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MEMORANDUM

TO: **BRIAN MCCORMICK**
Regulatory Supervisor
Department of Medical Assistance Services

FROM: **MARY-GRACE MENDOZA** MM
Assistant Attorney General

DATE: **June 11, 2013**

SUBJECT: **Fast-Track Submission - Inpatient and Outpatient Rehabilitation Update [REVISED: 12 VAC 30-50-225, 12 VAC 30-60-120 (Inpatient Intensive Rehabilitation) and 12 VAC 30-50-200, 12 VAC 30-60-150 (Outpatient Rehabilitation); RECOMMENDED FOR REPEAL: 12 VAC 30-130-10, 12 VAC 30-130-15, 12 VAC 30-130-20, 12 VAC 30-130-30, 12 VAC 30-130-40, 12 VAC 30-130-42, 12 VAC 30-130-50, 12 VAC 30-130-60]**

This memorandum responds to your request that this Office review the proposed regulatory action, "Inpatient and Outpatient Rehabilitation Update," which (1) updates and clarifies the provision of inpatient and outpatient rehabilitation services and provider documentation requirements; (2) conflates several regulatory sections into fewer sections by moving some existing requirements; and (3) repeals several regulation sections that are no longer needed.

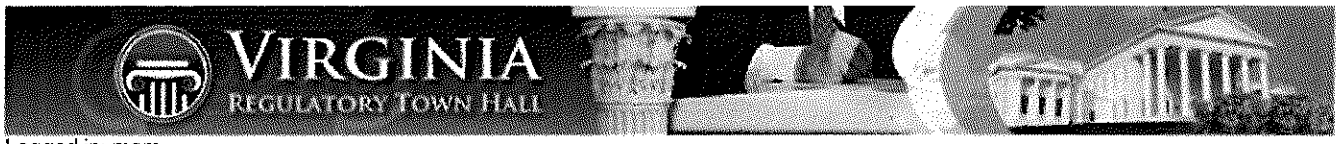
Based on my review, it is this Office's view that DMAS has the authority, subject to compliance with the provisions of Article 2 of the Virginia Administrative Process Act (VAPA), and has not exceeded that authority.

The authority for this action is 42 CFR § 440.130(d), which establishes rehabilitative services as a covered service under Title XIX of the Social Security Act. Additionally, Va. Code § 32.1-325 grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Director of DMAS is authorized to administer and amend the Plan for Medical Assistance according to the Board's requirements. Va. Code § 32.1-324. Accordingly, it is my view that this action was properly promulgated under the fast-track

rulemaking process pursuant to Va. Code § 2.2-4012.1 because the regulatory action is expected to be noncontroversial.

Please call me at (804) 786-6004 if you have any questions regarding this memorandum. Thank you.

cc: Kim F. Piner
Chief/Senior Assistant Attorney General



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Proposed Text

Action: Inpatient and Outpatient Rehabilitation Update

Stage: Proposed 4/16/13 12:42 PM [latest]

THE TEXT OF THIS REGULATION IS IN DRAFT FORM AND SHOULD NOT BE RELIED UPON FOR LEGAL INTERPRETATION.

12VAC30-50-200. Physical therapy, occupational therapy,and ~~related~~ services for individuals with speech, hearing, and language disorders.

A. Definitions. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Acute conditions" means conditions which are expected to be of brief duration (less than 12 months) and in which progress toward established goals is likely to occur frequently.

"DMAS" means the Department of Medical Assistance Services.

"Evaluation" means a complete assessment completed by a licensed therapist that is signed and fully dated and includes the following components: a medical diagnosis; clinical signs and symptoms; medical history; current functional status; summary of previous rehabilitative treatment and the result; and the therapist's recommendation for treatment.

"Non-acute conditions" means conditions which are of long duration (greater than 12 months) and in which progress toward established goals is likely to occur slowly.

"Physical rehabilitation services" means any medical or remedial services, as defined in 42 CFR § 440.130, recommended by a physician or other licensed practitioner of the healing arts, within the scope of his practice under State law, for maximum reduction of physical or mental disability and restoration of an eligible individual to his best possible functional level.

"Plan of care" means a treatment plan developed by a licensed therapist which shall include: medical diagnosis; current functional status; individualized, measurable, participant-oriented goals (long-term and short-term) which describe the anticipated level of functional improvement; achievement time frames for all goals; therapeutic interventions/treatments to be utilized by the therapist; frequency and duration of the therapies; and a discharge plan and anticipated discharge date.

"Re-evaluation" means an assessment that contains all of the same components as an evaluation and which shall be completed when an individual has a significant change in his condition or when an individual is readmitted to a rehabilitative service.

"SLP" means speech-language pathology.

B. Amount, duration, and scope of outpatient rehabilitation therapy services. The utilization review requirements set out in 12 VAC 30-60-150 shall apply to these outpatient rehabilitation therapy services. The applicable medical necessity criteria, as set out in McKesson InterQual ®Criteria, Rehabilitation, Adult and Pediatric (2012) and as may be modified annually or other nationally recognized

criteria as approved by DMAS, shall be met in order for service authorization to be provided.

1. DMAS covers outpatient rehabilitation therapy services provided in outpatient settings of acute care and rehabilitation hospitals, nursing facilities, home health agencies, and rehabilitation agencies. All providers of outpatient rehabilitation therapy services shall have a current provider agreement with DMAS. All practitioners and providers of services shall be required to meet applicable state and Federal licensing or certification requirements, or both.

2. Outpatient rehabilitation therapy evaluations or therapy treatment, or both, when rendered solely for vocational or educational purposes, shall not be covered under the authority of 12 VAC 30-50-200. Developmental or behavioral assessments shall not be covered under the authority of 12 VAC30-50-200. Individuals shall have a medical diagnosis, as determined by a licensed physician or other licensed practitioner of the healing arts within the scope of his practice under State law, and meet the medical necessity criteria in order to qualify for a Medicaid covered outpatient rehabilitation therapy evaluation or therapy treatment or both.

~~A. Physical therapy and related services~~ 3. Outpatient rehabilitation services shall ~~be defined as~~ includephysical therapy (PT), occupational therapy (OT), and speech-language pathology services (SLP). These services shall be prescribed by a physician or a licensed practitioner of the healing arts within the scope of is practice under state law, such as a nurse practitioner or a physician assistant within the scope of his practice under State law, and be part of a written ~~physician's order/plan of care~~ plan of care that is personally and legibly signed and dated by the licensed practitioner who ordered the services. Supervision for a licensed practitioner shall be provided by a physician as required by 18 VAC 90-30 -10 and 18 VAC 90-40-10 et seq. for nurse practitioners and 18 VAC 85-50-10 et seq. for physician assistants. ~~Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements. Services shall be provided according to guidelines found in the Virginia Medicaid Rehabilitation Manual.~~ Any of these services may be offered as the sole rehabilitation service and is not contingent upon the provision of another service.

~~B. Physical therapy.~~

~~1. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

4. DMAS shall provide for the direct reimbursement to enrolled rehabilitation providers for covered outpatient rehabilitation therapy services when such services are rendered to individuals residing in nursing facilities. Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that the reimbursement shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

5. The provision of physical therapy services shall meet all of the following conditions:

a. The services that the individual needs shall be directly and specifically related to a written plan of care developed, signed and dated by a licensed physical therapist and

b. The services shall be of a level of complexity and sophistication, or the condition of the individual, shall be of a nature that the services can only be performed by a physical therapist licensed by the Virginia Board of Physical Therapy, or a physical therapy assistant who is licensed by the Virginia Board of Physical Therapy and is under the direct supervision of a licensed physical therapist.

c. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit, at least once every 30 days and documents the findings of the visit in the medical record. The supervisory visit shall not be reimbursable.

