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"Incident to" Services

Note: This article was revised on August 23, 2016 to clarify the language under the *Hospital or SNF* paragraph on page 2. All other information remains the same.

Provider Types Affected

All Medicare providers of professional services

Provider Action Needed

This article is for your information only. It clarifies when and how to bill for services "incident to" professional services.

Background

The intent of this article is to clarify "incident to" services billed by physicians and non-physician practitioners to carriers. "Incident to" services are defined as those services that are furnished incident to physician professional services in the physician's office (whether located in a separate office suite or within an institution) or in a patient's home.

These services are billed as Part B services to your carrier as if you personally provided them, and are paid under the physician fee schedule.

Note: "Incident to" services are also relevant to services supervised by certain non-physician practitioners such as physician assistants, nurse practitioners, clinical nurse specialists, nurse midwives, or clinical psychologists. These services are subject to the same requirements as physician-supervised services. Remember that "incident services" supervised by non-physician practitioners are reimbursed at 85 percent of the physician fee schedule. For clarity's sake, this article will refer to "physician" services as inclusive of non-physician practitioners.

To qualify as "incident to," services must be part of your patient's normal course of treatment, during which a physician **personally performed an initial service** and remains **actively**

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involved in the course of treatment. You do not have to be physically present in the patient's treatment room while these services are provided, but you must provide **direct supervision**, that is, you must be present in the office suite to render assistance, if necessary. The patient record should document the essential requirements for incident to service.

More specifically, these services must be all of the following:

- An integral part of the patient's treatment course;
- Commonly rendered without charge (included in your physician's bills
- Of a type commonly furnished in a physician's office or clinic (not in an institutional setting); and
- An expense to you.

Examples of qualifying "incident to" services include cardiac rehabilitation, providing non-self-administrable drugs and other biologicals, and supplies usually furnished by the physician in the course of performing his/her services (for example, gauze, ointments, bandages, and oxygen).

The following paragraphs discuss the various care settings, which are important to note because the processes for billing vary somewhat depending on the care site.

Your Office

In your office, qualifying "incident to" services must be provided by a caregiver whom you directly supervise, and who represents a direct financial expense to you (such as a "W-2" or leased employee, or an independent contractor).

You do not have to be physically present in the treatment room while the service is being provided, but you must be present in the immediate office suite to render assistance if needed. If you are a solo practitioner, you must directly supervise the care. If you are in a group, any physician member of the group may be present in the office to supervise.

Hospital or SNF

For inpatient or outpatient hospital services and services to residents in a Part A covered stay in a SNF, the bundling provision (§1862 (a)(14) of the Social Security Act (the Act) for hospitals, and §1862(a)(18) of the Act for SNFs) provides that payment for all services are made to the hospital or SNF by a Part A Medicare Administrative Contractor (MAC) (except for certain professional services personally performed by physicians and other allied health professionals). Therefore, incident to services are not separately billable to the Part B MAC or payable under the physician fee schedule.

Offices in Institutions

In institutions including SNF, your office must be confined to a separately identifiable part of the facility and cannot be construed to extend throughout the entire facility. Your staff may provide service incident to your service in the office to outpatients, to patients who are not in a Medicare covered stay or in a Medicare certified part of a SNF. If your employee (or contractor) provides

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services outside of your “office” area, these services would not qualify as “incident to” unless you are physically present where the service is being provided. One exception is that certain chemotherapy “incident to” services are excluded from the bundled SNF payments and may be separately billable to the carrier.

In Patients’ Homes

In general, you must be present in the patient’s home for the service to qualify as an “incident to” service. There are some exceptions to this direct supervision requirement that apply to homebound patients in medically underserved areas where there are no available home health services only for certain limited services found in Pub 100-02, Chapter 15 Section 60.4 (B). In this instance, you need not be physically present in the home when the service is performed, although general supervision of the service is required. You must order the services, maintain contact with the nurse or other employee, and retain professional responsibility for the service. All other incident to requirements must be met. A second exception applies when the service at home is an individual or intermittent service performed by personnel meeting pertinent state requirements (for example, nurse, technician, or physician extender), and is an integral part of the physician’s services to the patient).

Ambulance Service

Neither ambulance services nor EMT services performed under your telephone supervision are billable as “incident to” services.

Additional Information

To provide additional clarity, we present the following scenarios:

Must a supervising physician be physically present when flu shots, EKGs, Laboratory tests, or X-rays are performed in an office setting in order to be billed as “incident to” services?

These services have their own statutory benefit categories and are subject to the rules applicable to their specific category. They are not “incident to” services and the “incident to” rules do not apply.

Can anti-coagulation monitoring be provided “incident to” a physician’s services in an office?

Yes, if the requirements are met, i.e., the services are part of a course of treatment during which the physician personally performs the initial service and is actively involved in the course of treatment, is physically present in the immediate office when services are rendered by the employee, and the service represents an expense to the physician or other legal entity that bills for the service.

If the treating physician (Doctor X) refers a patient to an anti-coagulation monitoring clinic, can Doctor X bill these services as “incident to?”

No, because the services are not being provided by an employee under supervision of Doctor X.

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Can the supervising physician (Doctor Y) at the anti-coagulation monitoring clinic (a physician group) bill the services as “incident to” if Doctor Y directly supervises those services at the clinic?

No, because Doctor Y is not treating the patient for the underlying condition. However, If Doctor Y receives a referral from Dr. X, and Dr. Y performs an initial evaluation of the patient and then orders and supervises the services, they may be billed by Doctor Y incident to her initial service.

If you have any questions, please contact your MAC at their toll-free number. That number is available at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html> under - How Does It Work.

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