



AMERICAN ACADEMY OF
FAMILY PHYSICIANS
STRONG MEDICINE FOR AMERICA

VIA EMAIL

January 22, 2014

Marilyn Tavenner, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Tavenner:

I am writing to ask a question on behalf of some of our members as it relates to Medicare rules for billing "incident to" services. Specifically, if all of the "incident to" rules are met, may a physician bill Medicare for a Part B covered service provided by a pharmacist in the practice?

There is an increasing emphasis on team-based care in family medicine, which is being encouraged by Medicare and other payers. To that end and especially in the context of a patient-centered medical home, family medicine practices are employing pharmacists as part of the care team. Pursuant to a plan of care created by a physician in the practice and incidental to services provided by the physician, these pharmacists are having and documenting direct (face-to-face) encounters with patients that include review of applicable patient history and medications and counseling with respect to:

- Risks and benefits of pharmaceutical treatment options
- Instructions for improving pharmaceutical treatment compliance and outcomes

Such encounters typically meet the definition of an established patient evaluation and management service (e.g. 99211-99215) and would be billed as such if provided by the physician him or herself.

Our understanding is that Medicare rules regarding "incident to" services are found in section 60 of chapter 15 of the Medicare Benefit Policy Manual. According to section 60(A), to be covered incident to the services of a physician or other practitioner, services and supplies in a non-institutional setting must be:

- An integral, although incidental, part of the physician's professional service;
- Commonly rendered without charge or included in the physician's bill;
- Of a type that are commonly furnished in physician's offices or clinics;

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- Furnished by the physician or by auxiliary personnel under the physician's direct supervision.

Section 60.1(B), in turn, states, "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." We cannot find anything in section 60 that would exclude pharmacists from this definition.

Accordingly, we are inclined to think that physicians may bill Medicare for a Part B covered service provided by a pharmacist in the practice as long as all of the "incident to" rules are otherwise met. However, before advising our members accordingly, we wanted to confirm this interpretation with you.

We understand that medication therapy management services as described by Current Procedural Terminology codes 99605-99607 are not subject to such "incident to" billing. We know that these codes are excluded from Medicare Part B coverage and may only be reimbursed by a beneficiary's Medicare Part D plan or a Medicare Advantage plan.

Thank you for your time and consideration of this question. If you or your staff has any questions of us, please contact me at (913) 906-6000, extension 4170, or kmoore@aafp.org. We look forward to your response.

Sincerely,



Kent J. Moore
Senior Strategist for Physician Payment

Cc: William Rogers, MD (CMS)
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KJM/kjm