~~2 Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for physical therapy services when such services are rendered to patients residing in nursing facilities. Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.~~

~~C. Occupational therapy.~~

~~1. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

~~2. Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for occupational therapy services when such services are rendered to patients residing in nursing facilities. Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.~~

6. The provision of occupational therapy services shall meet all of the following conditions:

a. The services that the individual needs shall be directly and specifically related to a written plan of care developed, signed and dated by a licensed occupational therapist, and

b. The services shall be of a level of complexity and sophistication, or the condition of the individual, shall be of a nature that the services can only be performed by an occupational therapist certified by the National Board for Certification in Occupational Therapy and licensed by the Virginia Board of Medicine or an occupational therapy assistant who is certified by the National Board for Certification in Occupational Therapy under the direct supervision of a licensed occupational therapist.

c. When occupational therapy services are provided by a qualified occupational therapy assistant, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days and documents the visit findings in the medical record. The supervisory visit shall not be reimbursable.

~~D. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist.)~~

~~1. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

~~2. Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for speech/language therapy services when such services are rendered to patients residing in nursing facilities. Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.~~

7. The provision of speech-language pathology services shall meet all of the following conditions:

a. The services that the individual needs shall be directly and specifically related to a written plan of care developed, signed and dated by a licensed speech-language pathologist and

b. The services shall be of a level of complexity and sophistication, or the condition of the individual shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Virginia Board of Audiology and Speech-Language Pathology, or who, if exempted from licensure by statute, meets the requirements in 42 CFR 440.110(c),

c. DMAS shall reimburse for the provision of speech-language services when provided by a person considered by DMAS as a speech-language assistant, i.e., has a Bachelors level, or a Masters level degree without licensure by the Virginia Board of Audiology and Speech-Language Pathology and who does not meet the qualifications required for billing as a speech-language therapist. Speech-language assistants shall work under the direct supervision of a licensed professional therapist holding a Certificate of Clinical Competence (CCC)/SLP or SLP, that meets the licensing requirements of the Virginia Board of Audiology and Speech-Language Pathology.

d. When services are provided by a therapist who is in his Clinical Fellowship Year (CFY)/SLP, or a speech-language assistant, a licensed CCC/SLP or SLP shall make a supervisory visit at least every 30 days while therapy is being conducted and document the findings in the medical record. The supervisory visit shall not be reimbursable.

~~E~~ C. Authorization for outpatient rehabilitation services.

1. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, ~~school divisions,~~ nursing facilities, or home health agencies shall include authorization for up to ~~24~~five allowed visits which do not require preceding service authorization by each ordered rehabilitative service annually as long as the individual meets the medical necessity criteria as set out in 12 VAC 30-50-200 B for the particular service. In situations when individuals require more than the initial five visits, providers shall submit, to either DMAS or the service authorization contractor, requests for service authorization and the required demonstration of medical necessity for such individuals. The provider shall maintain documentation to justify the need for services.

2. The provider shall request, from DMAS or its contractor, authorization for treatments deemed necessary by a physician or other licensed practitioner of the healing arts within the scope of his practice under state law beyond the ~~number~~

~~authorized~~ initial five visits. Documentation for medical justification must include ~~physicianorders/plans of care~~ plans of care signed and dated by a physician or other licensed practitioner. Authorization for extended services shall be based on individual need. Payment shall not be made for additional ~~service~~ services beyond the initial five visits unless the extended provision of services has been authorized by DMAS or its contractor.

3. Covered outpatient rehabilitative services for acute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. ~~"Acute conditions" shall be defined as conditions which are expected to be of brief duration (less than 12 months) and in which progress toward goals is likely to occur frequently.~~

4. Covered outpatient rehabilitation services for long-term, nonacute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. ~~"Nonacute conditions" shall be defined as those conditions which are of long duration (greater than 12 months) and in which progress toward established goals is likely to occur slowly.~~

5. Payment shall not be made for reimbursement requests submitted more than 12 months after the termination of services.

~~F~~ D. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology services:

1. ~~Patient~~ The individual must be under the care of a physician or other licensed practitioner who is legally authorized to practice and who is acting within the scope of his license.

2. The ~~physician~~ orders for evaluation of the need for therapy services shall ~~include the specific procedures and modalities to be used~~, identify the specific therapy discipline ~~to carry out the physician's order/plan of care, and indicate the frequency and duration for services. Physician orders/plans of care~~ and must be personally signed and dated prior to the initiation of rehabilitative services. ~~The certifying physician may use a signature stamp, in lieu of writing his full name, but the stamp must, at minimum, be initialed and dated at the time of the initialing (within 21 days of the order).~~

3. ~~Services shall be furnished under a written plan of treatment and must be established, signed and dated (as specified in this section) and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.~~ The plan of care shall include the specific procedures and modalities to be used and indicate the frequency and duration for services. A written plan of care shall be reviewed by the physician or licensed practitioner every 60 days for acute conditions, as herein defined, or annually for non-acute conditions. The requested services shall be necessary to carry out the plan of care and shall be related to the individuals condition. The plan of care shall be signed and dated (as specified in this section) by the physician or other licensed practitioner who reviews the plan of care.

~~4. A physician recertification shall be required periodically and must be signed and dated (as specified in this section) by the physician who reviews the plan of treatment. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed. Certification and recertification must be signed and dated (as specified in this section) prior to the beginning of rehabilitation services.~~

~~5~~4. ~~Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are~~

~~medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided~~. Quality management reviews, pursuant to 12 VAC 30-60-150, shall be performed by DMAS or its contractor.

~~6~~5. Physical therapy, occupational therapy and speech-language services are to be considered for termination regardless of the~~preauthorized~~ service authorized visits or services when any of the following conditions are met:

a. No further potential for improvement is demonstrated.~~(The patient~~ and the individual has reached his maximum progress ~~and a safe and effective maintenance program has been developed.)~~

b. ~~There is limited motivation of~~ Lack of participation on the part of the individual ~~or caregiver~~ is evident.

c. The individual has an unstable condition that affects his ~~or her~~ ability to actively participate in a rehabilitative plan of care.

d. Progress toward an established goal or goals cannot be achieved within a reasonable period of time as determined by the licensed therapist.

e. The established goal serves no purpose to increase meaningful functional or cognitive capabilities.

f. The service ~~can be provided by someone other than a skilled rehabilitation professional~~ no longer requires the skills of a qualified therapist~~.~~, or

g. A home maintenance program has been established to maintain the individuals function at the level to which it has been restored.

E. All providers of outpatient rehabilitation services shall be required to enroll as Medicaid providers using the outpatient rehab services provider agreement.

THE TEXT OF THIS REGULATION IS IN DRAFT FORM AND SHOULD NOT BE RELIED UPON FOR LEGAL INTERPRETATION.

12VAC30-50-225. Rehabilitative services; intensive physical rehabilitation and CORF services.

A. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

"Active participation" means the individual regularly, as may be ordered by the physician, attends planned therapeutic activities and demonstrates progress towards goals established in the plan of care.

"Admission certification statement" means that the physician signs and dates an initial written statement in the individual's medical record of the need for intensive rehabilitation services. This statement shall be documented at the time of the rehabilitation admission.

"Comprehensive Outpatient Rehabilitation Facility" or "CORF" means a facility which offers a coordinated intensive rehabilitation day program that uses an interdisciplinary team approach and includes, at a minimum, physicians' services and rehabilitation nursing in addition to at least two of these four therapy services: (i) physical therapy; (ii) occupational therapy; (iii) cognitive rehabilitation therapy, or; (iv) speech-language pathology services.

"Licensed practitioner of the healing arts" means either a nurse practitioner, a physician assistant, or other practitioner as licensed by the Commonwealth to render these covered services.

