

# FAL Briefing Memo



January 2023

## Federal Agencies

**Medicare:** Following the passage of the 2023 Omnibus spending legislation (discussed below) APTA staff have begun creation of the 2023 Medicare Physician Fee Schedule Calculator. Our consultants Dobson & Davanzo are currently updating the 2022 calculator to reflect the new fee schedule. We anticipate having the calculator completed by the end of January at the latest. It will be posted to APTA.org.

## U.S. Congress

**2023 Consolidated Appropriations Act:** On December 23, 2022, Congress passed the *2023 Consolidated Appropriations Act*. A number of APTA's priorities and supported bills were included in the year-end legislative package, including:

- **2023 Medicare Fee Schedule:** Rather than provide the needed full 4.5% in funding that would offset reductions in the conversion factor, lawmakers opted for a smaller 2.5% increase this year and an even smaller 1.25% increase in 2024. The resulting cuts to Medicare Part B will affect 27 specialties, including physical therapy.
- **Telehealth:** An APTA-supported provision to extend Medicare's pandemic-era telehealth flexibilities for another two years. Providers, including physical therapists and physical therapist assistants, will be permitted to treat Medicare patients via telehealth until December 31, 2024. The 118<sup>th</sup> Congress will be debating proposals to implement a permanent telehealth policy. APTA is working to secure reintroduction of our legislation, the *Expanded Telehealth Access Act*, to permanently include PTs and PTAs as authorized providers of telehealth coverage under Medicare.
- **Workforce diversity.** The APTA-supported Allied Health Workforce Diversity bill was included in the omnibus package. This legislation will create a new grant program for accredited PT and PTA education programs to offer scholarships and stipends to recruit and retain individuals who are underrepresented in the field of physical therapy, including individuals with disabilities, from ethnic and racial minority populations, and from disadvantaged backgrounds.
- **Stepped-up emphasis on physical therapy in the Department of Veterans Affairs.** The omnibus package includes language APTA was successful in having added to the 2023 VA appropriations bill requesting VA ensure treatment alternatives to opioids, such as physical therapy, are available to veterans where they are most needed. VA is also asked to examine how more competitive pay for PTs and PTAs can help increase patient access to physical therapy, and how the Health Professions Scholarship Program can be expanded to include PTs. The language also directs VA to

develop a staffing plan on how to employ PTs and PTAs within primary care, rural health, women's health, and other areas.

- **Home health research.** Lawmakers included language that would require CMS to share its simulations on what home health pay would look like under the previous Medicare home health pay system, compared with the Patient-Driven Groupings Model now in use. Home health providers have raised numerous concerns with how CMS has come up with the 7.9% behavioral adjustment cut to the 30-day pay rate, which CMS says is needed to keep pay budget-neutral between the old pay system and the PDGM. The agency said in its 2023 pay rule it would phase in the cuts so only 3.5% are set to go into effect next year, and home health providers are set to get a 0.7% pay bump overall for 2023. The bill also asks CMS to provide a description of actual behavior changes between 2020 and 2026 that were the result of the new pay system.
- **Deferred PAYGO-related reductions.** In its final package, Congress deferred the implementation of a federally mandated "pay-as-you-go" deficit control budget rule until 2025. That rule, now off the table for two years, will require increases in the federal deficit to be offset by increased revenue or cuts to spending and includes a 4% cut to Medicare.
- **Lymphedema treatment.** The final package folds in provisions of the Lymphedema Treatment Act, which expands Medicare coverage for lymphedema-related pressure garments. The new coverage will go into effect in 2024 and could affect more than 3 million Medicare beneficiaries.
- **Funding for NIH.** The bill provides \$47.5 billion for the National Institutes of Health, an increase of \$2.5 billion or 5.6%. APTA joined with provider groups earlier this year in encouraging Congress to provide an increase to NIH's 2023 budget. APTA supported this increase through our work with the [Disability Rehab Research Coalition](#).
- **Funding for pediatrics.** The bill also includes \$15 billion in funding for 2023, an increase of \$904 million or 6%, for special education state grant programs that support services to an estimated 9 million students and children with disabilities, including those participating in early intervention and preschool programs.
- **Funding for the Centers for Disease Control and Prevention.** The bill includes \$9.2 billion for CDC, an increase of \$760 million above the 2022 fiscal year level. This includes \$903 million in transfers from the Prevention and Public Health Fund. More than half of the increase is directed to significant investments in our nation's public health infrastructure. APTA supported this increase through our work with the [CDC Coalition](#).

