



'Incident to' Services

Published November 2010



Part B



IMPORTANT



The information provided in this manual was current as of October 2010. Any changes or new information superseding the information in this manual, provided in newsletters/eBulletins, MLN articles, listserv notices, Local Coverage Determinations (LCDs) or CMS Internet-Only Manuals with publication dates after October 2010, are available at:

<http://www.trailblazerhealth.com/Medicare.aspx>

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IMPORTANT



MEDICARE PART B

'Incident to' Services

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'Incident to' Services

OVERVIEW

"Incident to" services are defined as services and supplies commonly furnished in a physician's office, which are "incident to" the professional services of a physician or a Non-Physician Practitioner (NPP) and provided by auxiliary personnel. This is limited to situations in which there is direct physician/non-physician personal supervision. This applies to auxiliary personnel under the supervision of the physician/non-physician, which includes, but is not limited to, nurses, technicians, therapists, NPPs, etc.

For purposes of this section, physician means physician or other practitioner (i.e., Physician Assistant (PA), Nurse Practitioner (NP), Certified Nurse Specialist (CNS), nurse midwife and Clinical Psychologist (CP)) authorized by the Social Security Act to receive payment for services "incident to" his own services.

The only NPPs who may bill Evaluation and Management (E/M) services (above the level of 99211) under the "incident to" criteria are NPs, CNSs, PAs and nurse-midwives.

REQUIREMENTS

Requirements for "incident to" are:

- The services are commonly furnished in a physician's office.
- The physician must have initially seen the patient.
- There is direct personal supervision by the physician of auxiliary personnel, regardless of whether the individual is an employee, leased employee or independent contractor of the physician.
- The physician has an active part in the ongoing care of the patient.

Direct supervision in the office setting does not mean that the physician/non-physician must be present in the same room with his aide. However, the physician must be present in the office suite and immediately available to provide assistance and direction while the aide is performing services.

COVERAGE CRITERIA

For certain services to be covered under the "incident to" provision, conditions must be met in addition to the standard coverage criteria that are applicable.

The services must be:

- An integral, although incidental, part of a professional service of a physician.
- Commonly rendered without charge or included in the physician's bill.
- Of a type that is commonly furnished in physicians' offices or clinics.
- Furnished by the physician or by auxiliary personnel under the physician's direct supervision.

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Note: Some "incident to" services to homebound patients may be allowed under a physician's general supervision.

'INCIDENT TO' A PHYSICIAN'S PROFESSIONAL SERVICES

"Incident to" a physician's professional services means the services or supplies are furnished as an integral, although incidental, part of the physician's personal professional services in the course of diagnosis or treatment of an injury or illness.

Medicare pays for services and supplies (including drugs and biologicals that are not usually self-administered):

- Furnished "incident to" a physician's or other practitioner's services.
- Commonly included in the physician's or practitioner's bills.
- For which payment is not made under a separate benefit category listed in Section 1861 (s) of the Act.

Medicare will not apply "incident to" requirements to services having their own benefit category. Rather, these services should meet the requirements of their own benefit category.

Example Diagnostic tests are covered under Section 1861(s)(3) of the Act and are subject to the physician supervision level coverage requirements. Depending on the particular tests, the supervision requirement may be more or less stringent than that discussed within the "incident to" criteria.

Note: Pneumococcal, influenza and hepatitis B vaccines are covered under Section 1861 (s)(10) of the Act and need not also meet "incident to" requirements.

PAs, NPs, CNSs, certified nurse midwives, CPs, Clinical Social Workers (CSWs), Physical Therapists (PTs) and Occupational Therapists (OTs) all have their own benefit categories and may provide services without direct physician supervision and bill directly for these services. When their services are provided as auxiliary personnel and under direct physician supervision, they may be covered as "incident to" services, in which case, the "incident to" requirements would apply.

