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VIA EMAIL pxplumme@stvincent.org

Indiana Athletic Trainers' Association
c/o Paul Plummer, LAT ATC
St. Vincent Hospital - Indianapolis
8414 Naab Road, Suite 110
Indianapolis, IN 46260

Re: New Law Affecting Coverage of Certain Athletic Trainer Services

Dear Mr. Plummer:

Please allow this letter to serve as a follow-up to the Indiana Athletic Trainers' Association's ("IATA") inquiries concerning the new law affecting coverage of certain Athletic Trainer services.

Executive Summary

Effective July 1, 2011, House Enrolled Act ("HEA") 1467 will create opportunities for Licensed Athletic Trainers ("LAT") to receive reimbursement from accident and sickness insurers and health maintenance organizations ("HMO"). While the new law will not mandate or require reimbursement for particular services, it will make certain that insurers cannot avoid paying for otherwise covered services merely because the services were provided by LATs (assuming the services properly fall within the LAT scope of practice). It will also add LAT services to the list of potentially reimbursable HMO services.

Discussion

Under current accident and sickness insurance statutes, "health care services" mean services rendered by a provider within the scope of practice of the provider's license – presumably including services provided by LATs. Under current HMO statutes, "health care services" mean services provided by certain specified licensed professionals, with LATs not being one of the professions expressly listed. This lack of specificity in the statutes, combined with the fact that Medicare does not cover LAT services, has led to inconsistent payment practices among insurers and frequent reimbursement denials for LATs.

While the new law will not change Medicare's policies, it will create opportunities for LATs to receive reimbursement from insurers and HMOs. The following is a detailed analysis of the legislation:

- Section 1 of HEA 1467 will require insurers that cover physical medicine and rehabilitative services to cover those services if they are provided by a LAT within the LAT scope of practice. Importantly, the law will not require insurers to cover all LAT services. Instead, the law takes away the ability of an insurer to refuse to cover services provided by LATs, if the insurer covers those services generally and the services fall within the LAT scope of practice.
- Section 2 of HEA 1467 will add LAT services to the list of health care services potentially covered by HMOs. Once effective, this means that LATs may go through the credentialing process to become a participating provider. Note, as discussed in the Limitations section below, the language of HEA 1467 will not require HMOs to credential any willing LAT.
- Section 3 of HEA 1467 specifies that Sections 1 and 2 only apply to plans and contracts issued, delivered, amended or renewed on or after July 1, 2011. Section 3 will expire on July 1, 2015. By this date, all existing plans will have been renewed and thus will have come under the requirements of the law. The mandates of Section 1 and 2 will continue beyond 2015.

Limitations

The new law will not require insurers to reimburse for any particular service. If an insurer does not provide coverage for physical medicine or rehabilitative services, it can continue to not do so. The law simply states that if an insurer does cover certain services, it must reimburse for those services if provided by a LAT, provided the services are within the LAT scope of practice.

In addition, the new law will not require HMOs to credential LATs. Under current law, HMOs make a determination whether a provider may serve as a participating provider based on criteria established by the HMO. It is possible that some LATs will not receive participating provider status. HEA 1467 will not change this – it simply makes clear that LATs are licensed professionals who may go through the credentialing process, subject to an HMO's established criteria for determining participating providers.

The new provisions of HEA 1467 only apply to insurers and HMOs. The law will not cover federal payors – including Medicare and Medicaid. To date, Medicare and Medicaid do not reimburse for LAT services.

Implementation and Reimbursement

As discussed above, implementation of HEA 1467 will be gradual – applying to existing plans and contracts when they are renewed or amended and applying to new agreements on the date they are entered into (assuming the renewal, amendment or entrance date is July 1 or beyond).

Despite potential for delayed implementation dates, LATs may begin discussions with their colleagues, employers, insurers and HMOs about the impending changes of the law. LATs interested in third-party reimbursement should prepare educational materials and form letters to begin communication with various stakeholders. Areas to cover in these discussions include: explanation of licensure and scope of practice, benefits and efficiencies of LAT services, and the existing or upcoming opportunity for reimbursement provided by HEA 1467.

In preparation for reimbursement, LATs should consider the various administrative and legal issues that may affect their workflow. Before entering the world of reimbursement, LATs must get the necessary institutional/employer approvals, prepare for a system of billing, prepare a process for medical documentation, consider and establish policies on patient privacy under the Health Information Portability and Accountability Act ("HIPAA"), and consider a fee schedule for services, among others.

For those considering entering an HMO, LATs will need to complete the credentialing process to become a participating provider – this process can take several months. Once successfully credentialed by the HMO, and at any point for those providing services under an accident and sickness policy, the LAT may begin to submit claims for their services. The details of appropriate billing and documentation practices are important, but beyond the scope of this memorandum.

Application in Various Settings

The impact of HEA 1467 will vary in different settings. In the clinical setting, where LATs are already providing services as part of an existing health care team, the law will provide opportunities for new revenue streams with minimal change or disruption to existing practice arrangements. LATs and their employers should work together to contact insurers and HMOs early to discuss the upcoming changes. Attorneys, contract managers and billing managers in charge of the renewal and/or claims process should be informed of the amended law and should plan to negotiate accordingly.

In the nonclinical setting (in universities, high schools and industrial or occupational settings), the provisions of HEA 1467 may have a less immediate impact as LATs typically do not bill third-parties; rather, they bill their employers. Generally, a contract for services is negotiated between the LAT and the employer – the contract defines the scope of services to be provided and the associated reimbursement. While HEA may not have a direct impact on these contracts, the provisions of HEA 1467 may be helpful to LATs as they negotiate reimbursement

rates with employers. LATs may point to HEA 1467 in seeking reasonable and comparable payment rates, and may use the law to illustrate the importance of LATs in the health care profession.

For those universities and high schools that are considering billing insurers and HMOs directly, beginning the process for reimbursement may be more involved as there likely is not an existing health care team or staff familiar with the reimbursement process in-house. In this instance, LATs will need to develop a business plan, seek approval from the appropriate authorities, gather resources and establish processes to appropriately document and bill for services.

Regardless of the setting, LATs will need to discuss opportunities and plans for reimbursement with department heads, medical directors, coaching staff and other members of the health care team. Before pursuing reimbursement, LATs should seek approval from the appropriate governing bodies, legal counsel and other stakeholders.

Conclusion

HEA 1467 presents a significant opportunity for LATs to receive third-party reimbursement and helps to secure their position in the health care market place. Despite this, there are limitations. The law will not change existing federal limitations to reimbursement, it will not take immediate effect for all LATs, and it will not require HMOs to credential all willing LATs. Please keep in mind that scope of practice concerns, physician direction or referral/order requirements and other compliance issues are unaffected by this law – LATs must continue to meet the state and federal laws governing their services.

This letter is meant to provide an analysis of HEA 1467 and address anticipated questions about implementation. As with any new law, questions and issues may arise as implementation unfolds. Should you have any questions or concerns, please do not hesitate to contact me. Thank you for the opportunity to assist the Indiana Athletic Trainers' Association.

Sincerely,

HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C.



Allison L. Taylor