**118th Congress:** APTA staff are working with our Congressional allies in having APTA-priority bills re-introduced in the new Congress. APTA bills targeted for reintroduction include:

- [Physical Therapist Workforce and Patient Access Act](#)  
This bill would allow PTs to participate in the National Health Service Corps loan repayment program, an initiative that repays up to \$50,000 in outstanding student loans to certain health care professionals who agree to work for at least two years in a designated Health Professional Shortage Area.
- [Prevent Interruptions in Physical Therapy Act](#)  
This bill expands the ability of PTs to engage in what CMS is now calling "reciprocal billing and fee-for-service," otherwise known as "locum tenens," to all PTs.
- [Stabilizing Medicare Access to Rehabilitation and Therapy Act](#)  
Also known as the SMART Act, this bill seeks to adoption of less-burdensome general PTA and OTA supervision requirements for outpatient therapy under Medicare Part B. The change in supervision requirements is estimated to save CMS as much as \$242 million over 10 years.
- [Primary Health Service Enhancement Act](#)  
This bill would expand patient access to essential physical therapist services to children and adults who receive care at rural health clinics and federally qualified health centers, also known as community health centers. The legislation elevates the status of PTs in the health centers by, among other measures, allowing them to bill independently for services billed to Medicare and Medicaid.
- [Optimizing Postpartum Outcomes Act](#)  
This bill directs the HHS Secretary to develop several provisions that would significantly strengthen Medicaid's emphasis on pelvic therapy for individuals in the postpartum period.
- [States Handling Access to Reciprocity for Employment Act](#)  
This bill addressed the use and sharing of information related to FBI background checks with state licensure boards and interstate compact commissions.
- [Improving Seniors' Timely Access to Care Act](#)  
This legislation would reduce administrative burden by scaling back the use of prior approval in Medicare Advantage plans.
- [The Medicare Patient Empowerment Act](#)  
This bill allows a Medicare beneficiary to enter into a direct contract with an eligible provider, including physical therapists, for any item or service covered by Medicare, otherwise known as "opting out" of Medicare.

**U.S. Department of Defense:** In a directive issued to the department by the House Appropriations Committee as part of the [National Defense Authorization Act for 2023](#) passed by Congress in December, lawmakers requested that the Secretary of Defense submit a report to the House Armed Services Committee that explores the feasibility of allowing PTs throughout the DOD to serve as primary care neuromusculoskeletal experts. In its statement, the committee acknowledges the importance of neuromusculoskeletal care in ensuring troop

readiness, but voices concerns that "service members face significant administrative burdens when seeking care from physical therapists." The lawmakers believe that allowing PTs to serve in this primary care capacity could help ease that burden. The report is due by June 1, 2023.

## Member Engagement & Events

- [Podcast | Statehouse Roundup: Legislative Wins in 2022; What to Expect in 2023 | APTA](#)
- PTPAC 50th Anniversary Celebration at CSM: Friday, Feb. 24, 9 p.m.-midnight  
[House of Blues](#): San Diego, CA Ticket price: \$100 for PTs and PTAs; \$50 for Students Celebrate PTPAC's 50 years of advocacy for the profession at its evening event at [House of Blues](#). Tickets include drinks, appetizers, and live music! Purchase your tickets [online during APTA CSM registration](#) or call 800-809-9565. All PTPAC Eagle club members receive one free ticket, but please contact Michael Matlack at [michaelmatlack@apta.org](mailto:michaelmatlack@apta.org) to reserve your ticket.

## APTA Articles of Interest

- [Perspective | 2022 Elections Are Finally Over – How Do the Results Impact the Next Congress? | APTA](#)
- [Statement | APTA Statement on Medicare Cuts | APTA](#)
- [News | Final Spending Bill Falls Short in Offsetting Fee Schedule Cuts | APTA](#)
- [News | Potential Big Prior Authorization Win: CMS Proposes Significant Changes | APTA](#)
- [News | APTA Impact: DOD Told to Consider Expanding the PT's Primary Care Role | APTA](#)