FACILITY SERVICES (CMS CLAIM FORM UB-04)

Certain hospital services may also be covered as "incident to" a physician's service under Section 1861(s)(2)(B) of the Act. Payment for these services is made under Part B to a hospital by the hospital's intermediary and these services are not subject to the same requirements as services covered under Section 1861 (s)(2)(A). **These services are not billable to the Part B contractor.**

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DIRECT PERSONAL SERVICES

Coverage of services and supplies "incident to" the professional services of a physician in private practice is limited to situations in which there is direct physician supervision of auxiliary personnel.

Auxiliary personnel means any individual who is acting under the supervision of a physician, **regardless of whether the individual is an employee, leased employee or independent contractor of the physician**, or of the legal entity that employs or contracts with the physician. Likewise, the supervising physician may be an employee, leased employee or independent contractor of the legal entity billing and receiving payment for the services or supplies.

However, the physician personally furnishing the services or supplies or supervising the auxiliary personnel furnishing the services or supplies must have a relationship with the legal entity billing and receiving payment for the services or supplies, which satisfies the requirements for valid reassignment. As with the physician's personal professional services, the patient's financial liability for the "incident to" services or supplies is to the physician or other legal entity billing and receiving payment for the services or supplies. Therefore, the "incident to" services or supplies must represent an expense incurred by the physician or legal entity billing for the services or supplies.

When a physician supervises auxiliary personnel who assist him in rendering services to patients and includes the charges for their services in his own bills, the services of such personnel are considered "incident to" the physician's service if there is a physician's service rendered to which the services of such personnel are an incidental part and there is direct supervision by the physician.

This does not mean, however, that to be considered "incident to," that each occasion of service by auxiliary personnel (or the furnishing of a supply) need also always be the occasion of the actual rendering of a personal professional service by the physician. Such a service or supply could be considered to be "incident to" when furnished **during a course of treatment** where the physician performs an initial service and subsequent services at a frequency that reflects his active participation in and management of the course of treatment; however, the direct supervision requirement must still be met with respect to every non-physician service.

Direct supervision in the office setting does not mean the physician must be present in the same room with his aide. However, the physician must be present in the office suite and immediately available to provide assistance and direction throughout the time the aide is performing services.

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AUXILIARY PERSONNEL

If auxiliary personnel perform services outside the office setting, e.g., in a patient's home or in an institution (other than hospital or Skilled Nursing Facility (SNF)), their services are covered "incident to" a physician's service **only if there is direct supervision by the physician.**

Example If a nurse accompanied the physician on house calls and administered an injection, the nurse's services are covered. If the same nurse made the calls alone and administered the injection, the nurse's services are not covered (even when billed by the physician) since the physician is not providing direct supervision.

Services provided by auxiliary personnel in an institution (e.g., nursing or convalescent home) present a special problem in determining whether direct physician supervision exists. **The availability of the physician by telephone and the presence of the physician somewhere in the institution do not constitute direct supervision.**

TrailBlazer Health Enterprises® considers "incident to" within an institution (e.g., nursing, or convalescent home) to be met when the physician is **in the same wing and on the same floor as the auxiliary personnel for services other than Evaluation and Management (E/M) services.**

Historically, TrailBlazerSM has allowed providers to report "incident to" E/M in a Nursing Facility (NF) when the supervising physician/NPP was on the same floor and within the same wing and all criteria for "incident to" are met. No such reporting for "incident to" E/M services in an SNF has been allowed.

Any E/M service (or service with an E/M component) reported with an SNF/NF place of service must be performed by the billing physician/NPP. CMS has also identified that split/shared E/M visits cannot be reported in the SNF/NF setting.

"Incident to" E/M services may not be performed throughout the facility but must be confined to a discrete part of the SNF/NF designated as an office by the physician. The place of service to report on the claim is "office" (11). Providers may review the instructions regarding an office within an institution at Internet-Only Manual (IOM) 100-03, Chapter 1, Part 1, Section 70.3. This manual is located at:

http://www.cms.gov/manuals/downloads/ncd103c1_Part1.pdf

Note: "Incident to" services by physician-employed personnel for hospital patients and for SNF patients who are in a Medicare-covered stay are not covered. (This note applies to services other than E/M.)

