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MEMORANDUM

TO: RHCF and Community Services Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: July 16, 2008

SUBJECT: **Important Update on Therapy Caps and Physician Payments**

ROUTE TO: Administrator, CFO

ABSTRACT: Congress overrides President's veto on therapy caps exception process and Part B payment freeze.

Introduction

In December of 2007, Congress passed the *Medicare, Medicaid, and SCHIP Extension Act of 2007*, which included provisions to override the then proposed 10.1 percent reduction in the Medicare Physician Fee Schedule (MPFS) and extend the exceptions process for the financial limitation on outpatient therapy services (the "therapy caps"). Both of these provisions, however, expired as of June 30, 2008.

On July 9, 2008 Congress voted to approve [*H.R. 6331 - The Medicare Improvements for Patients and Providers Act of 2008 \(the Act\)*](#). This Act further extends the therapy caps exception process and places a moratorium on the MPFS rate cut. The White House opposes the legislation and the President threatened to veto.

Good News on Veto Override!

[NYAHS Doc ID # 00002561](#) recently provided members with details about the ongoing debate between Congress and the White House over passage of this Act. As anticipated, the President did veto the measure.

Thanks in large measure to the advocacy efforts of AAHSA, NYAHSAs and our members; we again scored a major legislative victory on this front as Congress overrode the President's veto by votes of 383 to 41 in the House and 70 to 26 in the Senate.

The Act represents a comprehensive set of revisions to various aspects of the Medicare program, but the areas of most urgent concern are the extension of the Medicare therapy caps exceptions process for 18 months and the moratorium on a 10.6 percent cut to Medicare's physician payment rates. NYAHSAs is reviewing the various provisions of the legislation and will be advising members regarding additional areas of interest.

Overall this is good news, as AAHSA President Larry Minnix states: "Thanks to Congress' decision today, millions of Medicare beneficiaries will continue to receive the physical and occupational therapy they need without fear their care will be rationed or capped."

Providers may have been holding claims in anticipation of this final legislative resolution. In anticipation of resuming normal claims submissions, providers should be looking for any additional guidance in this area from the Centers for Medicare and Medicaid Services (CMS) and the carriers. NYAHSAs will also advise members as additional information becomes available.

Please contact me with any questions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145.