“Incident To” and “Shared/Split” Billing: Are Your Providers Billing These services Correctly?

VICKI L. DWYER, RN, MN, CPC, CHC
CHIEF COMPLIANCE OFFICER
VALLEY VIEW HOSPITAL
GLENWOOD SPRINGS, CO

NANCY C. KENNEDY, RHIT, CPC, CHC, CHPC
CHIEF COMPLIANCE & PRIVACY OFFICER
GALICHTA MEDICAL GROUP, PA
WICHITA, KS

Objectives

- Understand Medicare’s requirements for correct billing of “Incident To” and “Shared/Split” E/M Services.
- Learn how Auditors may apply published and unpublished documentation requirements.
- Understand potential risks when billing services “Incident To” and “Shared/Split Services”.
- Learn key elements to include in a policy on Billing Services Provided by Non-Physician Practitioners.
- Share an effective audit tool / flow sheet to ensure “Incident To” and “Shared/Split” E/M Services are billed appropriately.
Compliance Risk Areas for Billing Services
“Incident To” and “Shared/Split”

- Rules Not Accepted by All Payers
- Large Number of Caveats to the Rules
- Physicians, NPPs, Coding & Billing Staff May Not Understand of the Rules
- Patient Understanding (I didn’t see Dr. Smith)
- Varying Payer Definitions of “Scribe”
- Hospital Employed Non-Physician Practitioners (NPPs)
- Students

“Incident To” Physician’s Professional Services

- Allows certain services performed in the physician’s office/clinic by someone other than the physician to be
  - Billed under the physician’s provider number
  - Paid at 100% of the physician fee schedule

- The “Services” provided by the physician’s auxiliary staff and Non-Physician Practitioner (“NPP”) must meet certain criteria and rules established by Medicare.
  - Not all Insurance Payers (e.g. Commercial & Medicaid) use the same rules or allow Incident-To billing.
Medicare’s Definition of “Incident To”

Incident to a physician’s professional services means that 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.

Source: Medicare Benefit Policy Manual (Internet Only Manual) Chapter 15, Section 60.1 – Incident To Physician’s Professional Services (Rev. 1, 10-01-03) B3-2050.1

“Incident To” Definition

To be covered incident to the services of a physician or other practitioner, services and supplies must be:

- An integral, although incidental, part of the physician’s professional services
  - A plan of care must be established by physician and followed.
    - New problems and changes to the treatment plan – the physician must see the patient first and modify the plan of care before the NPP can provide follow-up care and bill “Incident To”
    - The initial service must be done by the physician.
      - The NPP and/or Auxiliary staff may only complete and document the ROS and PFSH. The physician must complete the Chief Complaint, History of Present Illness, Examination, Assessment, and Plan of Care.
    - There must be subsequent services by the physician of a frequency that reflects the physician’s continuing active participation in and management of the course of treatment.

Source: Medicare Internet Only Manual Chapter 15, Section 60 - Services and Supplies Furnished Incident To a Physician’s/NPP’s Professional Service
“Incident To” Definition, Continued

- Commonly rendered without charge or included in the physician’s bill,
- Of a type that are commonly furnished in physician’s office or clinic
  - Gauze, ointments, bandages, oxygen
- Furnished by the physician or by auxiliary personnel under the physician’s direct supervision.
  - Auxiliary personnel
    - 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 the legal entity that employs or contracts with the physician.
    - W2 or 1099 Nurses, Technicians, Therapists, Aides
    - Under the control of the physician
    - Must represent an expense to the physician, group practice, or legal entity.

Source: Medicare Internet Only Manual Chapter 15, Section 60 - Services and Supplies Furnished Incident To a Physician’s/NPP’s Professional Service

---

“Incident To” Definition

- Furnished by the physician or by auxiliary personnel under the physician’s direct supervision.
  - Direct Supervision
    - Does not mean the physician must be present in the same room
    - The physician must be in the office suite and immediately available to provide assistance and direction throughout the time the services are being performed
    - The availability of the physician by telephone and the presence of the physician somewhere in the institution does not constitute direct supervision.
  - Supervision can be provided by another physician in the group practice
    - Solo practitioners must directly supervise the care provided.
    - In a group practice, any physician member of the group may be present in the office to supervise.

