Compliance Policies & Incident-to

When your practice decides to allow incident-to billing, you're taking on considerable risk because of Medicare's tight restrictions on incident-to services. Billing services done by the NPP as incident-to mean you are billing them under a supervising physician's National Provider Identifier (NPI) for 100% of the Medicare allowable, instead of the 85% paid for services billed directly by the NPP.
Medicare rules allow incident-to billing only for established patients whose conditions have plans of care already established by a physician. When these conditions are not present, the services must be billed directly by the NPP.

Here are some tips to improve your compliance policy with respect to incident-to services:

1. Credential your NPPs. It's tempting to use incident-to billing as an alternative to credentialing your NPPs to bill Medicare directly. After all, incident-to claims are paid the full Medicare allowable instead of the 85% non-physicians receive, and the claims use the physician's NPI. However, if a service is ineligible for incident-to (e.g., the patient presents with a new problem or the NPP deviates from an established plan of care), then you're left with an unbillable service because the NPP is not enrolled with Medicare.

2. Set a policy that requires the physician to periodically treat the patient. The plan of care created by the physician to allow for incident-to billing won't stay current and relevant forever. In addition, Medicare's incident-to policy specifically requires the ongoing engagement of the physician in the patient's care. Set specific timeframes for how frequently the patient's appointments should be with the physician instead of the NPP (a frequency of every 3-5 visits is usually appropriate). If the patient doesn't regularly visit the office, ensure the patient is seen by the physician at least once every 18 months.

3. Address acute problems. Just because a patient isn't scheduled to be treated for an acute condition doesn't mean it won't happen. It's not unusual for a patient to have a follow-up appointment for a chronic condition, only to introduce an acute problem in the middle of the appointment (e.g., "I've also been coughing up phlegm for the past two days"). Set a policy that these visits must be billed directly by the NPP because the NPP is no longer operating under a plan of care. The other option is to bring in a physician, if available, to address this problem. Don't try to reschedule the patient for treatment of the acute problem, because it presents a compliance risk to the practice and could be seen as gaming the system for additional revenue.

4. Ensure the plan of care is part of the patient's medical record. Instruct physicians to create clear treatment plans for chronic conditions that are accessible to the NPPs who see the patients. These treatment plans should always be available for audit. As noted above, these plans should be updated as the patient's condition changes, or at least every 18 months for well-managed patients. Audit your own incident-to services at least once a quarter to ensure you can locate a plan of care for every condition treated by an NPP when the service was billed under the physician's NPI.

5. Ensure physician supervision at all times. One key requirement of incident-to billing is direct physician supervision, defined as a physician in the office suite and available to assist immediately as needed. For group practices, this does not need to be the actual physician who created the plan of care. Ensure your claims are billed under the physician who is actually in the office supervising care, and that you've documented the presence of a physician for all hours during which incident-to services are being billed.

Scott Kraft,
CPC, CPMA
Medical Auditing Support Team
skraft@drsmgmt.com

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