"Physical rehabilitation services" means medically prescribed treatments for improving or restoring functions which have been impaired by illness or injury, or where function has been permanently lost or reduced by illness or injury, for improving the individual's ability to perform those tasks required for independent functioning.

"Plan of care" means a written order, signed and dated by a physician or other licensed practitioner, which is specific to the individual that includes orders for rehabilitation therapies (including the frequency and duration of services), required medications, treatments, diet, and other services as needed, for example, psychological services, social work services, or therapeutic recreation services.

"Therapist plan of care" means a written treatment plan, developed by each licensed therapist involved with the individual's care, to include measurable long-term and short-term goals, interventions/modalities, frequency and duration, and a discharge disposition. These therapist plans of care shall be written, signed and dated by either a licensed physical or occupational therapist, speech-language pathologist, cognitive rehabilitative therapist, psychologist, social worker or certified therapeutic recreational specialist.

"Recertification" means that the physician or other licensed practitioner shall sign and date at least every 60 days a written statement in the individual's medical record of the continuing need for intensive rehabilitation services.

~~A.~~ B. Medicaid covers intensive inpatient physicalrehabilitation services ~~as defined in subsection D of this section~~ in facilities certified as physical rehabilitation hospitals or physicalrehabilitation units in acute care hospitals ~~which have been certified by the Department of Health to meet the requirements to be excluded from the Medicare Prospective Payment System~~.

~~B.~~ C. Medicaid covers intensive outpatient physical rehabilitation services ~~as defined in subsection D of this section~~in facilities which are certified as Comprehensive Outpatient Rehabilitation Facilities (CORFs). With the exception of the physician admission certification statement, all of the service criteria for intensive rehabilitation services also apply to CORF's.

~~C. These facilities are excluded from the 21-day limit otherwise applicable to inpatient hospital services. Cost reimbursement principles are defined in 12VAC30-70-10 through 12VAC30-70-130.~~

D. The medical necessity criteria of McKesson InterQual®Criteria, Inpatient and Outpatient Rehabilitation, Adult and Pediatric (2012), and as may be modified annually, or other nationally recognized criteria as approved by DMAS, must be met in order for service authorization to be granted. In addition, an individual qualifies for intensive inpatient rehabilitation or comprehensive outpatient physical rehabilitation as provided in a CORF if all of the following criteria are met:

1. Adequate treatment of the individuals medical condition requires an intensive physical rehabilitation program consisting of an interdisciplinary coordinated team approach to improve his ability to function as independently as possible;

2. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intensive setting;

3. In addition to the medical condition requirement, individuals shall meet the following criteria in order to be eligible for intensive inpatient rehabilitation or comprehensive outpatient physical rehabilitation provided in a CORF:

a. The individual shall require at least two of these four therapies in addition to requiring rehabilitative skilled nursing:

(1) Occupational therapy;

(2) Physical therapy;

(3) Cognitive rehabilitation therapy, or;

(4) Speech-language pathology services.

b. The individual's medical condition shall be stable and compatible with an active rehabilitation program, and;

4. The individual shall have a rehabilitation potential such that the individual's condition can be expected, based on the physician's assessment, to improve significantly in a reasonable and generally predictable period of time, or the individual shall require rehabilitation services as necessary toward the establishment of a safe and effective home maintenance therapy program required in connection with a specific diagnosis.

E. Within 24 hours of an individual's admission to intensive physical rehabilitation services, all of the physician requirements of 12 VAC 30-60-120(A) shall be met.

~~D.~~F. An intensive physical rehabilitation program provides medically necessary intensive skilled rehabilitation nursing, physical therapy, occupational therapy, and, if needed, speech-language pathology, cognitive rehabilitation, prosthetic-orthotic services, psychology, social work, and therapeutic recreation services. With the exception of CORF services, the physician or other licensed practitioner shall be responsible for admission and discharge orders. If verbal orders are given, written plans of care shall be signed and dated within 72 hours of the verbal order. The nursing staff ~~must~~ shall support the other disciplines in carrying out the ~~activities of daily living, utilizing correctly the training received in therapy~~ individuals interdisciplinary plan of care treatment activities on the medical nursing unit, and furnishing other needed nursing services. The ~~day-to-day activities~~ individual interdisciplinary plan of care must be carried out under the continuing direct supervision of a physician or other licensed practitioner with special training or experience in the field of physical medicine and rehabilitation. For CORF services, only physicians shall be permitted to initiate plans of care/orders.

1. For an individual with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an admission to intensive inpatient rehabilitation for an evaluation of no more than seven calendar days in duration shall be allowed. During this admission, a comprehensive rehabilitation evaluation shall be made of the individual's medical condition, functional limitations, prognosis, possible need for corrective surgery, the individual's ability to participate in rehabilitation, and the existence of any social problems affecting rehabilitation. After these evaluations have been made, the physician, in consultation with the interdisciplinary rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.

2. If during a previous hospital admission the individual completed a rehabilitation program for essentially the same condition for which inpatient hospital rehabilitation care is now being considered, reimbursement for the evaluation shall not be covered unless there is a documented intervening circumstance, such as an injury or serious illness, which necessitates a reevaluation.

3. Admissions for evaluation or training, or both, for solely vocational or educational purposes or for developmental or behavioral assessments shall not be covered services under the authority of 12 VAC 30-50-225.

~~E~~ G. ~~Nothing in this regulation is intended to preclude DMAS from negotiating individual contracts with in-state intensive physical rehabilitation facilities for those individuals with special intensive rehabilitation needs.~~ All providers of rehabilitation services shall be enrolled as a Medicaid provider. Inpatient rehabilitation providers and CORFS shall enroll via the Inpatient Rehabilitation Provider Agreement and Comprehensive Outpatient Rehabilitation Facility agreement, respectively.

~~F~~ H. To receive continued intensive rehabilitation services, the ~~patient~~ individual must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team. This shall be evidenced by regular attendance in planned therapy activities and demonstrated progress toward the established goals.

~~G~~ I. Intensive rehabilitation services shall be considered for termination regardless of the ~~preauthorized~~ service authorized length of stay when ~~any~~ one or more of the following conditions are met:

1. No further potential for improvement is demonstrated~~. The patient~~ and the individual has reached his maximum progress ~~and a safe and effective maintenance program has been developed.~~ ;

2. ~~There is limited motivation~~ Lack of participation on the part of the individual ~~or caregiver~~ is evident~~.~~ ;

3. ~~The individual has an~~ An unstable condition that affects ~~his~~ the individual's ability to activelyparticipate as herein defined in a rehabilitative plan of care~~.~~;

4. Progress toward an established goal or goals cannot be achieved within a reasonable period of time as determined by the licensed therapist~~.~~ ;

5. The established goal serves no purpose to increase meaningful functional or cognitive capabilities~~.~~ ;

6. The service ~~can be provided by someone other than a skilled rehabilitation professional~~ no longer requires the skills of a qualified therapist, or;

7. A home maintenance program has been established to maintain the individual's function to the level to which it has been restored.

THE TEXT OF THIS REGULATION IS IN DRAFT FORM AND SHOULD NOT BE RELIED UPON FOR LEGAL INTERPRETATION.

12VAC30-60-120. ~~Utilization control~~ Quality management: Intensive physical rehabilitative/CORF services.