Source: Medicare Internet Only Manual Chapter 15, Section 60 - Services and Supplies Furnished Incident To a Physician’s/NPP’s Professional Service
Examples of “Incident To” Auxiliary Services

- Taking vital signs (pulse, respirations, blood pressure, etc.)
- Taking height and weight
- Changing dressings
- Giving injections
- Follow-up visit for established patient

Services of Non-Physician Personnel Furnished “Incident To” Physician Services

- Licensed by the State to assist or act in place of the physician:
  - Certified Nurse Midwives
  - Clinical Psychologists
  - Clinical Social Workers
  - Physician Assistants
  - Nurse Practitioners
  - Clinical Nurse Specialists
Certified Nurse Midwives (CNMs)

- **Scope**
  - Based on services the CNM is legally authorized to perform in the State in which the services were furnished and that would otherwise be covered if furnished by a physician
  - “Medical necessity” rule applies
  - Coverage of service to a newborn continues only to the point that the newborn is or would be normally treated medically as a separate individual
  - No restrictions regarding place of service

- **Relationship with physician**
  - Based on state law, not dictated by CMS

Physician Assistants (PAs)

- **Scope**: Based on State law (or State regulatory mechanism provided by State law)
- **All of the following requirements must be met:**
  - Type of services that are considered physician’s services if furnished by MD/DO
  - Performed by a person that meets the PA qualifications
  - Performed under general supervision of MD/DO
  - PA is legally authorized to perform the services in the state in which they were performed
  - Services are not otherwise precluded from coverage based on a statutory exclusion

- **Payment is made only on an assigned basis to the PA’s qualified employer**
  - A group of PA’s is not considered a qualified employer
  - Leasing agencies and staffing companies are not considered qualified employers

- “Medical necessity” rule applies (scope of practice does not necessarily determine “coverage”)
Physician Assistants (PAs)

- **Relationship with Physician**
  - The physician supervisor
    - is primarily responsible for overall direction/management of PA’s professional activities and for assuring that services are medically appropriate for the patient
    - physical presence is not necessarily required (exception: PA services provided “incident to” the physician—physician must be on site and immediately available)

Nurse Practitioners (NPs)

- **Qualifications**
  - Must be legally authorized to furnish NP services in the State in which the services are performed
  - Must meet all of the following qualifications
    - Registered professional nurse who is authorized by the State in which the services are furnished to practice as a NP in accordance with State law
    - Certified as a NP by a recognized national certifying body that has established standards for NPs; and
    - Has a master’s degree in nursing
Clinical Nurse Specialists (CNSs)

- **Qualifications**
  - Must be legally authorized to furnish CNS services in the State in which the services are performed
  - Must meet all of the following qualifications
    - Registered professional nurse who is currently licensed to practice in the State where he/she practices and be authorized to furnish the services of a CNS in accordance with State law
    - Master's degree in a defined clinical area of nursing from an accredited educational institution
    - Be certified as a CNS by the American Nurses Credentialing Center

NPs and CNSs

- **Scope**: based on State law (or State regulatory mechanism provided by State law)
- **All of the following requirements must be met**:
  - Type of services that are considered physician’s services if furnished by MD/DO
  - Performed by a person that meets the NP or CNS qualifications
  - NP or CNS is legally authorized to perform the services in the state in which they were performed
  - Performed in collaboration with MD/DO
  - Services are not otherwise precluded from coverage based on a statutory exclusion
NPs and CNSs

- “Collaboration with physician”: working with one or more physicians (MD/DO) to deliver health care services, with medical direction and appropriate supervision as required by the law of the State in which the services were furnished.
- If no state law, NP must document evidence of collaboration: scope of practice and relationships with physicians to deal with issues outside this scope of practice.
- Physician’s physical presence is not required for collaboration (exception: NP services submitted “incident to” the physician).
- Physician’s independent evaluation of each patient is not required.

Examples of “Incident To” NPP Services

- Medical Services:
  - Vital signs,
  - Injections
  - Dressings
- Services Ordinarily Performed by the Physician:
  - Minor surgery
  - Setting casts or simple fractures
  - Reading x-rays
  - Evaluation or treatment of a patient’s condition.
Involvement of Other Persons in “Incident To”

- **Residents/fellows** may not supervise “incident to”.

- **Students** services can not be billed “Incident To”
  - Students are not paid W2 or 1099 “employees
    - Exception - stipends paid to students by the practice.

Who Can Supervise “Incident To”?

