therapy community and in professional practice guidelines.

Because there will be many cases for which one single functional measurement tool is not available or clinically inappropriate, therapists can use their clinical judgment in the assignment of the appropriate modifier. Therapists will need to document in the medical record how they made the modifier selection so that the same process can be followed at succeeding assessment intervals.

Comment: Many commenters evaluated our proposed 12-point scale as if it was itself to be used as an assessment tool, rather than simply a scale to report results of assessments. Some of these commenters also warned us that the 12-point scale could not give us valid and reliable data to use as an alternative payment system for therapy services unless a single assessment tool were used.

Response: We appreciate the views expressed by the many commenters. However, the 12-point scale was not intended to be used as an assessment tool. Rather, it was intended to be used to express the beneficiary's functional limitation in terms of a percentage of 100 total points so that there is a uniform scale for the degree of functional limitation. In other words, the scale that is used to report the degree of impairment would not affect the validity of the data. The reported data are as valid and reliable as the assessment tool or instrument (at times in combination with the therapist's judgment) that was used to develop the score. We also realize that there are limitations to the data that we will collect, in part because it is not all derived from one consistent, assessment tool.

Comment: Commenters noted that pain is a clinical complexity that is factored in when the beneficiary and therapist plan the course of treatment, but is not factored in to the proposed scale.

Response: We believe that the commenter meant that pain is a definite limiter of function and is difficult to measure and hard to quantify. However, we believe that pain and the functional limitations that it engenders can be captured by our severity scale. There are many valid and reliable measures that a therapist can use to quantify the functional limitations of painful conditions.

In response to the comments, we are adopting the following 7-point severity/complexity scale to report the severity of the beneficiary's functional impairment, which is based upon the scale developed as part of the STATs project.

TABLE 23—SEVERITY/COMPLEXITY MODIFIERS FOR CY 2013

Modifier	Impairment limitation restriction
CH	0 percent impaired, limited or restricted.
CI	At least 1 percent but less than 20 percent impaired, limited or restricted.
CJ	At least 20 percent but less than 40 percent impaired, limited or restricted.
CK	At least 40 percent but less than 60 percent impaired, limited or restricted.
CL	At least 60 percent but less than 80 percent impaired, limited or restricted.
CM	At least 80 percent but less than 100 percent impaired, limited or restricted.
CN	100 percent impaired, limited or restricted.

(4) Assessment Tools

In the proposed rule we noted that therapists frequently use assessment tools to quantify beneficiary function. FOTO and NOMS are two such assessment tools in the public domain that can be used to determine a score for an assessment of beneficiary function. Therapists could use the score produced by such instruments to select the appropriate modifier for reporting the beneficiary's functional status. Although we recommend the use of four of these functional assessment instruments to determine beneficiary functional limitation in the IOM, we did not propose to require the use of a particular functional assessment tool to determine the severity/complexity modifier. We explained our reasons for not doing so in the proposed rule saying "Some tools are proprietary, and others in the public domain cannot be modified to explicitly address this data collection project. Further, this data collection effort spans several therapy disciplines. Requiring a specific instrument could create burdens for therapists that would have to be considered in light of any potential improvement in data accuracy, consistency and appropriateness that such an instrument would generate." We noted that we might reconsider this decision once we have more experience with claims-based data collection on beneficiary function associated with furnished therapy services. We sought public comment on the use of assessment tools. In particular, we were interested in feedback regarding the benefits and burdens associated with use of a specific tool to assess beneficiary functional limitations. We requested that those favoring a requirement to use a specific tool provide information on the preferred tool and describe why the tool is preferred.

The following is a summary of the comments we received regarding the use of assessment tools and the benefits and burdens associated with use of a specific tool to assess beneficiary functional limitations.

Comment: Many commenters appreciated that we recognized the need to use consistent and objective measurement tools to quantify beneficiary function. All commenters who addressed assessment tools agreed that there is not currently a single assessment tool that would meet the diverse needs of beneficiaries receiving therapy services, and most did not recommend requiring the use of a single tool. However, many commenters stated we would be ineffective in reaching our data collection goals without prescribing some rules about assessing function; and thus suggested alternatives due to concerns of consistency and validity of the data. MedPAC noted that collecting data without a tool "would generate large amounts of data, and not provide clear information on the patients' limitations or functional status." MedPAC elaborated that variations among the assessment methods used by therapists "would potentially impede the utility of such data for policymakers."

Commenters found the following potential drawbacks to our proposal to allow therapists to choose the assessment tool(s) (or use their professional judgment) to determine the complexity/severity modifier. Commenters stated that the current proposal would collect individual level data that is not comparable among groups of beneficiaries or providers. Commenters also stated that gathering data on beneficiary condition, functional limitation, and progression necessitates the use of one standardized collection tool by all therapists. One commenter revealed that the same beneficiary could obtain widely distinct modifier scores depending on the tool used. Further, a commenter acknowledged that there are over 400 different measurement tools used by physical therapists, many of which only measure one domain of function. Additionally, another commenter urged us to provide more instruction on how each tool interfaces with the complexity/severity scale and provide crosswalks and guidance for each tool to promote consistency in the data collected.