



AMERICAN COUNSELING ASSOCIATION

Frequently Asked Questions:

MEDICARE

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- *What is the status of Medicare coverage of counselors?*
Medicare does not recognize professional counselors as independent providers and, therefore, does not directly reimburse them. Establishing Medicare coverage of counselors is one of the ACA’s top priorities.
- *I read in “Counseling Today” that the House of Representatives passed Medicare coverage of counselors last year. What does that mean for my practice?*
It does not mean anything for your practice...yet. Last August the House of Representatives passed legislation to establish Medicare coverage of counselors, but the provision did not become law before the end of the Congress.
- *When will the Congress address Medicare coverage of counselors?*
Congress will, most likely, consider some form of Medicare legislation before the end of 2009. Medicare physicians are currently set to take a 20% pay cut on January 1, 2010, and they have threatened to stop seeing Medicare beneficiaries if their pay is cut. In

order to avoid the loss of millions of Medicare physicians and the resulting service delays, Congress will try to reform the program before the end of the year.

It is currently unclear whether Congressional leaders will try to pass systemic reforms to address the program's underlying problems or if it will just try to forestall the physician pay cut (often called a "doc fix"). Either way, the consideration of Medicare legislation will open the door for inclusion of LPC reimbursement provisions.

- *How can I take action to help ensure that this legislation is passed?*
Counselors can identify and email their elected officials by visiting <http://capwiz.com/counseling/home/>. You can also call the Capitol Switchboard at 202-225-3121 and ask to be connected to your Representative or Senator's office. Sample messages can be found on ACA's Public Policy webpage at www.counseling.org/publicpolicy.

SAMPLE TALKING POINTS:

- Medicare recipients need better access to quality mental health care.
 - Seniors have the highest suicide rate of any demographic.
 - Over 70% having seen their physician within a month of committing suicide.
 - The current system is not working.
 - Covering LPCs and MFTs will add over 150,000 providers to the Medicare program and cost only \$200 million over five years.
 - Ask him/her to cosponsor S. 921 and tell Senator Baucus to include its provisions in the upcoming Medicare legislation.
- *What is the history of legislation to establish professional counselors as Medicare providers?*
In both 2003 and 2005 the Senate passed legislation to include professional counselors and marriage and family therapists as providers under Medicare. Unfortunately, the House of Representatives failed to approve the provision, and it was not included in the legislation that was ultimately enacted. In early August 2007, the House of Representatives passed Medicare coverage of counselors for the first time as part of a broad package of Medicare changes.

The Congress and the new Administration are expected to draft Medicare reform legislation sometime before the end of 2009, providing an opportunity for inclusion of provisions establishing Medicare coverage of LPCs.

- *Is there any way counselors can see Medicare patients?*
There are two ways that professional counselors can see Medicare patients. The first, and least favorable, is for beneficiaries to pay expenses out-of-pocket.

Alternatively, counselors can provide treatment to Medicare beneficiaries through the so-called "incident to" clause. This provision allows counselors to bill Medicare through a physician or psychologist.

In order to provide services under the "incident to" clause:

- The services must be an integral, although incidental, part of the physician's services;
- The counselor must work in the same facility as a physician or psychologist (as either an employee or independent contractor of the physician/psychologist or facility); and

- The counselor must be under the supervision of the physician or psychologist.
 - Supervision means that the physician/psychologist must be present in the facility and immediately available to provide assistance and direction while the aide is performing services.

The physician/psychologist or facility bills Medicare for the services (using his/her provider number) and then pays the counselor as an employee/contractor.

- *What is “Medicare Advantage”?*
 “Medicare Advantage” (MA) is a term that refers to the plans that many private insurance companies offer to cover Medicare beneficiaries. These private plans often provide some extra benefits to their members but at inflated costs. According to the Center for Budget and Policy Priorities, MA plans are paid an average of 12% more than traditional Medicare plans (some as high as 30% more); the Congressional Budget office projects that overpayments to such plans will cost the government \$50 billion over the next 5 years (and \$150 billion over 10 years). While only 1 in 10 seniors are covered by MA plans, the added costs are projected to cost every senior \$2 more per month in added premiums (Center on Budget and Policy Priorities, “Informing the Debate About Curbing Medicare Advantage Overpayments, July 2007).
- *What is the difference between Medicare and Medicaid? Can counselors be reimbursed by Medicaid?*
 Medicare is a federal program that provides health care to all individuals over the age of 65 and some individuals with disabilities. Medicaid, on the other hand, is a joint federal-state program (funded partly by each entity) that provides aid to certain groups of low-income and medically-needy individuals. Medicare policy is determined by the federal government, and the program does not reimburse counselors. Medicaid policy is determined on a state-by-state basis, with some states directly reimbursing counselors, others reimbursing counselors through contracts with manage care organizations, and still others not reimbursing counselors at all.
- *Once legislation is passed, how long will it be until counselors will be allowed to bill Medicare?*
 After the President signs legislation to establish Medicare coverage of counselors, there will likely be a lengthy period of implementation. Implementation will consist of efforts to establish reimbursement rates, update software, etc. and may take a significant period of time. During the period of implementation, counselors may be able to start seeing Medicare patients and back-bill the program once implementation is complete, though this will mean waiting a long time to receive reimbursement.
 (NOTE: There is not a definite answer on the matter of back-billing yet.)

Was your question not answered here?

For more information or further questions, please contact Peter Atlee, ACA Legislative Representative, at 800-347-6647 x242 or patlee@counseling.org.