'Incident to' Services

NON-PHYSICIAN PRACTITIONERS

Furnished 'Incident to' a Physician's Services

In addition to coverage being available for the services of such auxiliary personnel as nurses, technicians and therapists when furnished "incident to" the professional services of a physician, a physician may also have the services of certain NPPs covered as services "incident to" a physician's professional services.

These NPPs who are being licensed by the states under various programs to assist or act in the place of the physician include, for example, certified nurse midwives, CPs, CSWs, PAs, NPs and CNSs.

Services performed by these NPPs "incident to" a physician's professional services include not only services ordinarily rendered by a physician's office staff person (e.g., medical services such as taking blood pressures and temperatures, giving injections, and changing dressings) but also services ordinarily performed by the physician himself such as minor surgery, setting casts or simple fractures, reading X-rays, and other activities that involve evaluation or treatment of a patient's condition.

For services of an NPP to be covered as "incident to" the services of a physician, the services must meet all the requirements for coverage specified within the "incident to" criteria. For example, the services must be an integral, although incidental, part of the physician's personal professional services and they must be performed under the physician's direct supervision.

An NPP such as a PA or an NP may be licensed under state law to perform a specific medical procedure and may be able to perform the procedure without physician supervision and have the service separately covered and paid by Medicare as a PA's or NP's service. However, to have that same service covered as "incident to" the services of a physician, it must be performed under the direct supervision of the physician as an integral part of the physician's personal in-office service.

This does not mean that each occasion of an incidental service performed by an NPP must always be the occasion of a service actually rendered by the physician.

It does mean there must have been a direct, personal and professional service furnished by the physician to initiate the course of treatment of which the service being performed by the NPP is an incidental part, and there must be subsequent services by the physician of a frequency that reflects his continuing active participation in and management of the course of treatment.

In addition, the physician must be physically present in the same office suite and be immediately available to render assistance if that becomes necessary.

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Note: A physician might render a physician's service that can be covered even though another service furnished by an NPP as "incident to" the physician's service might not be covered. For example, an office visit during which the physician diagnoses a medical problem and establishes a course of treatment could be covered even if, during the same visit, an NPP performs a non-covered service such as acupuncture.

'INCIDENT TO' A PHYSICIAN'S SERVICE IN CLINIC

Services and supplies "incident to" a physician's services in a physician-directed clinic or group association are generally the same as those described above.

A physician-directed clinic is one where:

- A physician (or a number of physicians) is present to perform medical (rather than administrative) services at all times the clinic is open.
- Each patient is under the care of a clinic physician.
- The non-physician services are under medical supervision.

DEPARTMENTALIZED CLINICS

In highly organized clinics, particularly those that are departmentalized, direct physician supervision may be the responsibility of several physicians as opposed to an individual attending physician. In this situation, medical management of all services provided in the clinic is assured. The physician ordering a particular service need not be the physician who is supervising the service. Therefore, services performed by auxiliary personnel are covered even though they are performed in another department of the clinic.

Example: If a primary care provider orders the patient to see a gastroenterologist in the same clinic (premises), the primary care provider does not have to be the supervising provider for those services. It is appropriate for the gastroenterologist to be a supervising provider for those services performed in his office/department.

Supplies provided by the clinic during the course of treatment are also covered. When the auxiliary personnel perform services outside the clinic premises, the services are covered only if performed under the direct supervision of a clinic physician. If the clinic refers a patient for auxiliary services performed by personnel who are not supervised by clinic physicians, such services are not "incident to" a physician's service.

HOSPITAL SETTING

Services performed by auxiliary personnel in an inpatient or outpatient hospital setting are not covered as "incident to" services, and services provided by auxiliary personnel not in the employ of the physician, even if provided on the physician's order, are not covered as "incident to" services.

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FINANCIAL LIABILITY

The law requires that the services be those most commonly furnished in a physician's office. As with the physician's personal professional service, the patient's financial liability for the incidental service is to the physician. Therefore, the incidental service must represent an expense incurred by the physician in his professional practice.

