
Changes to Medicare "Incident To" Billing Requirements

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Medicare allows a physician to bill for certain services furnished by an Advanced Practice Practitioner (APP) under what is referred to as "incident to" billing. The "incident to" rule permits services furnished as an integral part of the physician's professional services in the course of diagnosis or treatment of an injury or illness to be reimbursed at 100% of the physician fee schedule, even if the service is not directly furnished by the physician. (A requirement of "incident to" billing is that the physician must have had an initial face-to-face encounter with the patient, which means "incident to" does not apply if the APP sees a new patient or an established patient with a new problem.)

A significant requirement for the services of APPs to be billed as "incident to" is direct supervision by the physician. Although the supervising physician does not need to be present in the room where the APP is seeing the patient, the "direct supervision" standard requires the supervising physician be "physically present in the office suite and immediately available to furnish assistance and direction" during the time the APP is providing the service.

The 2016 Medicare physician payment rule provides some clarification on how the direct supervision requirement under the "incident to" billing rules operates. The new rule clarifies that the physician who directly supervises the APP is the only party that can bill the service of the APP as "incident to" his or her service. CMS considers this as a clarification of its longstanding policy, but many providers will see this as a new restriction of the "incident to" guidelines.

This clarification will cause consternation in some practices, because often more than one physician (in the same practice) will be involved in the care of a patient. It is common for one physician to visit the patient and order a test or procedure, and then have the APP follow-up with the patient for that particular diagnosis. A different physician may supervise some of the follow-up visits. Prior to this clarification, the physician who originally ordered the service might have billed the APPs follow-up as “incident to” (under his/her billing number) even though another physician actually supervised the performance of the service. The revised regulatory language clarified this is not permitted, and that only the physician actually present in the office suite who supervises the service can bill for the service as “incident to” his or her service. When filing a claim for services billed “incident to” a physician’s services, the billing number of the physician that actually supervises the performance of the service must be used rather than that of the ordering physician.

According to CMS, the reason behind this rule is that “billing practitioners should have a personal role in, and responsibility for, furnishing services for which they are billing and receiving payment as an incident to their own professional service.” In view of this regulatory clarification, physician practices may wish to reexamine their billing process and procedures to clarify the correct billing for “incident to” services. They should also insure that physicians and staff are trained on the proper supervision and billing of services under the “incident to” rules.

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