~~A. A patient qualifies for intensive inpatient rehabilitation or comprehensive outpatient physical rehabilitation as provided in a comprehensive outpatient rehabilitation facility (CORF) if the following criteria are met:~~

~~1. Adequate treatment of his medical condition requires an intensive rehabilitation program consisting of an interdisciplinary coordinated team approach to improve his ability to function as independently as possible; and~~

~~2. It has been established that the rehabilitation program cannot be safely and adequately carried out in a less intense setting.~~

~~B. In addition to the disability requirement, participants shall meet the following criteria:~~

~~1. Require at least two of the listed therapies in addition to rehabilitative nursing:~~

~~a. Occupational therapy.~~

~~b. Physical therapy.~~

~~c. Cognitive rehabilitation.~~

~~d. Speech/language pathology services.~~

~~2. Medical condition stable and compatible with an active rehabilitation program.~~

~~3. For continued intensive rehabilitation services, the patient must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team. This is evidenced by regular attendance in planned activities and demonstrated progress toward the established goals.~~

~~4. Intensive rehabilitation services are to be considered for termination regardless of the preauthorized length of stay when any of the following conditions are met:~~

~~a. No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.~~

~~b. There is limited motivation on the part of the individual or caregiver.~~

~~c. The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.~~

~~d. Progress toward an established goal or goals cannot be achieved within a reasonable length of time.~~

~~e. The established goal serves no purpose to increase meaningful function or cognitive capabilities.~~

~~f. The service can be provided by someone other than a skilled rehabilitation professional.~~

A. Within 24 hours of an individual's admission for either intensive inpatient rehabilitation or CORF services, a physician shall be required to complete and sign/date the admission certification statement (as defined in 12 VAC 30-50-225 and 42 CFR § 456.60) of the need for intensive rehabilitation or CORF services and the initial plan of care/orders.

1. Excluding CORF services, all other plans of care for inpatient rehabilitation services, including 60-day re-certifications and the 60-day plan of care renewal orders shall be ordered by either a physician or a licensed practitioner of the healing arts, including, but not limited to, nurse practitioners or physician assistants, within the scope of their licenses under State law.

2. If therapy services are re-certified by a practitioner of the healing arts other than a physician, supervision shall be performed by a physician as required by the *Code of Virginia* §§ 54.1-2957.01 and 54.1-2952, and 42 CFR § 456.60.

3. For CORF providers, federal requirements do not permit nurse practitioners or physician assistants to order CORF intensive rehabilitation services. A physician shall be responsible for all documentation requirements, including but not limited to, admission certifications, re-certifications, plans of care, progress notes, discharge orders, and any other required documentation. (42 CFR § 485.58 (a) (i))

4. Admission certification requirements shall apply to all individuals who are currently Medicaid eligible and to those individuals for whom a retroactive Medicaid eligibility determination is anticipated for coverage of an inpatient rehabilitative stay or for CORF services.

~~C.~~B. Within 72 hours of ~~a patient's~~ an individual's admission to an intensive rehabilitation or CORFprogram, or ~~within 72 hours of~~ upon notification to the ~~facility~~provider of the ~~patient's~~ individual's Medicaid eligibility or that his Medicare benefits are exhausted, the ~~facility~~provider shall notify ~~the Department of Medical~~

~~Assistance Services~~DMAS or its contractor in writing, or as required, of the ~~patient's~~individual's admission and the medical need for service authorization.

1. This notification shall include a description of the admitting ~~diagnoses~~ diagnosis, plan of ~~treatment~~ care, expected progress and a physician's written admission certification statementthat the ~~patient~~ individual meets the rehabilitationadmission criteria. ~~The Department of Medical Assistance Services will make a determination as to the appropriateness of the admission for Medicaid payment.~~ DMAS or its contractor shall review such requests for service authorization and make a determination based on medical necessity criteria (see 12 VAC 30-50-225) as designated by DMAS, and notify the ~~facility~~ providerof its decision. If ~~payment is~~ services are approved, ~~the department will~~ DMAS or its contractor shall establish and notify the ~~facility~~ provider of an approved length of stay. Additional lengths of stay shall be requested ~~in writing~~ by the provider prior to the end date of the initial service authorization, and must beapproved by ~~the department~~ DMAS or its contractor for reimbursement. Admissions or lengths of stay not authorized by ~~the Department of Medical Assistance Services~~ DMAS or its contractor ~~will~~ shallnot be approved for ~~payment~~ reimbursement.

2. For continued intensive rehabilitation or CORF services, the individual must demonstrate an ability to actively participate in goal-related therapeutic interventions developed by the interdisciplinary team.

~~D.~~C. Documentation of rehabilitation services ~~shall, at a minimum~~ required by DMAS for reimbursement for all disciplines of intensive rehabilitation or CORF services shall include all of the following:

1. A written physician admission certification statement;

2. A 60-day written recertification statement, if a continued stay is determined to be medically necessary:

a. By the physician or other licensed practitioner of the healing arts within the scope of his license;

b. Admission certification/recertification statements for CORF services shall be signed/dated only by licensed physicians.

3. A physicians written initial plan of care shall include orders for medications, the frequency and duration of services, required rehabilitation therapies, diet, medically necessary treatments, and other required services such as psychology, social work, and therapeutic recreation services.

a. Except for CORF services, the plan of care may be written by either a physician or by a licensed practitioner of the healing arts within the scope of his license.

b. For CORF services, the plan of care shall be written, signed, and dated only by a licensed physician.

~~1.~~4. ~~Describe~~ An initial evaluation that describes the individual's clinical signs and symptoms ~~of the patient~~ necessitating admission to the rehabilitation program;

~~2~~ 5. ~~Describe~~ A description of any prior treatment and attempts to rehabilitate the ~~patient~~ individual;

~~3~~ 6. ~~Document an~~ An accurate and complete chronological ~~picture~~ description of the ~~patient's~~ individual'sclinical course and progress in treatment;

7. Documentation, by each participating therapy discipline, of a comprehensive plan of care developed by the licensed therapist;

~~4~~ 8. ~~Document~~ Documentation that an interdisciplinary coordinated team ~~treatment~~ plan of carespecifically designed for the ~~patient~~ individual has been developed within seven days of admission;

~~5~~ 9. ~~Document~~ Detailed documentation~~in detail~~ of all treatment rendered to the ~~patient~~ individualin accordance with ~~the interdisciplinary~~ each discipline's plan of care with specific attention to frequency, duration, modality, the individual's response to treatment, and ~~identify~~ the identification of the licensed therapist or therapy assistant and dated signature of who provided such treatment;

~~6~~ 10. ~~Document change~~ Documentation of all changes in the ~~patient's~~ individual's condition orconditions;

~~7. Describe responses to and the outcome of treatment; and~~

~~8. Describe~~ 11. Documentation describing a discharge plan which includes the anticipated improvements in functional levels, the time frames necessary to meet ~~these~~ the individual's goals, and the ~~patient's~~ individual's discharge destination~~.~~;

12. Discharge summary shall be completed by each licensed discipline offering services to include goal outcomes. The provider may complete the discharge summary before the individuals discharge or up to 30 days after the date of the individual's discharge.

D. Services not specifically documented in the ~~patient's~~individual's medical record as having been rendered will be deemed not to have been rendered and no reimbursement will be provided. ~~All intensive rehabilitative services shall be provided in accordance with guidelines found in the Virginia Medicaid Rehabilitation Manual~~.

E. Intentional altering of medical record documentation shall be prohibited. If corrections in medical records are indicated, then they shall be made consistent with the procedures in the agency's provider-specific rehabilitation guidance documents.