BILLING REQUIREMENTS

"Incident to" services are services performed by auxiliary personnel supervised by a physician or NPP but are billed on the claim as if the billing physician or non-physician provider had provided the service.

SHARED VISITS

Office/Clinic Setting

In the office/clinic setting when the physician performs the E/M service, the service must be reported using the physician's National Provider Identifier (NPI).

When an E/M service is a shared/split encounter between a physician and an NPP (NP, PA, CNS or certified nurse midwife), the service is considered to have been performed "incident to" if the requirements for "incident to" are met and the patient is an established patient. If "incident to" requirements are not met for the shared/split E/M service, the service must be billed under the NPP's NPI, and payment will be made at the appropriate physician fee schedule payment.

Hospital Inpatient/Outpatient/Emergency Department Setting

Services billed "incident to" are not payable in the inpatient hospital setting.

When a hospital E/M service is shared between a physician and an NPP from the same group practice and the physician provides any face-to-face portion of the E/M encounter with the patient, the service may be billed under either the physician's or the NPP's NPI. Documentation for shared services must:

- Demonstrate that the physician personally saw the patient face-to-face and participated in the management of the patient.
- Not be limited to a physician's co-signature of the NPP's note or additions to the NPP's note.
- Not simply indicate that the physician reviewed and/or discussed the case with the NPP.

Coding for a shared visit may be based on the information recorded in the combined notes of the non-physician and the physician.

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If there was no face-to-face encounter between the patient and the physician (e.g., even if the physician participated in the service by reviewing the patient's medical record), the service may **only** be billed under the NPP's NPI.

The shared service concept does not apply to critical care services.

Examples of shared visits:

- If the NPP sees a hospital inpatient in the morning and the physician follows with a later face-to-face visit with the patient on the same day, the physician or NPP may report the service.
- In an office setting, the NPP performs a portion of an E/M encounter and the physician completes the E/M service. If the "incident to" requirements are met, the physician reports the service. If the "incident to" requirements are not met, the service must be reported using the NPP's NPI.

Skilled and Non-Skilled Facilities (SNF/NF)

Any E/M service reported with a Skilled and Non-Skilled Facility (SNF/NF) place of service must be performed by the billing physician/NPP. Split/shared E/M visits cannot be reported in the SNF/NF settings.

DOCUMENTATION FOR 'INCIDENT TO' SERVICES

The billing of services **other than** E/M performed by persons other than the billing physician as services that are "incident to" is also permissible for persons other than NPs, PAs and CNSs. Allied health professionals who are qualified under state law governing medical practice to perform the specified medical service may be reimbursed by Medicare for services provided "incident to" a physician's service. Such services are reimbursed under the physician's fee schedule as if the physician actually performed them.

Report these services with the employing/supervising physician's NPI in Item 33 of the CMS-1500 claim form.

The only NPPs who may bill E/M services (above the level of 99211) under the "incident to" criteria are NPs, CNSs, PAs and nurse midwives.

To ensure proper reimbursement according to the fee schedule, Medicare requires that documentation submitted to support billing "incident to" services must clearly link the services of the NPP to the services of the supervising physician.

For "incident to" services that are billed and undergoing medical review, documentation sent in response to the carrier's request should clearly show the link.

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Evidence of the link may include:

- Co-signature or legible identity and credentials (i.e., MD, DO, NP, PA, etc.) of both the practitioner who provided the service and the supervising physician on documentation entries.
- Some indication of the supervising physician's involvement with the patient's care. This indication could be satisfied by:
 - Notation of supervising physician's involvement (the degree of which must be consistent with clinical circumstances of the care) within the text of the associated medical record entry.
 - Or,
 - Documentation from other dates of service (e.g., initial visit, etc.) other than those requested, establishing the link between the two providers.

Failure to provide such information may result in denial of the claim for lack of documentation from the billing provider.

SCRIBED SERVICES

Documentation is considered to be scribed when *a nurse, Non-Physician Practitioner (NPP) or other employee* writes notes in the medical record while the physician is personally performing the service. The documentation must clearly identify the provider who performed the service to determine the appropriate payment for the service.

