



Medicare Incident to Guidelines

Kansas City AAPC March 2024








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Disclaimer




- We prepared this education as a tool to assist the provider community. Medicare rules change often. They are in the relevant laws, regulations and rulings on the Centers for Medicare & Medicaid Services (CMS) website.
- We will provide responses to questions based on the facts given, but the Medicare rules will determine final coverage.
- CMS prohibits recording of the presentation for profit-making purposes.

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Acronyms

- CAH – Critical Access Hospital
- CFR – Code of Federal Regulations
- CSW – Clinical Social Worker
- E/M – Evaluation and Management
- FQHC – Federally Qualified Health Center
- IOM – Internet-Only Manual
- LCA – Local Coverage Article
- LCD – Local Coverage Determination
- NCD – National Coverage Determination
- NPP – Non-Physician Practitioner
- POS – Place of Service
- RHC – Rural Health Clinic
- SNF – Skilled Nursing Facility

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Goal and Agenda



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Definition

- Billing practitioner submitting services provided by someone else
 - Services rendered by either NPP or ancillary staff
 - NPP can be incident to a physician
 - Ancillary staff can be incident to a physician or NPP

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Benefit Category

- Does not apply to items or services with their own benefit category
 - Radiology
 - Clinical laboratory
 - Pathology
 - Antigens (specific rules apply)
 - Vaccines (influenza, pneumonia, hepatitis B)

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Requirements

- Integral, although incidental part of the billing provider's professional services
- Commonly rendered without charge or included as part of the professional service
- Commonly furnished in physician's office
- Furnished under direct supervision
- Billing practitioner maintains involvement in patient care



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Professional Service

- E/M
 - Ancillary staff submit procedure code 99211 only
- Administration of drugs and biologicals
- Minor surgery
- Reading x-ray results



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Included in Professional's Charges

- Services are not a separate charge by the person performing the service
- Included in billing practitioner's charges



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Incident to Place of Service

- Services furnished in noninstitutional setting
 - Office (POS 11)
 - Nursing facility (32)
 - Patient's home (12)
 - In specific circumstances
- Institutional settings include (incident to does not apply)
 - Inpatient (21)
 - Outpatient hospital (19, 22, and 23)
 - SNF (31)



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Supervision

- Billing practitioner is in the same office suite as rendering provider
 - Able to provide immediate assistance
 - "Speaking loudly" distance
- Billing practitioner can be different than the treating practitioner
 - Clinic or group setting when the original practitioner is out of the office
- Billing practitioner not required to see patient on same day



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Virtual Supervision

- Allowed through December 31, 2024
- Supervision through audio/video communication
- Immediate assistance
- Does not need to be present in the same room



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Mental Health Services – Permanent

- Patient home is acceptable place of service
- No geographical restriction
- Substance use disorder (SUD) with co-occurring mental health disorder
- Diagnosis, evaluation or treatment of a mental health disorder
- General supervision



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Encore – Mental Health

- We have an encore from November 2023
- <https://youtu.be/f5DVBVCHvjK>



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Employment Relationship

- Employment relationship between person rendering the service and the billing practitioner
- Services must represent an expense
- Direct employment
- Leased employee
- Contracted employee



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Plan of Care

- Part of the billing practitioner's diagnosis or treatment of an illness or injury
- The rendering person is following the previously determined plan of care
- Billing practitioner remains involved in patient care
 - Performs initial service
 - Performs subsequent services of a frequency which reflect his/her active participation and management of the course of treatment



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Patient's Home

- Billing practitioner is also in the patient's home
 - Administration of injection



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Home Without Practitioner

- Patient is homebound
- Service is integral to billing practitioner's treatment of patient
- General supervision
- Included in billing practitioner's charges
- Services are medically necessary
- Service cannot be furnished by local Home Health Agency



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Home Incident to Specific Services

Some examples include the following:

- Injections
- Venipuncture
- Dressing changes
- Removal of fecal impaction, including enemas
- Teaching and training the patient for certain situations

This is not an all-inclusive list.



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Homebound Criteria

Patient must meet Criteria One **AND** Criteria Two.



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Homebound Criteria One

• Criteria One:

- The patient must either:
 - Because of illness or injury, need the aid of supportive devices such as crutches, canes, wheelchairs, and walkers; the use of special transportation; or the assistance of another person to leave their place of residence
- OR
 - Have a condition such that leaving his or her home is medically contraindicated



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Homebound Criteria Two

- Criteria Two:
 - There must exist a normal inability to leave home
- AND
 - Leaving home must require a considerable and taxing effort



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Drugs and Biologicals

- Ancillary staff
- Physician can submit charges for drugs started for an external pump
- Drug must represent an expense
- Can submit for time involved while patient is in the office setting



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Allergy Immunotherapy

- Exception to rule
- Practitioner can submit for clinical staff administering injection even though not treating the allergy
- Antigen prepared by the treating physician
- Procedure codes for the administration
 - 95115
 - 95117



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RHC/FQHC/CAH

- Medicare pays for services provided by clinical staff under the incident to guidelines as part of the encounter fee
 - Do not submit separately
 - Include in the cost report



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Supervision and Benefit Category

- Radiology
 - Technical component has its own benefit category
 - Supervision requirements in the [Medicare Fee for Service Relative Value Files](#)
- Professional service
 - Incident to requirements apply



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Documentation

- Identify person providing the service
- Billing practitioner's availability
- Plan of care from billing practitioner
- Continued involvement in treatment of the patient
- Services within the scope of practice
- Reasonable and necessary



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Split/Shared Not Applicable

- Split/Shared is only available in an institution setting
 - Hospital
 - SNF
- When both an NPP and physician see the patient in the office, documentation will determine the billing practitioner



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Additional Information

- Enroll your NPP



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Payment


- MD/DO – Medicare allows 100% of fee schedule
- NPP – Medicare allows 85% of fee schedule



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Office in facility


- Designated area
- Services provided in designated area can be incident to
 - Personnel and supplies are an expense to the practitioner not the facility
- Services outside of designated area
 - Ancillary services are part of the facility
- Does not apply to patients in a covered Part A stay



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General Supervision


- Some services are subject to general rather direct supervision
 - Chronic Care Management
 - Transitional Care Management



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Resources


- Social Security Act [Section 1861\(s\)](#)
- 42CFR410.26 [Services and supplies incident to a physician's professional services: Conditions](#)
- CMS IOM
 - 100-02, [Chapter 13](#)
 - 100-02, [Chapter 15](#)
 - Section 50.3
 - Section 60



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More Resources


- CMS IOM
 - 100-04, [Chapter 12](#), Section 30.6.4
- CMS NCD [Physician's Office within an Institution: Coverage of Services and Supplies Incident to a Physician's Service](#)
- MLN [SE0441](#) Incident to Services



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Additional Resources

- MLN [SE1609](#) Medicare Policy Clarified for Prolonged Drug and Biological Infusions Started Incident to a Physician's Service Using an External Pump
- CMS [Incident to Services and Supplies](#)
- LCD [L36408](#) Allergy Immunotherapy
- LCA [A57472](#) Billing and Coding: Allergy Immunotherapy



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