(see **https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual**)

~~E For a patient with a potential for physical rehabilitation for which an outpatient assessment cannot be adequately performed, an intensive evaluation of no more than seven calendar days will be allowed. A comprehensive assessment will be made of the patient's medical condition, functional limitations, prognosis, possible need for corrective surgery, attitude toward rehabilitation, and the existence of any social problems affecting rehabilitation. After these assessments have been made, the physician, in consultation with the rehabilitation team, shall determine and justify the level of care required to achieve the stated goals.~~

~~If during a previous hospital stay an individual completed a rehabilitation program for essentially the same condition for which inpatient hospital care is now being considered, reimbursement for the evaluation will not be covered unless there is a justifiable intervening circumstance which necessitates a reevaluation.~~

~~Admissions for evaluation or training, or both, for solely vocational or educational purposes or for developmental or behavioral assessments are not covered services.~~

F. The interdisciplinary rehabilitative team shall meet and prepare written documentation of the interdisciplinary team plan of care within seven days of admission. Interdisciplinary rehabilitative team conferences shall be held as needed but at least every two weeks to assess and document the ~~patient's~~

individual's progress or problems impeding progress. The interdisciplinary rehabilitative team shall assess the validity of the rehabilitation goals established at the time of the initial evaluation, determine if rehabilitation criteria continue to be met, and revise ~~patient~~the individual's goals as needed. A simple reading review by the various interdisciplinary rehabilitative team members of each others' notes ~~does~~ shall not constitute ~~a~~ an interdisciplinary rehabilitative team conference. Where practical, the ~~patient~~ individualor family or both shall participate in the interdisciplinary rehabilitativeteam conferences. A dated summary of the conferences, ~~noting~~ documenting the names and professional titles of the interdisciplinary rehabilitative team members present, shall be recorded in the clinical record and shall reflect the reassessments of the various ~~contributors~~interdisciplinary rehabilitative team members.

~~Rehabilitation care is to be considered for termination, regardless of the approved length of stay, when further progress toward the established rehabilitation goal is unlikely or further rehabilitation can be achieved in a less intensive setting.~~

G. ~~Utilization review shall be performed~~ DMAS or its contractor shall perform quality management reviews to determine if services ~~are~~ were appropriately provided as verified in the medical record documentation and to ensure that the services provided to Medicaid ~~recipients~~ individuals ~~are~~ were medically necessary and appropriate and that the ~~patient~~ individual ~~continues~~continued to meet intensive rehabilitation criteria throughout the entire admission in the rehabilitation program. ~~Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.~~

H. When a provider has been determined during a quality management review as not complying with DMAS' regulations, DMAS or its contractor may request corrective action plans from the provider. The corrective action plan shall address how the provider will become compliant with DMAS' regulations and guidance documentation requirements in the areas for which the provider has been cited for non-compliance.

~~G~~ I. Properly documented medical reasons for furlough visits away from the inpatient rehabilitation provider may be included as part of an overall rehabilitation program. Unoccupied beds (or days) resulting from an overnight therapeutic furlough ~~will~~ shallnot be reimbursed by ~~the Department of Medical Assistance Services~~ DMAS.

~~H~~ J. Discharge planning shall be an integral part of the overall ~~treatment~~ plan of care which is developed at the time of admission to the program. The plan shall identify the anticipated improvements in functional abilities and the probable discharge destination. The ~~patient~~ individual~~,~~ unless unable to do so, or the responsible party, shall participate in the discharge planning. Notations concerning changes in the discharge plan shall be entered into the record at least every two weeks, as a part of the required interdisciplinary team conference.

~~I~~ K. ~~Rehabilitation services are medically prescribed treatment for improving or restoring functions which have been impaired by illness or injury or, where function has been permanently lost or reduced by illness or injury, to improve the individual's ability to perform those tasks required for independent functioning.~~ The following intensive rehabilitation professionals each have specific licensure and documentation requirements based on their disciplines that shall be adhered to. The following section outlines these requirements for physician, nursing, physical therapy, occupational therapy, speech-language pathology, cognitive rehabilitation therapy, psychology, social work, therapeutic recreation services, and prosthetic/orthotic services as follows: ~~The rules pertaining to them are:~~

1. Physician services are those services furnished to an individual that meet all of the following conditions:

a. The individual shall be under the care of a physician who is legally authorized to practice and is acting within the scope of his license, or a licensed practitioner of the healing arts as defined in 12 VAC 30-50-225. The physician shall be licensed by the Virginia Board of Medicine and have specialized training or experience in the field of physical medicine and rehabilitation;

b. Within 24 hours of an individual's admission, the physician shall provide a written initial admission certification consistent with 42 CFR § 456.60. The physician shall provide a 60-day written recertification statement of the continued need for intensive physical rehabilitation services. DMAS shall not provide reimbursement for services that are not supported by physician written admission certifications and 60-day recertifications;

c. The physician plan of care shall be written to include orders for medications, rehabilitation therapies, treatments, diet, and other required services pursuant to 42 CFR § 456.80. Failure to obtain the physician written renewal of the plan of care every 60 days shall result in non-payment for services rendered, and;

d. The service shall be specific and provide effective treatment for the individual's condition in accordance with accepted standards of medical practice.

~~1.~~ 2. Rehabilitative nursing requires education, training, ~~or~~ and experience that provides special knowledge and clinical skills to diagnose nursing needs and treat individuals who have health problems characterized by alteration in either cognitive ~~and~~ orfunctional ability, or both. Rehabilitative nursing services are those services furnished ~~a patient~~ to an individual which meet all of the following conditions:

a. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care~~approved by a physician after any needed consultation with~~ developed by a registered nurse licensed by the Virginia Board of Nursing who is experienced in physical rehabilitation;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services can only be performed by a registered nurse or licensed professional nurse, nursing assistant, or rehabilitation technician under the direct supervision of a registered nurse who is experienced in physical rehabilitation;

c. The services shall be provided with the expectation, based on the physician's assessment ~~made by the physician~~ of the ~~patient's~~ individual's rehabilitation potential, that the individual's condition ~~of the patient~~ will improve significantly, as determined by the physician and the interdisciplinary rehabilitative team, in a reasonable and generally predictable period of time as determined by the nurse or therapist, or these services shall be necessary to the establishment of a safe and effective maintenance therapy program required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~2~~ 3. Physical therapy services are those services,furnished ~~a patient~~ to an individual, which meet all of the following conditions:

a. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care ~~designed by a physician after any needed consultation with~~ developed by a physical therapist licensed by the Virginia Board of ~~Medicine~~ Physical Therapy;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services can only be performed by a physical therapist licensed by the Virginia Board of ~~Medicine~~ Physical Therapy or a physical therapy assistant who is licensed by the VirginiaBoard of ~~Medicine~~ Physical Therapy and under the direct supervision of a qualified licensed physical therapist ~~licensed by the Board of Medicine~~;

c. The services shall be provided with the expectation, based on the physician's assessment ~~made by the physician~~ of the ~~patient's~~individual's rehabilitation potential, that the individual'scondition ~~of the patient~~ will improve significantly, as determined by the physician and the interdisciplinary rehabilitative team, in a reasonable and generally predictable period of time, or these servicesshall be necessary to the establishment of a safe and effective maintenance therapyprogram required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~3~~ 4. Occupational therapy services are those services furnished ~~a patient which~~ to an individual that meet all of the following conditions:

a. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care ~~designed by the physician after any needed consultation with~~ developed by an occupational therapist ~~registered and~~ certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy and licensed by the Virginia Board of Medicine;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board or an occupational therapy assistant certified by the ~~American Occupational Therapy Certification Board~~ National Board for Certification in Occupational Therapy and licensed by the Virginia Board of Medicine under the direct supervision of a qualified occupational therapist as herein defined ~~above~~;

c. The services shall be provided with the expectation, based on the physician's assessment ~~made by the physician~~ of the ~~patient's~~ individual's rehabilitation potential, that the individual's condition ~~of the patient~~ will improve significantly, as determined by the physician and the interdisciplinary rehabilitative team, in a reasonable and generally predictable period of time, or these services shall be necessary to the establishment of a safe and effective maintenance therapyprogram required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

4 5. Speech-language pathology therapy services are those services furnished a ~~patient~~ to an individual which meet all of the following conditions:

a. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care ~~designed by a physician after any needed consultation with~~ developed by a speech-language pathologist licensed by the Virginia Board of Audiology and Speech-Language Pathology or, if exempted from licensure by statute, meeting the requirements in ~~42 CFR 440.1109 (c)~~ 42 CFR § 440.110 (c);