Scribed services may be performed in any setting; however, they are most commonly found in the inpatient setting. *TrailBlazer expects that the use of a scribe be clinically appropriate to the situation. For instance, it would be highly unusual to see a scribe used to document major surgery or psychiatric counseling sessions.*

When *a nurse, NPP or other employee* acts as a scribe for a physician, the medical record should clearly document the NPP is acting as a scribe for the physician and be signed by both the "scribe" and the physician. *Please see the example below:*

An NP is on rounds with a physician. Both the physician and the NP are at the patient's bedside. The physician takes a pertinent history, performs the examination and provides any patient/family education.

The NP writes the progress note and any orders in the patient's chart per the physician's direction. The NP includes in the note a statement such as, "Rebecca Jones, NP, scribing for Dr. Smith." The note would be signed by Rebecca Jones and Dr. Smith.

In *the above* scenario, the service is clearly being performed by the physician, although the progress note was not documented by him and would be reimbursable at 100 percent of the physician's fee schedule.

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Note: This example service cannot be reported as an “incident to” service. “Incident to” services are not billable in the hospital setting.

'Incident to' Services

'INCIDENT TO' RELATED TO OTHER SPECIALTY SERVICES

Chiropractic Services

There is no coverage for services provided "incident to" the services of a chiropractor; therefore, the chiropractor cannot supervise personnel and bill for services under his provider number.

For more information about chiropractic services, refer to the training manual at:

<http://www.trailblazerhealth.com/Publications/Training Manual/ChiropracticServices.pdf>

Medical Nutrition Therapy (MNT) and Outpatient Diabetes Self-Management Training (DSMT)

MNT

These codes can only be paid if submitted by a registered dietitian or nutrition professional who meets the specified requirements. These services cannot be paid "incident to" physician services.

97802©	Medical nutrition, indiv, in (initial visit)
97803©	Med nutrition, indiv, subseq
97804©	Med nutrition, group

For more information, refer to the *Medical Nutrition Therapy and Diabetes Self-Management* training manual at:

<http://www.trailblazerhealth.com/Publications/Training Manual/MNTDSMT.pdf>

Outpatient DSMT

The "incident to" requirements of Section 1861(s)(2)(A) of the Social Security Act do not apply to DSMT services. Section 1862(s)(2)(S) of the Act authorizes DSMT in a stand-alone provision. DSMT services are covered only if the physician or qualified NPP who is managing the beneficiary's diabetic condition certifies that such services are needed and refers the patient to the DSMT program. The referral must be done under a comprehensive plan of care related to the beneficiary's diabetic condition.

For more information, refer to the *Medical Nutrition Therapy and Diabetes Self-Management* training manual at:

<http://www.trailblazerhealth.com/Publications/Training Manual/MNTDSMT.pdf>

'Incident to' Services

Physical Medicine and Rehabilitation Services

'Incident to' Related to Physical/Occupational Therapy by Physicians and NPPs

Therapy services have their own benefit under Section 1861 of the Social Security Act and will be covered when provided according to the standards and conditions of the benefit described in Medicare manuals. The statute 1862(a)(20) requires that payment be made for a therapy service billed by a physician/NPP only if the service meets the standards and conditions, other than licensing, that would apply to a therapist.

Therapy services appropriately billed "incident to" a physician's/NPP's service shall be subject to the same requirements as therapy services that would be furnished by a PT, OT or Speech–Language Pathologist (SLP) in any other outpatient setting with one exception. When therapy services are performed "incident to" a physician's/NPP's service, the qualified personnel who perform the service do not need to have a license to practice therapy, unless it is required by state law. The qualified personnel must meet all the other requirements except licensure.

Qualifications for therapists are found in the "Professional Qualification Requirements" section of the *Physical Medicine and Rehabilitation* manual at:

<http://www.trailblazerhealth.com/Publications/Training Manual/Physical Therapy.pdf>

Regardless of any state licensing that allows other health professionals to provide therapy services, Medicare is authorized to pay only for services provided by those trained specifically in physical therapy, occupational therapy or speech-language pathology. This means the services of athletic trainers, massage therapists, recreation therapists, kinesiotherapists, low-vision specialists or any other profession may not be billed as therapy services.

