

(e) *Annual limitation on incurred expenses.* (1) Amount of limitation. (i) In 1999, 2000, and 2001, no more than \$1,500 of allowable charges incurred in a calendar year for outpatient occupational therapy services are recognized incurred expenses.

(ii) In 2002 and thereafter, the limitation is determined by increasing the limitation in effect in the previous calendar year by the increase in the Medicare Economic Index for the current year.

(2) For purposes of applying the limitation, outpatient occupational therapy includes:

(i) Except as provided in paragraph (e)(3) of this section, outpatient occupational therapy services furnished under this section;

(ii) Outpatient occupational therapy services furnished by a comprehensive outpatient rehabilitation facility;

(iii) Outpatient occupational therapy services furnished by a physician or incident to a physician's service;

(iv) Outpatient occupational therapy services furnished by a nurse practitioner, clinical nurse specialist, or physician assistant or incident to their services.

(3) For purposes of applying the limitation, outpatient occupational therapy services excludes services furnished by a hospital directly or under arrangements.

[63 FR 58906, Nov. 2, 1998]

§ 410.60 Outpatient physical therapy services: Conditions.

(a) *Basic rule.* Medicare Part B pays for outpatient physical therapy services if they meet the following conditions:

(1) They are furnished to a beneficiary while he or she is under the care of a physician who is a doctor of medicine, osteopathy, or podiatric medicine.

(2) They are furnished under a written plan of treatment that meets the requirements of § 410.61.

(3) They are furnished—

(i) By a provider as defined in § 489.2 of this chapter, or by others under arrangements with, and under the supervision of, a provider; or

(ii) By or under the personal supervision of a physical therapist in private

practice as described in paragraph (c) of this section.

(b) *Outpatient physical therapy services furnished to certain inpatients of a hospital or a CAH or SNF.* Medicare Part B pays for outpatient physical therapy services furnished to an inpatient of a hospital, CAH, or SNF who requires them but who has exhausted or is otherwise +ineligible for benefit days under Medicare Part A.

(c) *Special provisions for services furnished by physical therapists in private practice.* (1) *Basic qualifications.* In order to qualify under Medicare as a supplier of outpatient physical therapy services, each individual physical therapist in private practice must meet the following requirements:

(i) Be legally authorized (if applicable, licensed, certified, or registered) to engage in the private practice of physical therapy by the State in which he or she practices, and practice only within the scope of his or her license, certification, or registration.

(ii) Engage in the private practice of physical therapy on a regular basis as an individual, in one of the following practice types:

(A) An unincorporated solo practice.

(B) An unincorporated partnership or unincorporated group practice.

(C) An unincorporated solo practice, partnership, or group practice, or a professional corporation or other incorporated physical therapy practice. Private practice does not include any individual during the time he or she is working as an employee of a provider.

(iii) Bill Medicare only for services furnished in his or her private practice office space, or in the patient's home. A therapist's private practice office space refers to the location(s) where the practice is operated, in the State(s) where the therapist (and practice, if applicable) is legally authorized to furnish services, during the hours that the therapist engages in practice at that location. When services are furnished in private practice office space, that space must be owned, leased, or rented by the practice and used for the exclusive purpose of operating the practice. A patient's home does not include any institution that is a hospital, a CAH, or a SNF.

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(iv) Treat individuals who are patients of the practice and for whom the practice collects fees for the services furnished.

(2) *Supervision of physical therapy services.* Physical therapy services are performed by, or under the personal supervision of, the physical therapist in private practice. All services not performed personally by the therapist must be performed by employees of the practice, personally supervised by the therapist, and included in the fee for the therapist's services.

(d) *Excluded services.* No service is included as an outpatient physical therapy service if it would not be included as an inpatient hospital service if furnished to a hospital or CAH inpatient.

(e) *Annual limitation on incurred expenses.* (1) Amount of limitation. (i) In 1999, 2000, and 2001, no more than \$1,500 of allowable charges incurred in a calendar year for outpatient physical therapy services are recognized incurred expenses.

(ii) In 2002 and thereafter, the limitation shall be determined by increasing the limitation in effect in the previous calendar year by the increase in the Medicare Economic Index for the current year.

(2) For purposes of applying the limitation, outpatient physical therapy includes:

(i) Except as provided in paragraph (e)(3) of this section, outpatient physical therapy services furnished under this section;

(ii) Except as provided in paragraph (e)(3) of this section outpatient speech-language pathology services furnished under §410.62;

(iii) Outpatient physical therapy and speech-language pathology services furnished by a comprehensive outpatient rehabilitation facility;

(iv) Outpatient physical therapy and speech-language pathology services furnished by a physician or incident to a physician's service;

(v) Outpatient physical therapy and speech-language pathology services furnished by a nurse practitioner, clinical nurse specialist, or physician assistant or incident to their services.

(3) For purposes of applying the limitation, outpatient physical therapy excludes services furnished by a hospital

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or CAH directly or under arrangements.

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§410.61 Plan of treatment requirements for outpatient rehabilitation services.

(a) *Basic requirement.* Outpatient rehabilitation services (including services furnished by a qualified physical or occupational therapist in private practice), must be furnished under a written plan of treatment that meets the requirements of paragraphs (b) through (e) of this section.

(b) *Establishment of the plan.* The plan is established before treatment is begun by one of the following:

(1) A physician.

(2) A physical therapist who furnishes the physical therapy services.

(3) A speech-language pathologist who furnishes the speech-language pathology services.

(4) An occupational therapist who furnishes the occupational therapy services.

(5) A nurse practitioner, a clinical nurse specialist, or a physician assistant.

(c) *Content of the plan.* The plan prescribes the type, amount, frequency, and duration of the physical therapy, occupational therapy, or speech-language pathology services to be furnished to the individual, and indicates the diagnosis and anticipated goals.

(d) *Changes in the plan.* Any changes in the plan—

(1) Are made in writing and signed by one of the following:

(i) The physician.

(ii) The physical therapist who furnishes the physical therapy services.

(iii) The occupational therapist who furnishes the physical therapy services.

(iv) The speech-language pathologist who furnishes the speech-language pathology services.

(v) A registered professional nurse or a staff physician, in accordance with oral orders from the physician, physical therapist, occupational therapist, or speech-language pathologist who furnishes the services.

(vi) A nurse practitioner, a clinical nurse specialist, or a physician assistant.