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~ shall be of a nature, that the services can only be performed by either~~a~~ speech-language pathologist licensed by the Virginia Board of Audiology and Speech-Language Pathology or by a speech-language assistant who has been certified by the Board and who is under the direct supervision of the speech-language pathologist;

c. The services shall be provided with the expectation, based on the physician's assessment ~~made by the physician~~ of the ~~patient's~~individual's rehabilitation potential, that the individual'scondition ~~of the patient~~ will improve significantly, as determined by the physician and the interdisciplinary rehabilitative team, in a reasonable and generally predictable period of time, or these servicesshall be necessary to the establishment of a safe and effective maintenance therapyprogram required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~5~~ 6. Cognitive rehabilitation therapyservices are those services furnished ~~a patient~~ to an individualwhich meet all of the following conditions:

a. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care ~~designed by the physician after any needed consultation with~~ developed by a clinical psychologist experienced in working with the neurologically impaired and licensed by the Virginia Board of ~~Medicine~~ Psychology;

b. The services, based on the findings of the neuropsychological evaluation, shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services can only be rendered after a neuropsychological evaluation administered by a licensed clinical psychologist or licensed physician experienced in the administration of neuropsychological assessments ~~and licensed by the Board of Medicine~~ and in accordance with a plan of care ~~based on the findings of the neuropsychological evaluation~~;

c. Cognitive rehabilitation therapy services ~~may~~ shallbe provided by either occupational therapists, speech-language pathologists, ~~and~~ or psychologists, or all of these, who have experience in working with ~~the~~ neurologically impaired individualswhen ~~provided under a plan recommended and coordinated by a physician or clinical psychologist licensed by the Board of Medicine~~ such services have been ordered by a physician or other licensed practitioner;

d. The cognitive rehabilitation services shall be an integrated part of the individual's interdisciplinary ~~patient care plan~~ plan of care and shall relate to information processing deficits which are a consequence of and related to a neurologic event;

e. The services include therapeutic activities to improve a variety of cognitive functions ~~such as~~ , for exampleorientation, attention/concentration, reasoning, memory, recall,discrimination, and behavior; and

f. The services shall be provided with the expectation, based on the physician's or psychologist's assessment ~~made by the physician~~of the ~~patient's~~ individual's rehabilitation potential, that the individual'scondition ~~of the patient~~ will improve significantly in a reasonable and generally predictable period of time, or these services shall be necessary to the establishment of a safe and effective maintenance therapyprogram required in connection with a specific diagnosis.

~~6~~ 7. ~~Psychology~~ Psychologicalservices are those services furnished ~~a patient which~~ to an individual that meet all of the following conditions:

a. ~~The services~~ Services shall be ~~directly and specifically related to an active written treatment plan~~ ordered by a physician or other licensed practitioner;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services as set out in the written plan of care can only be developed and performed by a qualified, licensed psychologist as required by ~~state law~~ the Virginia Board of Psychology or a licensed clinical social worker, a licensed professional counselor, or a licensed clinical nurse specialist-psychiatric;

c. The services shall be provided with the expectation, based on the assessment ~~made by the physician~~ of the ~~patient's~~ individual's rehabilitation potential, that the individual's condition ~~of the patient~~will improve significantly in a reasonable and generally predictable period of time, or these services shall be necessary to the establishment of a safe and effective maintenance therapy program required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~7~~ 8. Social work services are those services furnished ~~a patient which~~ an individual that meet all of the following conditions:

a. ~~The services~~ Services shall be ~~directly and specifically related to an active written treatment plan~~ ordered by a physician or other licensed practitioner;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services as set out in the written plan of care can only be performed by a qualified social worker ~~as required~~ licensedby ~~state law~~ the Virginia Board of Social Work;

c. The services shall be provided with the expectation, based on the assessment ~~made by the physician~~ of the ~~patient's~~ individual'srehabilitation potential, that the condition of the ~~patient~~ individualwill improve significantly in a reasonable and generally predictable period of time, or these services shall be necessary to the establishment of a safe and effective maintenance therapy program required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective

treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~8~~ 9. ~~Recreational therapy~~ Therapeutic recreation services are those services furnished ~~a patient which~~ to an individual that meet all of the following conditions:

a. ~~The services~~ Services shall be ~~directly and specifically related to an active written treatment plan~~ ordered by a physician or other licensed practitioner;

b. The services shall be of a level of complexity and sophistication, or the individual's condition ~~of the patient~~shall be of a nature, that the services as set out in the written plan of care are performed as an integrated part of a comprehensive rehabilitation plan of care by a recreation therapist certified with the National Council for Therapeutic Recreation at the professional level;

c. The services shall be provided with the expectation, based on the assessment ~~made by the physician~~ of the ~~patient's~~ individual'srehabilitation potential, that the individual's condition ~~of the patient~~ will improve significantly in a reasonable and generally predictable period of time, or these services shall be necessary to the establishment of a safe and effective maintenance therapy program required in connection with a specific diagnosis; and

d. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~ The service shall be specific and provide effective treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

~~9~~ 10. Prosthetic/orthotic services.

a. Prosthetic services furnished to a patient include prosthetic devices that replace all or part of an external body member, and services necessary to design the device, including measuring, fitting, and instructing the patient in its use.

b. Orthotic device services furnished to a patient include orthotic devices that support or align extremities to prevent or correct deformities, or to improve functioning, and services necessary to design the device, including measuring, fitting and instructing the patient in its use.

c. Maxillofacial prosthetic and related dental services are those services that are specifically related to the improvement of oral function not to include routine oral and dental care.

d. The services shall be directly and specifically related to ~~an~~a written ~~active written treatment~~ plan of care approved by a physician after consultation with a prosthetist, orthotist, or a licensed, board eligible prosthodontist~~,~~ who shall be certified in Maxillofacial prosthetics.

e. The services shall be provided with the expectation, based on the physician's or other licensed practitioner's assessment ~~made by the physician~~ of the ~~patient's~~ individual's rehabilitation potential, that the individual's condition ~~of the patient~~ will improve significantly in a reasonable and predictable period of time, or these services shall be necessary to ~~establish an improved functional state of maintenance~~ the establishment of a safe and effective maintenance therapy program.

f. ~~The service shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice and include the intensity of rehabilitative nursing services which can only be provided in an intensive rehabilitation setting.~~The service shall be specific and provide effective

treatment for the individual's condition. The amount, frequency, and duration of the service shall comport with accepted standards of medical practice.

THE TEXT OF THIS REGULATION IS IN DRAFT FORM AND SHOULD NOT BE RELIED UPON FOR LEGAL INTERPRETATION.

12VAC30-60-150. ~~General outpatient physical~~ Quality management review of outpatient rehabilitation therapy services.

A. ~~Scope.~~ The following general conditions shall apply to reimbursable outpatient rehabilitation therapy services:

1. ~~Medicaid covers general outpatient physical rehabilitative services provided in outpatient settings of acute and rehabilitation hospitals, in school divisions, by home health agencies, and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services (DMAS).~~ The covered services and medical necessity criteria as set out in 12 VAC 30-50-200 shall apply to these outpatient rehabilitation therapy services.

2. Outpatient rehabilitative therapy services, as defined in 42 CFR § 440.130, shall be prescribed by a licensedphysician or a licensed practitioner of the healing arts, specifically either a nurse practitioner or physician assistant, and be part of a written plan of care.