Note: Therapy services (physical therapy, occupational therapy and/or speech-language pathology) provided "incident to" a physician or NPP requires direct supervision. For the purposes of billing the Part B contractor, "incident to" services do not apply in a hospital setting.

'Incident to' Services for Therapists in Private Practice

There is no coverage for services provided "incident to" the services of a therapist. Although Physical Therapist Assistants (PTAs) and Occupational Therapist Assistants (OTAs) work under the supervision of a therapist and their services may be billed by the therapist, their services are covered under the benefit for therapy services and not by the benefit for services "incident to" a physician/NPP. The services furnished by PTAs and OTAs are not "incident to" the therapist's service.

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'Incident To' Services for Physical Therapist Assistants (PTAs) and Occupational Therapist Assistants (OTAs)

There is no coverage for services provided "incident to" the services of a therapist. Although PTAs and OTAs work under the supervision of a therapist and their services may be billed by the therapist, their services are covered under the benefit for therapy services and not by the benefit for services "incident to" a physician/NPP. The services furnished by PTAs and OTAs are not "incident to" the therapist's service.

Supervision

The therapist must provide direct supervision to PTAs and OTAs. Direct supervision requires that the therapist be present in the office suite and immediately available to furnish assistance and direction during the performance of the service.

The services of PTAs and OTAs will not be billed as services "incident to" a physician's/NPP's service because they do not meet the qualifications of a therapist.

Note: Medicare does not recognize PTAs or OTAs as providers; therefore, they are not allowed to receive a Medicare provider number. Their services can only be billed by the supervising physical therapist.

Services of Speech-Language Pathology Support Personnel

Services of Speech-Language Pathology Assistants (SLPAs) are not recognized for Medicare coverage. Services provided by SLPAs, even if they are licensed to provide services in their states, will be considered unskilled services and denied as not reasonable and necessary if they are billed as therapy services.

Services provided by aides, even if under the supervision of a therapist, are not therapy services and are not covered by Medicare. Although an aide may help the therapist by providing unskilled services, those services are not covered by Medicare and will be denied as not reasonable and necessary if they are billed as therapy services.

Therapy Aides

Services provided by aides, even if under the supervision of a therapist, are not therapy services in the outpatient setting and are not covered by Medicare. Although an aide may help the therapist by providing unskilled services, those services that are unskilled are not covered by Medicare and will be denied as not reasonable and necessary if they are billed as therapy services.

For more information on therapy services, refer to the *Therapy Services Manual* at:

<http://www.trailblazerhealth.com/Publications/Training Manual/Physical Therapy.pdf>

'Incident to' Services

Psychiatric Services

Licensed Clinical Social Workers (CSWs)

There is no coverage for services provided "incident to" the services of a clinical social worker; therefore, CSWs cannot supervise personnel and bill for services under their provider number. However, CSWs can provide services "incident to" a physician.

Licensed Professional Counselors (LPCs) and Certified Professional Counselors (CPCs)

Medicare does not recognize these professionals as NPPs for which separate payment may be made by the Medicare program. This means these providers may not be issued individual Medicare provider numbers. Their services may be billed as "incident to" a physician's or CP's professional services if all of the "incident to" requirements are met.

For more information on psychiatric services, refer to the *Psychiatric Services* training manual at:

<http://www.trailblazerhealth.com/Publications/Training Manual/PsychiatricServices.pdf>

COMPREHENSIVE ERROR RATE TESTING (CERT) DOCUMENTATION ERRORS

"Incident to" shared and scribed services have been identified by TrailBlazer's Medical Review department and the Comprehensive Error Rate Testing (CERT) contractor as being problematic services. Common errors identified are:

- **Documentation does not demonstrate what portion of the encounter was performed by the physician.**
 - An NPP should not document the physician's work or vice versa. Each provider should always document the service he performed.
- **Documentation does not demonstrate the physician's involvement with the patient's management.**
 - A summary statement such as "seen and examined" or "discussed and agree" is not sufficient to describe the physician's involvement.

