

The Evolution of ‘Incident to’ Billing



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‘Incident to’ billing has been a challenging topic since its creation by Medicare. The rules – which allow advanced practice providers to be reimbursed at the full physician rate by Medicare when seeing patients in an office and directly supervised by a physician – are complex and, arguably, subject to interpretation. There have been a bevy of practices found in non-compliance with the rules, which has resulted in expensive paybacks.

Perhaps not surprising, the [Medicare Payment Advisory Commission \(MedPAC\)](#) issued their recommendation to eliminate the provision. The issue, states MedPAC, is that ‘incident to’ is not only costly for the Medicare program, but it “obscure[s] policymakers’ knowledge of who provides care to Medicare beneficiaries.” That’s an accurate statement, as the APP is essentially hidden behind the billing physician on the claim.

Although Medicare did not move forward with the 2019 recommendation, there are signs that other insurers are. [United Healthcare, for example, announced a new policy titled:](#) “Advanced Practice Health Care Provider Policy, Professional,” with an effective date of March 1, 2021: “The policy is being updated to require that an Advanced Practice Health

Care Professional must report services rendered within the scope of their licensure or certification using their own NPI number.”

For some practices, this policy change won't matter as they have already transferred their APPs to independent status. This indeed is the trend, as practices have assessed the cost/benefit of this manner of billing. At issue is the loss of 15% of revenue, as an independent APP is paid by most insurers at 85% of the fee schedule. However, the benefit is that the office does not have to constantly manage the requirement for “direct supervision” – and perhaps even trickier, the necessity of engaging the physician when the plan of care changes.

The Medicare Benefit Policy Manual states:

“...[T]here must have been a direct, personal, professional service furnished by the physician to initiate the course of treatment of which the service being performed by the nonphysician practitioner is an incidental part, and there must be subsequent services by the physician of a frequency that reflects the physician's continuing active participation in and management of the course of treatment.”

This latter requirement is particularly challenging from a practice management perspective: Who should the APP notify when the course of treatment is changed? Who is going to communicate with the physician that the patient needs to be seen? How do we handle the patient while he/she waits? What is the impact on the physician's schedule when he/she is called to assist the APP with a course of treatment change? If the physician is not called, what do we say when the patient calls after receiving a bill with the physician's name on it? - These questions relate to a Medicare patient, but the issue gets further complicated when considering that each insurer has its own rules about the so-called 'incident to' billing. Many, for example, require an “SA” modifier to be attached to the CPT code to demarcate that an APP was the rendering provider. The burden on the practice – and the patient – has become so high that some practices have eliminated 'incident to' billing altogether.

Migrating away from 'incident to' billing was nearly impossible in the past. In fact, many practices were forced to treat APPs under these rules because insurers would not recognize and enroll them as independent providers. That is changing.

Importantly, this issue of billing is separate and distinct from the treatment of APPs from the perspective of scope of practice – which is a state issue – and of supervision in accordance with your practice's policies and procedures. In fact, billing 'incident to' simply adds another layer of rules on top of an already complicated issue. It may be an opportune time to consider how your practice is addressing the issue; please contact our Medical Practice Services department at ContactSVMIC@svmic.com or 800.342.2239 for assistance.

For more information about Medicare's rules for 'incident to' billing:

[MLN Matters SE0441](#)

[Medicare Benefit Policy Manual, Chapter 15, Section 60](#)

[MedPAC recommendation \(Pages 158-162\)](#)

[United Healthcare's New Policy](#)

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