



News Flash - The revised *Medicare Physician Fee Schedule Fact Sheet* (January 2008), which provides general information about the Medicare Physician Fee Schedule, can be accessed at <http://www.cms.hhs.gov/MLNProducts/downloads/MedcrePhysFeeSchedfctsht.pdf> on the Centers for Medicare & Medicaid Services website.

MLN Matters Number: MM5288

Related Change Request (CR) #: 5288

Related CR Release Date: May 2, 2008

Effective Date: June 2, 2008

Related CR Transmittal #: R87BP

Implementation Date: June 2, 2008

Incident to Policy Update

Provider Types Affected

Physicians, nonphysician practitioners (NPP), and other providers who bill Medicare carriers and A/B MACs for services provided to Medicare beneficiaries.

What You Need to Know

CR 5288, from which this article is taken, clarifies current Medicare policy regarding services provided as incident to the services of physicians or nonphysician practitioners (NPP) in the office. Specifically, it updates information in the Medicare Benefit Policy Manual (Chapter 15 -- Covered Medical and Other Health Services, Sections:

- 50.3 - Incident To Requirements for Coverage of Drugs and Biologicals That Are Not Usually Self-Administered;
- 60 - Services and Supplies Furnished Incident To a Physician's/NPP's Professional Service;
- 60.1 - Incident To Physician's/NPP's Professional Services in Office or Physician/NPP Owned and Operated Clinic;
- 60.2 - Services of Nonphysician Personnel Furnished Incident To Physician's Services; and
- 60.3 - Incident To Physician's/NPP's Services in Physician/NPP Owned and Operated Clinics)

For policies relative to hospital outpatient services see the Medicare Benefit Policy Manual, chapter 6, section 20.5.

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CR5288 represents no significant change in Medicare policy. It is intended only to clarify current policy and, where local interpretations may differ, to add consistency.

Background

The number of services provided as incident to the services of physicians/NPPs has grown continuously. As the benefit is applied in various settings for different services, the original instructions appeared insufficient. Therefore, in CR 5288, from which this article is taken, the Centers for Medicare & Medicaid Services (CMS) is responding to continued requests for clarification of policies related to Part B services provided incident to the services of physicians.

Key Points

The update of the Medicare Benefit Policy Manual is extensive and will not be repeated in this article. To view the manual update itself, see CR5288 at <http://www.cms.hhs.gov/Transmittals/downloads/R87BP.pdf> on the CMS website. In this article, we will only emphasize the following key points of CR5288:

- Carriers and A/B MACs will interpret a service as integral to the initial service when it is both essential to, and connected to, that service.
- When carriers and A/B MACs are aware that a service is furnished by staff other than the physician/NPP who is overseeing the patient's care, they will not pay for services incident to a physician's/NPP's service unless the services meet the requirements in Medicare Benefit Policy Manual, Chapter 15 (Covered Medical and Other Health Services, Section 60 (Services and Supplies Furnished Incident To a Physician's/NPP's Professional Service)) and its subsections.
- When carriers and A/B MACs are aware that a service is furnished by staff other than the physician/NPP overseeing the patient's care, carriers and A/B MACs will not pay for services incident to a physician's/NPP's service unless there is documentation authorizing the incident to service.
- Carriers and A/B MACs will not pay for services incident to the services of a physician/NPP if the services are for a new problem.
- Carriers and A/B MACs will use clinical judgment in determining whether the record contains sufficient documentation to indicate that a physician/NPP is overseeing the provision of services appropriately for the patient's condition, and whether the person furnishing the incident to service is appropriately qualified.
- Carriers and A/B MACs will apply the policies for services incident to a physician's/NPP's services in the office only in the identifiable boundary of an office or in a single room.
- Where services are provided in a home or to patients who are not in a Medicare certified unit in a skilled nursing facility (SNF), outside the boundary of an office suite, carriers and A/B MACs

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- will require that the supervisor be in the same room as the patient and the staff furnishing a service, providing the equivalent of personal supervision.
- For payment purposes, carriers and A/B MACs will require:
 - That documentation in the medical record conform to the policy in CR5288;
 - An authorization for services provided incident to the physician/NPP initial service; and
 - That the name and professional identities of the people who furnished the services must be in the medical record.
 - The authorization may be an “order” which may be part of the care plan. The authorization does not have to be in any specific form (it may be an order or part of a plan, treatment note, or team meeting note), but should indicate the physician’s intent that further services will be provided. It is appropriate that the physician may plan to provide a follow-up service personally and later assign the service to qualified staff. It is not necessary that a formal order be written to the staff, but services may not be billed if staff has not been authorized to provide them and that authorization must be present in the medical record.
 - The authorization will not be on the claim and therefore, will be identified only when the record is reviewed.
 - Services unrelated and not essential to the initial service will not be paid as incident to the initial, covered service. These services may represent new problems for which an initial physician/NPP service is required.
 - Carriers and A/B MACs are not required to perform medical review on all claims to determine whether there is a new problem, but if medical review reveals that there is a new problem, they will not pay for that service incident to the physician’s service without a prior physician’s service.
 - Staff may be overqualified to provide a service, but the service will not be allowed as incident to if the service should have been provided under another benefit such as a physician’s service or services of another professional. Carriers and A/B MACs will take special care in determining whether services provided by a physician or other professional incident to the services of a physician are actually incidental services or they should be billed, e.g., as physician services by enrolled physicians, or as diagnostic tests.
 - CMS requires that the professional title of the person who provides the service be written in the medical record in order that carriers and A/B MACs will know the staffs’ professional qualifications or licensure.

Additional Information

You can find more information in the official instruction, CR 5288, located at <http://www.cms.hhs.gov/Transmittals/downloads/R87BP.pdf> on the CMS website. You will find the updated Medicare Benefit Policy Manual, Chapter 15 (Covered Medical and Other Health Services), Sections 50.3 (Incident To Requirements for Coverage of Drugs and Biologicals That Are Not Usually Self-Administered), 60 (Services and Supplies Furnished Incident To a Physician’s/NPP’s

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Professional Service), 60.1 (Incident To Physician's/NPP's Professional Services in Office or Physician/NPP Owned and Operated Clinic), 60.2 (Services of Nonphysician Personnel Furnished Incident To Physician's Services), and 60.3 (Incident To Physician's/NPP's Services in Physician/NPP Owned and Operated Clinics) as an attachment to that CR.

All other manuals referenced in CR5288 are available at <http://www.cms.hhs.gov/Manuals/IOM/list.asp> on the CMS website.

If you have any questions, please contact your carrier or A/B MAC at their toll-free number, which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

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