determinants of health items to the quality reporting program, and updates the non-therapy ancillary component of the patient-driven payment model to better account for the cost of caring for patients with comorbidities.

U.S. Congress

- **Allied Health Workforce Diversity Program:** On May 2, 2024, APTA led a coalition of therapy provider associations in sending a joint letter to the Senate Finance Committee requesting that Congress approve the necessary resources to implement the Allied Healthcare Workforce Diversity (AHWD) program. The AHWD program would provide grants to accredited PT and PTA education programs for them use to recruit and retain students who are under-represented in the field of physical therapy (as well as occupational therapy, speech-language pathology, and respiratory therapy). The coalition letter expressed support for S. 4102 – the Long-Term Care Workforce Support Act, which proposes an annual appropriation of \$10 million per year to the Health Resources and Services Administration (HRSA) to operationalize the program through 2029.
- **Telehealth:** On May 8, 2024, the House Ways and Means Committee unanimously approved legislation extending all current Medicare telehealth policies for another two years, with a scheduled expiration date of December 31, 2026. Prior to the Committee vote, senior Committee staff testified unequivocally that PTs, OTs and SLPs, are covered under the proposed extension. It is not yet determined when this measure may go to the entire House of Representatives. Separately, it is expected that the House Energy and Commerce Committee and the Senate Finance Committee will also consider telehealth legislation soon. On May 21, 2024, APTA along with our partner associations - the American Occupational Therapy Association (AOTA), the American Speech-Hearing-Language Association (ASHA), along with the Hospital for Special Surgery – hosted a special Capitol Hill Briefing on the use of telehealth by therapy providers, with a focus on H.R. 3875/S. 2880 – the Expanded Telehealth Access Act, APTA-supported legislation that would make PTs and PTAs (and other therapy providers) permanent authorized providers of telehealth in the Medicare program.

Advocate Engagement Opportunities

- **June 2024 APTA Webinar:** [American Physical Therapy Association: APTA Regulatory, Legislative, and Payment Updates, June 2024](#)

APTA Articles of Interest

- [Article | APTA Capitol Hill Day: 300+ Meetings Focused on the Value of Physical Therapy | APTA](#)
- [News | Final 2025 MA Rule Includes More Prior Authorization Scrutiny | APTA](#)
- [News | HHS Expands Nondiscrimination Protections in ACA, Rehabilitation Act | APTA](#)
- [Article | Final ACA, Medicaid Rules Are Good News for Consumers | APTA](#)