Documentation does not support a face-to-face encounter occurred between the physician and the patient.

Providers will find numerous medical documentation resources and helpful tips on the TrailBlazer Web site. These publications are developed by extracting information from CERT error reports.

Providers may view them at:

<http://www.trailblazerhealth.com/CERT/MedicalRecordSubmission.aspx>

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MISCELLANEOUS REMINDERS

- Services provided “incident to” a physician’s services do not qualify as Care Plan Oversight (CPO) and do not count toward the 30-minute requirement.
- Remember: “Incident to” services are billed as Part B services to the contractor as if the physician provided them and are paid under the physicians’ fee schedule.
- Documentation is essential! The patient record should document the necessary requirements for “incident to” services.
- Neither ambulance services nor Emergency Medical Technician (EMT) services performed under a physician’s telephone supervision are billable as “incident to” services.
- Under “incident to” rules, the physician must have provided an initial professional service and set up a course of treatment to qualify for “incident to.”

‘INCIDENT TO’ AT A GLANCE

The charts below reflect whether or not “incident to” services/supervision can be performed by certain personnel and billed under the supervising physician’s/ practitioner’s Medicare provider number **if all of the “incident to”/supervision requirements are met.**

Practitioner/Auxiliary Personnel E/M Services	Yes	No
NP, CNS and PA “incident to” an MD or DO (office setting).	X	
Nurse/auxiliary personnel “incident to” MD, DO, NP, CNS and PA (office setting). Note: Only 99211 can be billed.	X	

Practitioner/Auxiliary Personnel Other Than E/M Services	Yes	No
NP, CNS and PA “incident to” an MD or DO (office setting).	X	
Nurse/auxiliary personnel “incident to” MD, DO, NP, CNS and PA (office setting).	X	

Chiropractic Services	Yes	No
A chiropractor “incident to” an MD, DO, NP, CNS, PA, PT, OT or SLP.		X

MNT and Outpatient DSMT	Yes	No
MNT and DSMT services “incident to” an MD, DO, NP, CNS and PA.		X

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Physical Medicine and Rehabilitation Services	Yes	No
PT, OT or SLP minus his licensure under supervision of an MD, DO, NP, CNS and PA.	X	
PTA and OTA under supervision of an MD, DO, NP, CNS or PA.		X
PTA and OTA under supervision of a PT or OT.	X	
SLPA under supervision of an MD, DO, NP, CNS, PA, PT, OT or SLP.		X
Aides, athletic trainers, massage therapists, recreation therapists, kinesiotherapists, low-vision specialists and any other professional may not be billed as therapy services under supervision of an MD, DO, NP, CNS, PA, PT, OT or SLP.		X

Psychiatric Services	Yes	No
Psychologist (with PhD) (not a CP) "incident to" an MD, DO, NP, CNS, PA or CP.	X	
CSW "incident to" an MD, DO, NP, CNS, PA or CP.	X	
LPC and CPC "incident to" an MD, DO, NP, CNS, PA or CP.	X	

FREQUENTLY ASKED QUESTIONS

1. Question

A patient was seen in an office setting and CPT code 99211 was billed "incident to" the provider. The provider did not treat the patient on this visit; a Medical Assistant (MA) performed the procedure. The patient returned to the office in two weeks and was seen by the provider. This visit was billed as a new patient visit and was denied by Medicare. Can an "incident to" service performed by an MA be considered an initial new patient visit?

Answer

One of the criteria for billing any service under the 'incident to' rule is that the physician has to have initially seen the patient. It does not have to be on the same day. However, it would have to be before the "incident to" service was performed or the criterion is not considered met. If a patient came to the office and only saw the MA and had no prior contact with the physician and the office billed code 99211, it did so in error because the service truly did not meet the "incident to" guideline.

