The Fight for Fair Copays

High insurance copayments have made physical therapy too expensive for some patients.

Now PTs and patients are fighting back.
By Chris Hayhurst March 2012

Meryl Cadel just wants help. "What can you do for me?" she asks. "What can you do?" Cadel, age 59, has chronic back pain. Today, she says, cringing as she speaks, the pain is especially bad. But that's not her problem—or at least not the one that she's asking about.

At issue for Cadel is her insurance: Each time she sees her physical therapist (PT) at Madison Physical and Occupational Therapy in Brooklyn, NY, her insurance copay is $35. Cadel says that's too much for her. "I'm not working right now. My husband's not working. Normally I can only go in once a month. Otherwise it becomes too expensive. But last week I went in twice because I had to go—I was in so much pain." She paid the $70, she says, but it wasn't easy. "It's more than I can afford. I can't keep doing this. Something needs to change."

Cadel is not alone in her dilemma—not by a long shot. In physical therapy facilities nationwide, according to state chapters of the American Physical Therapy Association (APTA), a growing number of patients are facing co-insurance obligations that make their prescribed courses of treatment either discouragingly expensive or altogether unaffordable. The problem, in a nutshell, is that many health insurers classify physical therapy as a specialized medical service, a designation that puts physical therapists in the same "specialist" category as orthopedic surgeons and obstetrician/gynecologists. "So copays go to that higher dollar amount on the insurance card," says Matt Hyland, PT, PhD, MPA, CSCS, president of the New York Physical Therapy Association (NYPTA) and owner of Rye Physical Therapy and Rehabilitation in Rye and White Plains, NY. "Historically, that specialist copay was a 1-time thing. You'd be referred to an orthopedist by your general practitioners—maybe you needed surgery or maybe you didn't—and you'd pay the higher copay. All of your follow-up visits were covered under that single copay. Well, with physical therapy they not only charge the higher copay, they also do it every single time you come in."

None of this is likely to be news to the practicing physical therapist. What is worth noting, however, is what individual PTs, their state chapters, APTA itself, and even some patients are doing to address the issue—an issue that Hyland says physical therapists in his state were dealing with at least "5 or 6 years ago." It was then, says Hyland, that the NYPTA brought a motion to APTA's House of Delegates "trying to bring this copay issue to light, trying to generate some action." The House voted it down, he recalls, "because they didn't view it as a national issue. They viewed it as a New York issue."

A few years later, Hyland notes, the scene has changed dramatically. In fact, last June, APTA's House passed a resolution almost identical to New York's original motion. "It basically says that APTA needs to take action," explains Justin Elliott, APTA's director of state government affairs. "It says that we need to support advocacy efforts, that we might be able to address this legislatively, and that we need to make this a priority and start doing something about it right away."

Hyland, whose chapter is now very close to getting a "fair copay bill" passed in New York that would limit copayments to 20% of a physical therapist's total reimbursement for services, describes this "unified
national effort” as welcome and critical, even if it did arrive a few years later than his chapter had hoped. "Our perspective always has been that if something is happening in the insurance industry in New York, or for that matter in Texas or California or Pennsylvania, people should pay attention because it's probably going to happen everywhere," he says. "And that's what happened. High copays started to become an issue in a lot of other states."

**An Issue of Patient Access**

Take Ohio.

In Ohio, says Ohio Physical Therapy Association Chapter Vice President Kathy Szirony, PT, DPT, "it's the same as in many states. Physical therapy is considered a specialty, so often our copays are really high—anywhere from $50 to $100 for each visit." Szirony, who is regional outpatient manager at the Cleveland Clinic, says she's seen numerous patients who have "self-limited" their care in order to save money. In some cases, she says, patients will come in once and then never return.

In other cases, patients return for follow-up visits, but only when they can afford to—sometimes with tragic results. "I had one patient who had breast cancer that had metastasized to her brain. She had balance issues, and she was at risk for falling at home. She came in. Her copay was $100 for each visit. She saw me that first time then when she refused any adaptive equipment because it wasn't covered by her insurance policy. She said she wouldn't be able to come in again for 2 weeks." In 2 weeks, the patient noted, she'd be eligible for Medicaid—and then the copays would be a non-issue.

"Unfortunately," continues Szirony, "between the time I saw her and when her Medicaid kicked in, she fell and broke her hip. Think about it. If she had a lower copay—something she could afford—she could have come in to see me and we potentially could have avoided the complications of her hip fracture and the hospitalization and the surgery that followed." Szirony says similar examples are all too common in her state. "And it's not just happening in large hospitals. It spans the entire spectrum. It affects private practices and our community settings. It's a huge issue."

