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## MEMORANDUM

**TO:** RHCF and Community Services Members

**FROM:** Patrick Cucinelli, Senior Financial Policy Analyst

**DATE:** July 17, 2008

**SUBJECT:** **Therapy Caps Exception Process**

**ROUTE TO:** Administrator, CFO, Billing Director, Therapy Director

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ABSTRACT: CMS issues guidance on therapy caps exception process effective July 1, 2008.

### Introduction

[NYAHS Doc # N00002572](#) advised members of recent Congressional passage of *The Medicare Improvements for Patients and Providers Act of 2008 (the Act)*, which implements an extension of the therapy caps exception process and a moratorium on the 10.6 percent reduction in the Medicare Physician Fee Schedule (MPFS). In that memo, NYAHS advised members that the Centers for Medicare and Medicaid Services (CMS) is expected to issue additional guidance on claims processing procedures.

### CMS Guidance

Regarding the therapy caps exception process, CMS has issued the following guidance:

#### *Extension of Therapy Cap Exceptions*

*The Medicare Improvements for Patients and Providers Act of 2008 was enacted on July 15, 2008. One provision of this legislation extends the effective date of the exceptions process to the therapy caps to December 31, 2009. Outpatient therapy service providers may now resume submitting claims with the KX modifier for therapy services that exceed the cap furnished on or after July 1, 2008.*

*For physical therapy and speech language pathology services combined, the limit on incurred expenses is \$1810 for calendar year 2008. For occupational therapy services, the limit is \$1810. Deductible and coinsurance amounts applied to therapy services count toward the amount accrued before a cap is reached. Services that meet the exceptions criteria and report the KX modifier will be paid beyond this limit.*

*Before this legislation was enacted, outpatient therapy service providers were previously instructed to not submit the KX modifier on claims for services furnished on or after July 1, 2008. The extension of the therapy cap exceptions is retroactive to July 1, 2008. As a result, providers may have already submitted some claims without the KX modifier that would qualify for an exception.*

*Providers submitting these claims using the 837 institutional electronic claim format or the UB-04 paper claim format would have had these claims rejected for exceeding the cap. These providers should resubmit these claims appending the KX modifier so they may now be processed and paid. Providers submitting these claims using the 837 professional electronic claim format or the CMS-1500 paper claim format would have had these claims denied for exceeding the cap. These providers should request to have their claims adjusted in order to have the contractor pay the claim.*

*In all cases, if the beneficiary was notified of their liability and the beneficiary made payment for services that now qualify for exceptions, any such payments should be refunded to the beneficiary.*

Please contact me with any questions at [pcucinelli@nyahsa.org](mailto:pcucinelli@nyahsa.org) or call 518-449-2707 ext. 145.