2. Question

I am a physician with an office and hospital practice. I employ an NP who works with me in the office and accompanies me when making hospital rounds. During hospital visits, the NP takes notes and I perform the examination and tell her the findings to note for me. What is the best way to indicate in the documentation who is performing the service and who is scribing?

'Incident to' Services

Answer

Your documentation should clearly reflect your performance of the billed service and the medical necessity for rendering the service. When you, a physician, bill Medicare for hospital visits under your provider number, you are indicating that you personally performed this service. The most apparent way to document this circumstance is third-person reference by the scribe indicating they are actually scribing while you are performing the service. The sign-off on the hospital entry should indicate XXX, NP scribing for Dr. YYY, with your signature indicating your presence and approval of the notation(s). "Incident to" services are not covered for hospital visits, so non-physician practitioners must bill with their own Medicare provider number when performing hospital visits.

3. Question

If a new patient comes into the office and sees the NPP, can the services be billed "incident to" the physician?

Answer

No.

4. Question

If the employing physician is across the street at the hospital making rounds, can the NPP performing services in the office bill his services as "incident to"?

Answer

No.

5. Question

Does "incident to" apply to all places of service?

Answer

No. It does not apply to hospital place of service (either inpatient or outpatient) or nursing facilities.

6. Question

Can a provider bill an "incident to" E/M service in an NF when the supervising physician/NPP was on the same floor and within the same wing and all criteria for "incident to" are met?

Answer

"Incident to" E/M services may not be performed throughout the facility but must be confined to a discrete part of the SNF/NF designated as an office by the physician. Any E/M service reported with an SNF/NF place of service must be performed by the billing physician/NPP.

'Incident to' Services

7. Question

Is it a Medicare requirement that all NPPs have a provider number?

Answer

It is a requirement only if "incident to" criteria cannot be met.

8. Question

If an NP or CNS has his own office, can he hire employees?

Answer

Yes; however, the services would have to be filed as "incident to" and all "incident to" requirements must be met. The services will be allowed based on the NP or CNS allowed amount.

Note: E/M services cannot be billed by auxiliary personnel employed by the NP or CNS.

CMS-1500 CLAIM FORM REQUIREMENTS FOR 'INCIDENT TO' SERVICES

Refer to the *CMS-1500 Claim Form and Unprocessable/Rejected Claims* manual on the TrailBlazer Web site for the appropriate guidelines to report "incident to" services.

<http://www.trailblazerhealth.com/Publications/Training Manual/claim form instructions.pdf>

WEB REFERENCES

Information regarding "incident to" can be found in:

- IOM 100-02, Chapter 15. <http://www.cms.gov/manuals/Downloads/bp102c15.pdf>
- IOM 100-04, Chapter 12. <http://www.cms.gov/manuals/downloads/clm104c12.pdf>

MEDICARE PART B

'Incident to' Services

REVISION HISTORY

Date	Section	Revision
January 2009	Facility Services (CMS-Claim Form UB-04)	Added new heading
	Departmental Clinics	Added example
	Miscellaneous Reminders	New section
	Frequently Asked Questions	New section
	Web Reference	New section
	CMS-1500 Claim Form Instructions	Removed instructions and added link to the Web manual
February 2009	Auxiliary Personnel	Added language to clarify services in an SNF/NF.
February 2010	Auxiliary Personnel	Deleted the start year when "incident to" may be performed in SNF.
	Shared Visits	Added language and rearranged format.
	Scribed Services	Added new subsection.
	Comprehensive Error Rate Testing (CERT) Documentation Errors	Added new section for CERT error reports regarding medical documentation and link to TrailBlazer Web site.
	Web References	Added link to IOM 100-02, Chapter 15.
May 2010	"Incident to" at a Glance	<ul style="list-style-type: none"> • Added new chart titled "Other Than E/M Services." • Added PA to Chiropractic Services, MNT and Outpatient DSMT, Physical Medicine and Rehabilitation Services and Psychiatric Services charts.
<i>December 2010</i>	<i>Physical Medicine and Rehabilitation Services</i>	<i>Revised title of training manual and updated link.</i>
	<i>Scribed Services</i>	<i>Updated language.</i>