3. ~~Outpatient~~ Information regarding documentation requirements for outpatient rehabilitative therapy services shall be provided in accordance with ~~guidelines~~ requirements found in ~~the Virginia Medicaid Rehabilitation Manual~~ DMAS agency guidance documents specific to rehabilitation services and providers, (see **https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual**) ~~with the exception of such services provided in school divisions which shall be provided in accordance with guidelines found in the Virginia Medicaid School Division Local Education Agency Manual. Utilization review shall include determinations that providers meet all the requirements of Virginia state regulations found in (12VAC30-130-10 through 12VAC30-130-80).Utilization~~ Quality management ~~review~~ reviews shall be performed by DMAS or its contractor to ensure that all rehabilitativeservices ~~are appropriately provided and that services~~ provided to Medicaid ~~recipients~~ individuals are medically necessary and appropriate. Services not specifically documented in the individual's medical record as having been rendered shall be deemed not to have been rendered and no reimbursement shall be provided.

B. Covered outpatient rehabilitative therapy services. Rehabilitation services shall be initiated by a physician or licensed practitioner for the evaluation and plan of care. Both require a physician or licensed practitioner signature, title, and full date.

~~1. Covered outpatient rehabilitative services for acute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service. Such services may be provided by outpatient settings of hospitals, rehabilitation agencies, and home health agencies~~

~~2. Covered outpatient rehabilitative services for long-term, chronic conditions shall include physical therapy, occupational therapy, and speech-language pathology services. Any one of these services may be offered as the sole rehabilitative service and shall not be contingent upon the provision of another service. Such~~

~~services may be provided by outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, and school divisions.~~

A plan of care for therapy services shall: (i) include the specific procedures and modalities to be used; (ii) identify the specific discipline to carry out the plan of care; and (iii) indicate the frequency and duration of services.

C. ~~Eligibility criteria for outpatient rehabilitative services. To be eligible for general outpatient rehabilitative services, the patient must require at least one of the following services: physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy. All rehabilitative services must be prescribed by a physician.~~

~~D. Criteria for the provision of outpatient rehabilitative services.~~ All practitioners and providers of therapy services shall be required to meet state and federal licensing ~~and/or~~ orcertification requirements, or both as may be applicable. ~~Servicesnot specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered, and no coverage shall be provided~~.

D. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, nursing facilities, home health agencies, and rehabilitation agencies shall, at a minimum, include:

1. An initial evaluation that describes the clinical signs and symptoms of the individuals condition, including an accurate and complete chronological picture of the individual's clinical course and treatments. The initial evaluation or the re-evaluation shall be signed, titled, and dated by the licensed therapist when an individual is either: (i) initially admitted to a service; (ii) when there is a significant change in the individuals condition; or (iii) when an individual is re-admitted to a service.

2. A written plan of care, specifically developed for the individual, shall be signed, titled, and fully dated by a licensed therapist. Within 21 days of the plan of care start date. the physician or a licensed practitioner shall sign, title, and fully date the plan of care and it shall:

a. Describe specifically the anticipated goal-related improvements in functional level, frequency and duration of the ordered therapy or therapies, and the anticipated time frames necessary to meet these long term and short term individual goals, including participation by the appropriate rehabilitation therapist or therapists, the individual, and the family or caregiver, as may be appropriate.

b. Include a discharge plan which contains the anticipated improvements in functional levels and the anticipated time frames necessary to meet the individual goals:

(1) For outpatient rehabilitative services for acute conditions (as defined in 12 VAC 30-50-200), the plan of care must be reviewed, updated, and signed and dated at least every 60 days by the licensed therapist and the physician or other licensed practitioner;

(2) For outpatient services for long-term, non-acute conditions (as defined in 12 VAC 30-50-200), the plan of care must be reviewed, updated and signed and dated at least every 12 months by the licensed therapist and the physician or other licensed practitioner; and

3. The documentation of all treatment rendered to the individual in the progress notes, in accordance with the written plan of care with specific attention to frequency, duration, modality, and the individual's response to treatment. The

licensed therapist must sign, title, and fully date all progress notes in the medical record. If therapy assistants provide the treatment under the supervision of a licensed therapist, the assistant shall also sign, title, and fully date the progress notes in the medical record;

4. A description of all changes in the individual's condition, response to the rehabilitative written plan of care, and appropriate revisions to the written plan of care;

5. A discharge summary to be completed by the licensed therapist, who is providing the service at the time that the service is terminated, including a description of the individual's response to services, level of independence in carrying out learned skills and abilities, assistive technology necessary to carry out and maintain activities and skills, and recommendations for continued services (*i.e.*, referrals to alternate providers, home maintenance programs, training to individuals or caregivers, etc.); and

6. The therapist's signature, title, and full date (month/day/year) shall appear on all documentation; if therapy assistants provide the treatment, under the supervision of a licensed therapist, the supervising licensed therapist must document the findings of the supervisory on site visit every 30 days.

E. Restrictions.

a. The intentional altering of medical record documentation shall be prohibited and is fraudulent. If corrections are indicated, then they shall be made in medical records consistent with the procedures in the agency's provider-specific guidance documents.
(see**https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual**)

b. DMAS shall not reimburse for evaluations provided prior to the date of the physician's or other licensed practitioner's signature. DMAS shall not reimburse for provider-initiated additional re-evaluations which are not specific to DMAS requirements and which are in excess of DMAS' requirements.

~~Part I~~
~~Outpatient Physical Rehabilitative Services~~

12VAC30-130-10. ~~Scope~~ (Repealed.)

~~A. Medicaid covers outpatient physical rehabilitative services provided in outpatient settings. Services may be provided by acute and rehabilitation hospitals, by home health agencies, and by rehabilitation agencies which have a provider agreement with the Department of Medical Assistance Services.~~

~~B. Physical therapy and related services shall be prescribed by a physician and be part of a written plan of care that is personally signed and dated by the physician prior to the initiation of rehabilitation services. The physician may use a signature stamp, in lieu of writing his full name, but the stamp must, at a minimum, be initialed and dated at the time of the initialing within 21 days of the order.~~

~~C. Any one of these services may be offered as the sole rehabilitative service and is not contingent upon the provision of another service.~~

~~D. All practitioners and providers of services shall be required to meet State and Federal licensing or certification requirements.~~

~~E. Covered outpatient rehabilitative services for short-term, acute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Acute conditions" shall be defined as conditions which are expected to~~

~~be of brief duration (less than 12 months) and in which progress toward established goals is likely to occur frequently.~~

~~F. Covered outpatient rehabilitative services for long-term, nonacute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Nonacute conditions" shall be defined as those conditions which are of long duration (greater than 12 months) and in which progress toward established goals is likely to occur slowly.~~

~~G. All services shall be specific and provide effective treatment for the patient's condition in accordance with accepted standards of medical practice; this includes the requirement that the amount, frequency, and duration of the services shall be reasonable.~~

~~H. Rehabilitative services may be provided when all the following conditions are evidenced:~~

~~1. There is potential for improvement in the patient's condition or the patient has reached his maximum progress and requires the development of a safe and effective maintenance program;~~

~~2. There is motivation on the part of the patient and caregiver;~~

~~3. The patient's medical condition is stable; and~~

~~4. Progress toward goal achievement is expected within a reasonable time frame consistent with expectations for acute conditions and nonacute conditions.~~

~~I. Continued rehabilitation services may be provided when there is documentation of a positive history of response to previous therapy or evidence that a change in patient potential for improvement has occurred, or that a new or different therapeutic approach may effect a positive outcome.~~

~~J. Rehabilitative services shall be provided according to guidelines found in the Virginia Medicaid Rehabilitation Manual.~~

12VAC30-130-15. ~~Eligibility criteria for outpatient rehabilitative services.~~ (Repealed.)

~~To be eligible for outpatient rehabilitative services for an acute or long-term, nonacute condition, the patient must require at least one of the following services: physical therapy, occupational therapy, and speech-language pathology services.~~

12VAC30-130-20. ~~Physical therapy~~. (Repealed.)

