



*The Power to Practice*

## **MEDICARE LAW IMPEDES COMPETITION AND RESTRICTS BENEFICIARY ACCESS TO AUDIOLOGY SERVICES**

### ***Issue***

Congress should take immediate action to reform existing Medicare laws regarding the availability and reimbursement of Audiology (hearing and balance healthcare) services. Current Medicare policy undermines beneficiary interests, unfairly restricts competition among qualified providers, and imposes market barriers that inhibit the efficient delivery of hearing and balance care for older Americans.

*Audiology services under Medicare (Part B) are arbitrarily constrained, channeling beneficiaries to a limited number of legacy medical doctor providers, and requiring patients to undergo an expensive, time-consuming, multi-step, and multi-stop process to obtain coverage for diagnostic and treatment services.*

In order to obtain coverage, Medicare Part B currently requires patients to acquire a physician order prior to seeking Medicare-covered services from an audiologist, even though there is no order requirement per statute. Further, Medicare Part B only recognizes/reimburses audiologists for diagnostic services, despite the fact that audiologists are licensed and trained, in every U.S. state and territory, to provide a wide-range of Medicare-covered treatment services.

Other federal agencies recognize that a mandatory visit to a physician's office, for adult patients who suspect that they have a hearing problem, has proven to inflate the cost of care with no meaningful clinical benefit. Federal programs, including, but not limited to, the Veteran's Administration (VA), the Federal Health Benefit Plan (FEHBP), and many Medicaid programs allow patients to seek treatment directly from audiologists, without a physician order. The U.S. Food and Drug Administration (FDA) also recently took action to remove the medical evaluation requirement for adult patients seeking hearing aids.

In addition, most private insurers, including most Medicare Advantage plans, by virtue of their coverage policies, encourage patients to seek direct care from audiologists, and allow audiologists to be reimbursed for *all* of the covered services that they are licensed to provide (both diagnostic and treatment services).

*Audiologists are subjectively excluded from the appropriate classification under Medicare Part B, creating an artificial market advantage for other providers.*

Audiology is a clinical doctoring profession (the terminal degree is the Au.D.), with training and education commensurate to that of other physicians as defined by statute (Section 1861(r)) of the Social Security Act). The term "physician" is the classification terminology originally chosen by the Social Security Administration and the Centers for Medicare and Medicaid Services (CMS) to describe both medical

doctors and other non-physician, clinical doctoring providers including podiatrists, dentists, optometrists, and chiropractors.

The exclusion of audiologists from the list of recognized “physician” providers under Medicare Part B is blatantly anti-competitive. This discriminatory practice has created an unfair market advantage, benefiting competing providers, while hindering the ability of audiologists to practice the full scope of audiology and vestibular services, for which they have been trained and licensed.

Medicare’s inequitable treatment of audiologists runs contrary to other federal laws, which prohibit health plans from discriminating against entire classes of qualified, licensed healthcare professionals solely on the basis of their provider type. Failure to include audiologists among other “physician” providers is detrimental to the provision of safe, efficient care, and undermines states’ authority to license and regulate healthcare professions, as afforded under the 10<sup>th</sup> Amendment of the U.S. Constitution.

### ***Solution***

Proposed legislation to improve Medicare policy and provide better access to audiology and vestibular care has received broad bi-partisan support in Congress. Representatives Tom Rice (R-SC), Lynn Jenkins (R-KS), Representative Matt Cartwright (D-PA) introduced H.R. 2276, the Audiology Patient Choice Act, along with S.2575 as introduced by Senator Elizabeth Warren (D-MA) and Senator Rand Paul (R-KY) in the 115<sup>th</sup> Congress to make the much-needed changes to Medicare as follows:

- To allow patients to choose from among qualified providers, for Medicare-covered Audiology services;
- To allow audiologists to be reimbursed under Medicare for the Medicare-covered services that they are licensed to provide; and
- To appropriately classify audiologists as “physicians” under Medicare.

Congress should pass this legislation without delay to expand patient choice and increase provider competition. The only documented opposition to the Audiology Patient Choice Act has been raised by competing providers who have a financial interest in preserving the status quo.

### ***Conclusion***

Current Medicare policy regarding audiology services causes beneficiaries to experience unnecessary expenses, delays, and inconveniences in their effort to obtain covered services. Medicare Part B financially penalizes patients who choose the most efficient provider (an audiologist) for audiologic care. Existing Medicare laws foster the anti-competitive provisioning of Medicare services by providers who have attained artificial market advantages over Doctors of Audiology.

Congress should take immediate action to update Medicare statute to ensure that audiologists are allowed to furnish existing Medicare-covered services, which they are lawfully permitted to do under state law, and to allow Medicare patients their choice of qualified service provider for the provision of hearing and balance care. This requested action will not create or add any new reimbursable services to Medicare nor expand the scope of practice of audiologists.

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