

Policies and Procedures - School of Medicine

SECTION: COMPLIANCE	Approved: 2/9/00	Effective Date: 2/9/00	Revised:
CHAPTER: BILLING	Replaces Policy Dated:		
POLICY: MEDICARE "INCIDENT TO" RULE	Retired:		
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I. PURPOSE

To ensure Medicare is appropriately billed for services/supplies furnished by ancillary staff (i.e., nurse, medical assistant, technician, etc.) and non-physician practitioners, licensed to practice under state law (such as physician assistants, nurse practitioners and certified registered nurse anesthetists) when they are provided "incident to" a physician's service, as that term is defined under Medicare law and regulations.

II. POLICY FOR BILLING MEDICARE "INCIDENT TO" SERVICES

A. Ancillary Staff Services.

Services/supplies furnished by ancillary staff will only be billed to Medicare as "incident to" when they meet Medicare's "incident to" requirements. **NOTE: Any services provided by a nurse to a Medicare beneficiary must meet the "incident to" criteria in order to bill CPT code 99211.**

B. Non-Physician Providers (NPPs) Services.

Services/supplies furnished by non-physician practitioners (NPPs) may be billed "incident to" a physician's services, provided all "incident to" billing requirements are met. **NOTE:** Some services furnished by certain NPPs (i.e. nurse practitioners, physician assistants, certified nurse midwives, therapists, clinical psychologists and certified registered nurse anesthetists) within the scope of their license, may be billed directly to Medicare under the NPPs provider's number as long as no facility or other provider charges, or is paid, any amounts with respect to the furnishing of such professional services.

III. SCOPE

This policy applies only to services/supplies provided to Medicare beneficiaries. This policy applies to all employees and agents of Creighton Medical Associates and the School of Medicine.

NOTE: You must confirm with other payers on whether or not they will pay for services provided by ancillary staff or NPPs and how those services must be billed.

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IV. PROCEDURE

A. What is Medicare "Incident To" Billing

"Incident to" billing allows physicians to bill for services and supplies, commonly furnished in the physician office setting, which are provided by ancillary staff or NPPs and that are an **integral, although incidental**, to their professional services. "Incident to" services are paid for by Medicare under the physician fee schedule as though the physician personally performed the services.

B. To be Covered as "Incident To", Services and Supplies Must be:

1. **An integral, although incidental, part of the physician's professional service.**
 - a. The physician must personally perform an initial service for each new condition, make an initial diagnosis and set up a treatment plan.
 - b. The physician must personally perform subsequent services (i.e., face-to-face service with the patient) at a frequency that reflects his/her active participation in and management of the course of the treatment for each medical condition.
2. **Commonly rendered without charge or included in the physician's bill.**
 - a. To be covered, supplies, including drugs and biologicals, must represent an expense to the physician.
3. **Of a type that are commonly furnished in physician's offices or clinics.**
4. **Furnished under a physician's direct personal supervision.**
 - a. A physician must be present in the office suite and immediately available to provide assistance and direction

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throughout the time the ancillary staff or NPP is performing the "incident to" services.

- 1) If Creighton ancillary staff or NPPs provide services outside the physician office setting (i.e. a patient's home or in an institution), their services are billable as "incident to" only if there is direct personal supervision by the physician (i.e., the physician is present and immediately available). **NOTE: You cannot bill "incident to" for services provided to hospital patients. Such services are covered under the hospital outpatient/inpatient benefit.**

5. Furnished by an individual who is a part-time, full-time or leased employee of Creighton.

a. The non-physician personnel providing "incident to" services must be employed by Creighton University in order to bill the services to Medicare as "incident to" the physician's services. Services performed by non-physician personnel not employed or leased by Creighton University are not billable as incident to a physician's service.

C. Billing for "Incident To" Services

1. In selecting the level of service to bill "incident to" a physician's service, the service must be:
 - a. Provided within the non-physician provider's scope of licensure
 - b. Documented by the ancillary staff or NPP providing the service and countersigned by the physician under whose number the service will be billed, and
 - c. Provided while the physician is present in the office suite.
2. Services provided by ancillary staff and other certain non-physician providers (i.e. nurses and pharmacists) may be considered

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“incident to” services, but their “incident to” services cannot be billed higher than a 99211 (established patient visit), the lowest possible level. Services of a certified diabetic educator providing nutrition counseling cannot be billed "incident to."

3. Evaluation and Management (E/M) services furnished "incident to" a physician's service by a Nurse Practitioner (NP) or Physician's Assistant (PA) may be billed using the CPT code (established patient visit) that best describes the E/M service furnished.
4. Billing for time in counseling or coordination of care may not be billed “incident to.”
5. “Incident To” can never be applied to a patient’s first visit.

D. Services “Incident To” a Physician’s Service to Homebound Patients Under General Supervision. (See Section 2051.1 of Medicare Carrier’s Manual for Definition of Homebound Patient)

1. **Medicare Coverage:** In very **limited circumstances**, Creighton may bill for individual or intermittent services provided by qualified Creighton NPPs to homebound patients “incident to” a physician’s services under **general physician supervision**. **General physician supervision** means that the physician need not be physically present, but the service must be performed under the physician’s overall supervision and control. All other “incident to” criteria, as outlined above, must also be met. “Incident to” services to homebound patients shall not be billed where there is an available participating HHA in the area which could provide the needed services on a timely basis.
2. **Availability of Home Health Agency (HHA) Services:** When services can be performed by an HHA in the local area, “incident to” services to a homebound patient shall not be billed, except when the following conditions exist:
 - a. Where the patient has exhausted home health benefits, or
 - b. Where the HHA could not respond on a timely basis, or

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- b. Where the physician could not have foreseen that intermittent services would be needed, and more services are necessary.
3. **Covered Services:** Section 14-3-2051.B of the Medicare Carriers Manual identifies the "incident to" services that may be covered when provided to homebound patients when the above criteria are met. Medicare will not pay for Evaluation and Management (E/M) services provided to homebound patients by ancillary staff or NPPs.

E. Implementation

Each Department Administrator and Clinic Manager shall assure that services provided by ancillary staff and NPPs to Medicare beneficiaries that are billed as "incident to" a physician's services meet the criteria set forth above.

V. ADMINISTRATION AND INTERPRETATIONS

Questions regarding this policy may be addressed to your Billing Supervisor, Department Administrator, or the Compliance Officer.

VI. AMENDMENTS OR TERMINATION OF THIS POLICY

This policy may be amended or terminated at any time.

VII. REFERENCES

42 U.S.C. §1395x(s), Medicare Carriers Manual, Chapter 14-3 - §§2049.3, 2050, 2050.1, 2050.2, 2050.3, 2051, 2051.1, 4147.1; 15501.G, Blue Cross/Blue Shield of Kansas, Medicare Part B Physician's Manual, Incident To Section, Rev. 2.28.