~~A. Services for individuals requiring physical therapy are provided only as an element of hospital outpatient service, nursing facility service, home health service, rehabilitation agency service; or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

~~B. Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.~~

~~C. Physical therapy services meeting all of the following conditions shall be furnished to patients:~~

~~1. The services shall be directly and specifically related to an active written treatment plan designed and personally signed and dated (as in 12VAC30-130-10 B) by a physician after any needed consultation with a physical therapist licensed by the Board of Physical Therapy; and~~

~~2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a physical therapist licensed by the Board of Physical Therapy, or a physical therapy assistant who is licensed by the Board of Physical Therapy and is under the direct supervision of a physical therapist licensed by the Board of Physical Therapy. When physical therapy services are provided by a qualified physical therapy assistant, such services shall be provided under the supervision of a qualified physical therapist who makes an onsite supervisory visit at least once every 30 days. This supervisory visit shall not be reimbursable.~~

12VAC30-130-30. ~~Occupational therapy.~~ (Repealed.)

~~A. Services for individuals requiring occupational therapy are provided only as an element of hospital outpatient service, nursing facility service, home health service, rehabilitation agency; or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

~~B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost.~~

~~C. Occupational therapy services shall be those services furnished a patient which meet all the following conditions:~~

~~1. The services shall be directly and specifically related to an active written treatment plan designed and personally signed and dated (as in 12VAC30-130-10 B) by the physician after any needed consultation with an occupational therapist registered and certified by the American Occupational Therapy Certification Board; and~~

~~2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by an occupational therapist registered and certified by the American Occupational Therapy Certification Board, a graduate of a program approved by the Council on Medical Education of the American Medical Association and engaged in the supplemental clinical experience required before registration by the American Occupational Therapy Association under the supervision of an occupational therapist as defined above, or an occupational therapy assistant who is certified by the American Occupational Therapy Certification Board under the direct supervision of an occupational therapist as defined above. When occupational therapy services are provided by a qualified occupational therapy assistant or a graduate engaged in supplemental clinical experience required before registration, such services shall be provided under the supervision of a qualified occupational therapist who makes an onsite supervisory visit at least once every 30 days. This supervisory visit shall not be reimbursable.~~

12VAC30-130-40. ~~Services for individuals with speech, hearing, and language disorders.~~ (Repealed.)

~~A. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital outpatient service, nursing facility service, home health service, rehabilitation agency; or when otherwise included as an authorized service by a cost provider who provides rehabilitation services.~~

~~B. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is~~

~~and continues to be included as a component of the nursing facilities' operating cost.~~

~~C. Speech-language therapy services shall be those services furnished a patient which meet all the following conditions:~~

~~1. The services shall be directly and specifically related to an active written treatment plan designed and personally signed and dated by a physician after any needed consultation with a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology, or, if exempted from licensure by statute, meeting the requirements in 42 CFR 440.110(c); and~~

~~2. The services shall be of a level of complexity and sophistication, or the condition of the patient shall be of a nature that the services can only be performed by a speech-language pathologist licensed by the Board of Audiology and Speech-Language Pathology.~~

12VAC30-130-42. ~~Service limitations.~~ (Repealed.)

~~The following general conditions shall apply to reimbursable outpatient physical therapy, occupational therapy, and speech-language pathology services:~~

~~1. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.~~

~~2. Services shall be furnished under a written plan of treatment and must be established, personally signed and dated (as in 12VAC30-130-10 B), and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.~~

~~3. A physician recertification shall be required at least every 60 days for acute rehabilitation services and at least annually for long-term, nonacute services and must be personally signed and dated (as in 12VAC30-130-10 B) by the physician who reviews the plan of treatment. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed. Certification and recertification must be personally signed and dated (as in 12VAC30-130-10 B) prior to the initiation or continuation of rehabilitation services.~~

~~4. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the plan of care, and indicate the frequency and duration of services.~~

~~5. Utilization review shall be performed to determine if services are appropriately provided and to ensure that services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.~~

~~6. Rehabilitation services are to be considered for termination regardless of the preauthorized visits or services when any of the following conditions are met:~~

~~a. No further potential for improvement is demonstrated.~~

~~b. Limited motivation on the part of the individual or caregiver is evident.~~

~~c. The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.~~

~~d. Progress toward an established goal or goals cannot be achieved within a reasonable period of time.~~

~~e. The established goal or goals serve no purpose toward achieving a significant, meaningful improvement in functional or cognitive capabilities.~~

~~f. The service can be provided by someone other than a skilled rehabilitation professional.~~

12VAC30-130-50. ~~Authorization for services~~. (Repealed.)

~~A. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, or home health agencies shall include authorization for up to five visits by each ordered rehabilitative service annually. School-based rehabilitation services shall not be subject to any prior authorization requirements. The provider shall maintain documentation to justify the need for services. A visit shall be defined as the treatment session that a rehabilitative therapist is with a client to provide services prescribed by the physician. Visits shall not be defined as modality-specific or in measurements or in increments of time.~~

~~B. The provider shall request from DMAS authorization for visits deemed necessary by a physician beyond the number of visits not requiring preauthorization (five). Documentation for medical justification must include personally signed and dated (as in 12VAC30-130-10 B) physician orders or a plan of care signed and dated by the physician which includes the elements described in 12VAC30-130-42. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS. Care rendered beyond the five visits allowed annually which have not been authorized by DMAS shall not be approved for payment.~~

~~C. Payment shall not be made for requests submitted more than 12 months after the termination of services.~~

12VAC30-130-60. ~~Documentation requirements~~. (Repealed.)

~~A. Documentation of physical therapy, occupational therapy, and speech-language pathology services provided by a hospital-based outpatient setting, home health agency, a rehabilitation agency, or a school division shall, at a minimum:~~

~~1. Describe the clinical signs and symptoms of the patient's condition;~~

~~2. Include an accurate and complete chronological picture of the patient's clinical course and treatments;~~

~~3. Document that a plan of care specifically designed for the patient has been developed based upon a comprehensive assessment of the patient's needs;~~

~~4. Include all treatment rendered to the patient in accordance with the plan with specific attention to frequency, duration, modality, response, and shall identify who provided care (include full name and title);~~

~~5. Include a copy of the personally signed and dated (as in 12VAC30-130-10 B) physician's orders / plan of care;~~

~~6. Describe changes in the patient's condition, response to the rehabilitative treatment plan, and appropriate revisions to the plan of care;~~

~~7. Describe a discharge plan which includes the anticipated improvements in functional levels and the time frames necessary to meet the goals;~~

~~8. Include an individualized plan of care which describes the anticipated goal-related improvements in functional level and the time frames necessary to meet~~

~~these goals. The plan of care shall include participation by the appropriate rehabilitation therapist or therapists, the patient, and the family or caregiver.~~

~~a. For outpatient rehabilitative services for acute conditions, the plan of care must be reviewed and updated at least every 60 days by the interdisciplinary team.~~

~~b. For outpatient services for long-term, nonacute conditions, the plan of care must be reviewed and updated at least annually. In school divisions, the plan of care shall cover outpatient rehabilitative services provided during the school year, and~~

~~9. Include discharge summary to be completed by the discipline providing the service at the time that the service is terminated and to include a description of the patient's response to services, level of independence in carrying out learned skills and abilities, assistive technology necessary to carry out and maintain activities and skills, and recommendations for continued services (i.e., referrals to alternate providers, training to caregivers, etc.). When services are provided by school divisions, a discharge summary shall not be required when services are interrupted at the end of a school term; a discharge summary shall be necessary when rehabilitative services are terminated because the patient no longer needs the services.~~

~~B. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.~~