Last November, Szirony says, Ohio Senator Scott Oelslager introduced Senate Bill 233 at a hearing before the state's Senate, Insurance, Commerce, and Labor Committee. The bill was drafted by the Ohio Chapter with the help of a lobbyist, and was modeled on a sample draft proposed by APTA, similar legislation recently passed in Kentucky, and the fair copay legislation currently under review in New York. "It helps patients better access physical therapy services," explains Szirony. In terms of copays, she says, "it requires that copays be the same as they are for a primary care physician visit. That's usually $25 and under, each time you go." The bill has strong backing among physical therapists, occupational therapists (whose patients face similar copay issues), and patients alike, notes Szirony, but it's also facing stiff opposition by insurance companies. "We've got a lot of support, but it's going to be a hard battle."

**Legislative Success**

If Szirony is seeking a reason to be optimistic about the chances for change in Ohio, she need only look to Kentucky. Last spring, in what New York's Matt Hyland describes as a "legislative coup," the Kentucky Physical Therapy Association (KPTA) supported a bill that matched copays for physical and occupational therapy to those that patients pay for visits to their primary care physicians. That is, it does exactly what the Ohio law, if enacted, would require.

The bill, which KPTA had originally developed in 2010 with hopes for an informational hearing only (and with long-term expectations that it might be passed in 2012), was signed by the Kentucky governor in March 2011, says Dave Pariser, PT, PhD, who was KPTA's legislative chair at the time. The new law went into effect last June. "It was a long process," recalls Pariser, who now sits on APTA's Board of Directors and is associate professor of physical therapy at Bellarmine University in Louisville. "We went through some ups and downs, but we had tremendous grassroots efforts from our membership. We had a great response when we asked people to call and write their legislators. We also had a lot of patient testimonials explaining how they were being denied care from their own insurance companies through their copays."
In addition, Pariser says, several key legislators had family members who had stopped physical therapy themselves because of their copays. "So they were really able to identify with the issue."

Pariser says a number of other state chapters have contacted him seeking help with their own copay reform efforts. "I always say it's important to make sure that your legislators see this as a consumer-first issue—that it really is about patients who already are insured not being able to afford their own care. And then, from a physical therapist's perspective, we aren't able to be as effective as we need to be with our patients simply because they aren't coming in. "Pariser says he warns members in other states that they can expect stiff resistance from insurance companies and from certain lawmakers who may view copay legislation as a mandate. "The insurance companies' main argument at first was that this was a cost shift—that if they have to reduce copays, they'll have to raise premiums. Our response was that there had already been a cost shift when they made the copays so high. So the patients were insured, but they were paying out of pocket for their entire rehab. The insurance companies didn't have to pay anything. That took the wind out of their sails."

Pariser admits that Kentucky's recent victory in the fight for fair copays is just the beginning of what is certain to be a prolonged game of give-and-take to determine who pays for what in health care. "It doesn't solve everything," he says. "It certainly doesn't address all the problems associated with reimbursement. And it could lead to higher premiums, although that's something we haven't seen happen yet. Either way, I think we've taken a step in the right direction."

**A "Multipronged Approach"**

APTA's Justin Elliott says the association has "learned a great deal from Kentucky. We learned what opponents are going to say and what tactics they will use. And we learned that this is an issue that lawmakers actually do care about." Still, notes Elliott, the legislative approach to copay reform may not work for everyone. And even in those cases in which passing legislation is feasible, doing so may take years. "For some states, legislation might be a last resort," he says. "There are other ways to do it that can be just as effective." APTA, explains Elliott, has decided on a "multipronged approach" to the issue. "We plan to keep on doing what we've always done in terms of helping state chapters with payment advocacy, meeting with private payers, and doing what we can to educate them. If that doesn't work, if push comes to shove, that's when we'll move forward with legislation."

The New Jersey Physical Therapy Association, says Elliott, is a prime example of a chapter that has made great strides in copay reform without using the legislative approach. "We had patients paying $50 for physical therapy visits while the entire reimbursement was only $58," explains Dennis Marco, the chapter's payer relations specialist. When chapter leaders complained to the New Jersey Department of Banking and Insurance, Marco says, they learned there already was a regulation in place requiring insurers to cover at least 50% of a "benefit's value or the benefit is viewed as illusory." Once that was clear, it was merely a matter of documenting instances in which patient copays had been higher than allowed, and then submitting that documentation to the regulators. The effort resulted in payers having to adjust and lower their copayments. Carriers also were required to reimburse patients who had been overcharged.