- Physicians
- Non-physician practitioners (with some limitations)
  - Non-physician practitioners that are enrolled as Medicare providers may:
    - Submit claims under their own NPIs, or
    - Submit claims as “incident to” the physician, as long as all “incident to” criteria are met.
- NPPs may also supervise “incident to” services, if the NPPs are also employed by the practice.
  - Services performed by auxiliary personnel must following plan of care established by NPP.
Documentation to Support “Incident To”

- **Documentation**
  - Must clearly document who performed the “Incident To” service and
  - The physician’s presence in the office suite during the service/procedure with a note by the NPP and/or Auxiliary staff

  Dr. Jones was immediately available and provided direct supervision in the office during the patient’s visit today. Vicki Dwyer, APRN/CNS

- AND the signature of the physician providing direct supervision.

Split/Shared E/M Service - Hospital Inpatient/Outpatient/Emergency Department

CMS Internet only Manual Publication 100-04, Chapter 12, Section 30.6.1.b

“When a hospital inpatient/hospital outpatient or emergency department E/M 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 UPIN/PIN number. However, 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 only reviewing the patient’s medical record) then the service may only be billed under the NPP’s UPIN/PIN. Payment will be made at the appropriate physician fee schedule rate based on the UPIN/PIN entered on the claim.”
CMS Internet Only Manual; Publication 100-04, Chapter 12, Section 30.6.1.b  SPLIT/SHARED E/M SERVICE

“In the office/clinic setting when the physician performs the E/M service the service must be reported using the physician’s UPIN/PIN. When an E/M service is a shared/split encounter between a physician and a non-physician practitioner (NP, PA, CNS or CNM), 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 UPIN/PIN, and payment will be made at the appropriate physician fee schedule payment.”

Shared/Split E/M Services

Hospital inpatient, hospital outpatient, or emergency department setting

- If physician and NPP are in the same group practice, and the physician performs any face-to-face portion of the E/M encounter with the patient, you may submit the service under either the physician or NPP’s NPI.

- If there was no face-to-face encounter between the physician and the patient (e.g., if the physician reviewed a portion of the patient’s medical records but did not “see” the patient), the service may only be submitted under the NPP’s NPI.

- Remember, the concept of “incident to” does not apply in this setting.
### Shared/Split E&M Services

- **Physician Availability**
  - Physician must be accessible at all time by telephone or other means of communication

- **Documentation**
  - Both providers must be clearly identified in the medical record
  - The physician should link his or her notes to the NPPs
  - Both signature must be legible and clearly distinct
  - The physician must document at least one key element (HPI, ROS, Exam), demonstrating a face-to-face encounter

### Documentation that Does Not Meet Share/Split Visit Rules

- “Seen & Examined” signed by physician
- “As above” counter signed by physician
- “Patient sleeping, did not awaken” signed by physician
- “Seen, Examined, Agree” signed by physician
- “I have personally seen and examined the patient, reviewed the above documentation and agree with the assessment and plan” signed by physician.
- No documentation by the physician.
- “Discussed results of examination with Dr. Jones, he agrees with the assessment and plan.” signed by NPP
Signatures

- **Incident to:**
  - Incident to a physician’s professional services:
    - Performed by:
      - Ancillary staff:
        - Signed by the billing provider.
        - Specific documentation guidelines must be met when ancillary staff performs portions of an Evaluation & Management (E/M) service; i.e., review of systems, past, family, and social history, vital signs)
      - Non-Physician Practitioners (NPPs)
        - Signed by the NPP or the physician.

- **Split/shared services:**
  - Office setting:
    - If the “incident to” guidelines met
      - Physician must sign.
    - If “incident to” requirements are not met
      - NPP must sign.
  - Hospital-based setting:
    - If the split/shared guidelines are met
      - The billing provider (physician or NPP) must sign.
“Incident To” and “Shared-Split” Services Tools

- Flow Sheets
  - “Incident To”
  - “Shared/Split” Services
- Policies
  - Billing for NNP Services
  - Documentation of Medical Necessity
  - Billing “Incident To” and “Shared/Split” Services
- Audit Tools
  - “Incident To”
  - “Shared/Split” Services

Examples and Discussion

Questions?
Thank You!

VICKI L. DWYER, RN, MN, CPC, CHC
VICKI.DWYER@VVH.ORG
970.384.7043

NANCY C. KENNEDY, RHIT, CPC, CHC, CHPC
NKENNEDY@GALICHIA.COM
316.858.2233