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INCIDENT TO FACT SHEET

What is incident to?

Services that are performed per the direction of a physician's treatment plan during the course of a professional service. This 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 where the physician remains actively involved in the treatment.

Note:

Incident to services are also relevant to services supervised by certain non-physician practitioners (NPPs) such as physician assistants, nurse practitioners, clinical nurse specialists, nurse midwives, or clinical psychologists. These services are subject to the same incident-to requirements as physician-supervised services. Incident services supervised by non-physician practitioners are reimbursed at 85% of the physician fee schedule. *For clarity, when this document uses the term physician, it is inclusive of non-physician practitioners.*

Incident to services may include but are not necessarily limited to:

- Evaluation and management services (E/M)
- Minor surgery
- Chemotherapy administration
- Setting casts
- Professional component of radiology services
- Office visits

Rules to follow for incident to:

The service must be an integral, although an incidental part of the physician's professional services.

- Physician must have provided a previous E/M service, determined a diagnosis and documented a plan-of-care (POC).
- Physician must be present in the office suite (direct supervision) and immediately available.
- Physician does not need to see the patient each time but must see the patient subsequently for services of a frequency that reflects active participation in the course of treatment for the specific problem.
  - There is no set period of time from CMS, however, some conditions would require more frequent visits, e.g., allergy vs. congestive heart failure. The documentation should support the frequency.
- Availability by phone does not meet the definition of direct supervision.
- Must be billed under the supervising physician's NPI.
- When there is a change in the POC, it is no longer considered incident to.
- Services are furnished by ancillary personnel under the direct supervision of the physician.
- Services are in a non-institutional setting.
- There are no incident to services in a hospital, in-patient, outpatient or skilled nursing facility.

Physician-to-physician incident to billing

CMS has verified that it might be necessary for a physician to bill for incident to services provided by another physician. CMS considers this to be a rare circumstance. In these situations, incident to guidelines are still required to be followed; therefore, the billing/supervising physician must be in the office suite and the performing physician cannot change the billing/supervising physician's POC. Medicare's incident to requirements are primarily contained in: Code of Federal Regulations (CFR) 410.26; CMS Medicare Benefit Policy Manual, chapter 15, section 60 (www.cms.gov/manuals); and Claims Processing Manual, 100-04, chapter, 26, section 10.4.

(continued on next page)

QUESTIONS?

Contact ISMA Practice Management staff at (800) 257-4762 or (317) 261-2060.

This information is current and accurate as of 12/13/2016. Please check the references for regular updates.

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Signature Requirements

Medicare does not currently require the supervising/billing physician to sign off on the services of the non-physician practitioner/ancillary staff. You should check with your medical malpractice carrier and state regulations to verify they do not require the signature of the billing physician. The signature of the person performing the service is required.

Documentation

Document the supervising practitioner's physical presence in the office setting.

Common Scenario	Incident To?
A physician assistant (PA) sees new patient in office setting. The PA requests the supervising physician briefly see the patient. PA dictates notes. Who can bill?	In the situation described, this service is appropriately billed under the PA only. This is a new patient. This does not meet the incident to requirement that the PA's service was incidental to the supervising physician.
A physician sees a patient and determines the patient needs a joint injection. The physician instructs a PA to perform the injection procedure on the same day. Can the physician bill the E/M and the PA submit the injection?	Since the physician and PA are in the same group, Medicare looks to the tax ID to determine the group entitled to the payment. Members of the same group should bill as the same person. See 100-04, Chapter 12, Section 40.2.A.2, 40.2.A.4, and Chapter 1 of the National Correct Coding Initiative (NCCI) edit manual.
A treating physician refers a patient to a Coumadin Clinic for follow-up services. The treating physician determines the POC and is treating the disease for which the patient is on Coumadin. Can the supervising physician at the Coumadin Clinic bill for E/M services for testing and providing the results?	No, the supervising physician at the clinic is not treating the patient for the individual disease. Therefore, he/she can only submit the services they personally provided.
A patient saw the NPP at a physician office. The charges were billed under the supervising physician. The patient contacts Medicare to make a possible complaint alleging fraud stating, "I did not see this doctor on this date."	Medicare's response to this would be to request documentation from the provider office. The documentation provided must show the service was provided by the NPP. The documentation should also include information indicating this was incident to the physician's treatment plan. If this is a situation where the billing physician is not the patient's physician, but the physician in the group setting on that date, include that information as well.
Dr. A is currently treating a patient for diabetes. The patient presents to the office with an upper respiratory infection and sees a PA in the same group. Can this be billed as an incident to service?	This is not an incident to situation and cannot be billed under the physician. The PA would bill under their NPI since this is a new condition. It is neither an integral nor an incidental part of the physician's treatment plan.
The physician orders a drug at a certain dosage for a patient. The NPP sees the patient at a follow-up visit and determines the drug is not working. The drug and dosage are changed. Can the service be billed as an incident to service?	No, because the NPP is now determining the plan of care for the patient. The service no longer meets the incident to requirements.

Applicable References:

- wpsmedicare.com/j5macpartb/resources/provider_types/2009_0803_incident.shtml
- wpsmedicare.com/j8macpartb/training/on_demand/_files/2013-0723-incident-to-services-handout.pdf
- www.wpsmedicare.com
- www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/se0441.pdf
- www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/bp102c15.pdf
- www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c12.pdf

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