"We went to the referees and told them we just wanted a fair playing field. We wanted them to call the fouls when they saw them," says Chapter President Brian Mason, PT, DPT. Unfortunately, he notes, up to that point the issue of unfair copays had never been raised with regulators. Therefore, carriers, unnoticed, had no real reason to comply with the law. "What we had to do was get the regulators the information they needed to see there was something wrong," he says. "Once they had that information, they fixed the problem."

Mason says he hopes that physical therapists elsewhere can learn from his chapter's success. "The take-home message is we all get frustrated. We all like to point fingers. We all tend to say the sky is falling. But when there's a problem, it's really up to the individual practitioner to be an agent of change. In this case we needed just 6 EOBs [explanation of benefits] to get the Department of Banking and Insurance involved and get insurers to start complying with the law. That's not a lot. So rather than just saying
someone else should do something about it, look at the regulations. And if there's a problem, go to your chapter and see how it can help."

A Matter of Education
Which brings us back to Meryl Cadel, the patient in New York with the $35 recurring copay. Mark Amir, PT, DPT, DipMDT, the president and founder of the facility in which Cadel is being seen—and, until recently, chair of NYPTA's Advisory Panel on Legislation—says financial situations like Cadel's are all too common, and that his business is hurting as a result. "Patients do not complete their required care. They come to us for treatment, and then they leave in the middle when they're only 50% or 60% better." Some patients come back later, says Amir, but many never do. They instead turn to surgery, medications, or other treatments that typically provide just temporary relief or are often extremely expensive for the health care system.

To help these patients the best he can in the limited time he has, Amir says he tries to "not necessarily treat 100% of the patient 100% of the time. Instead, we look at their finances, see what their costs will be, and focus on the one thing we can most efficiently influence. In a way, we have to moderate their care to the single most important issue."

Matt Hyland, the NYPTA chapter president, says he does the same, devoting much of his time with his high-copay patients to preparing them to handle their rehab on their own. "We've had many cases in which people come in for the initial examination and evaluation. We take them through that. It then really becomes a big educational session. We teach them what they can do for themselves and then hope to follow up with them in 4-6 weeks to see where they are."

Interestingly, both Hyland and Amir say, education also is a major part of their effort to alter the copay climate in New York. Education, they say, can be a more effective strategy than legislation. Education involves both working with patients who are willing to tell their stories and holding direct talks with insurers themselves. In terms of the insurers, explains Hyland, "what we're trying to do is show the insurance companies how, ultimately, if a patient sees the right provider at the right time—goes to physical therapy when it really can help them—it's going to save the insurance companies money. We're trying to change the paradigm."

They're making inroads, Hyland says, and even have started a pilot project with one carrier that they hope will drive home their point. And those patients most in need of help, such as Cadel? "As a chapter," says Hyland, "we're really pushing our PTs to sit down with those patients, to explain to them that their copayment is in many cases almost the entire payment to us, and that no—their insurance companies are not giving us more money on top of their copay. Once they understand how their bill is being paid, we ask them to contact their carriers, to talk to their employers, and to call their senator and their assembly person. Many of our patients are doing that."

Amir says he's optimistic that, one way or another, legislatively or not, the copayment problem eventually will be resolved. Still, he says, he worries. "This is urgent. Something needs to happen in the next couple of years—to save the system money, to provide proper care, and to secure physical therapists' positions, especially in private practice. If this lasts any longer than that, it will be tough to rebound."

Chris Hayhurst is a freelance writer

Fair Copay Resources
American Physical Therapy Association www.apta.org/StateIssues/FairCopays Resources include:
• APTA model legislation
• Sample support letter to legislators • Sample opposition talking points
http://www.apta.org/PTinMotion/2012/3/Feature/FightforFairCopays/
3/16/2012
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• A Power Point presentation prepared by the Kentucky Chapter
• A podcast on effective patient advocacy—reducing copayments prepared by the New Jersey Chapter New York State Physical Therapy Association

www.faircopays-betterresults.com

Resources include:

• Campaign materials, including a wall poster, an information palm card, lapel stickers, bumper stickers, and postcard to state legislators

• An online petition

• Media coverage of the issue

PT in Motion, APTA’s official member magazine, is the successor to PT—Magazine of Physical Therapy, which published 1993-2009. All links within articles reflect the URLs at the time of publication and may have expired.