



Medicare Incident to Billing Reimbursement Policy

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IMPORTANT NOTE ABOUT THIS REIMBURSEMENT POLICY

You are responsible for submission of accurate claims. This reimbursement policy is intended to ensure that you are reimbursed based on the procedure code or codes that correctly describe the health care services provided to individuals whose behavioral health benefits are administered by Optum, including but not limited to UnitedHealthcare members. This reimbursement policy is also applicable to behavioral health benefit plans administered by OptumHealth Behavioral Solutions of California.

Our behavioral health reimbursement policies may use Current Procedural Terminology (CPT®), Centers for Medicare and Medicaid Services (CMS) or other procedure coding guidelines. References to CPT or other sources are for definitional purposes only and do not imply any right to reimbursement. This reimbursement policy applies to all health care services billed on CMS 1500 forms and, when specified, to services billed on the UB-04 claim form and to electronic claim submissions (i.e., 837p and 837i) and for claims submitted online through provider portals. Coding methodology, industry-standard reimbursement logic, regulatory requirements, benefits design and other factors are considered in developing reimbursement policy.*

This information is intended to serve only as a general reference resource regarding our reimbursement policy for the services described and is not intended to address every aspect of a reimbursement situation. Accordingly, Optum may use reasonable discretion in interpreting and applying this policy to behavioral health care services provided in a particular case. Further, the policy does not address all issues related to reimbursement for behavioral health care services provided to members. Other factors affecting reimbursement may supplement, modify or, in some cases, supersede this policy. These factors may include, but are not limited to: member's benefit coverage, provider contracts and/or legislative mandates. Finally, this policy may not be implemented exactly the same way on the different electronic claim processing systems used by Optum due to programming or other constraints; however, Optum strives to minimize these variations.

Optum may modify this reimbursement policy at any time by publishing a new version of the policy on this website. However, the information presented in this policy is accurate and current as of the date of publication.

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Applicability

This reimbursement policy applies to services reported using the 1500 Health Insurance Claim Form (a/k/a CMS 1500) or its electronic equivalent or its successor form. This policy applies to all Medicare products and all network and non-network physicians and other qualified health care professionals, including, but not limited to, non-network authorized and percent of charge contract physicians and other qualified health care professionals. Additional criteria apply to Federally Qualified Health Center or Rural Health Clinic rendered services.

Policy

Overview

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 in a physician's office (whether located in a separate office suite or within an institution such as hospital or skilled nursing facility (SNF)) or in a patient's home. Services that would normally be part of the treatment of a patient by a physician are rendered by an auxiliary person, functioning under the direct on-premise supervision of a physician.

As noted in section §1861(s)(2)(A) of the Act for Skilled Nursing Facilities (SNF) patients who are in a Medicare covered stay, there is no Optum Behavioral Health Part B coverage of the services of physician-employed auxiliary personnel as services

incident to physicians' services. Such services can be covered only under the SNF benefit and payment for such services can be made to only the SNF by a Medicare intermediary. Claims that are submitted and do not follow this guideline will be denied.

In some cases, the physician or practitioner supervising the service may not be the same individual treating the patient more broadly; in these cases only the supervising physician or practitioner that is not excluded, not precluded and has not opted out of Medicare may bill for the "incident to" services if all incident to requirements have been met.

It is required that auxiliary personnel providing "incident to" services are rendering service(s) in accordance with the rules and regulations within the state in which the individual practices and have not been excluded from Medicare, Medicaid, or other Federal health care programs or have had their enrollment revoked for any reason at the time they provide such services or supplies.

Reimbursement Guidelines

For example, a physician, clinical psychologist (CP), clinical nurse specialist (CNS), nurse practitioner (NP), or Physician Assistant (PA), may furnish outpatient psychiatric services and supplies "incident to" their professional services.

Optum follows CMS guidelines and will consider reimbursement under the "Incident to" Provision when the services and supplies comply with State law and meet all the following requirements:

- The services are rendered under the direct supervision of the physician, CP, NP, CNS, or in the case of a physician directed clinic, the Physician Assistant (PA).
- The services are furnished as an integral, although incidental, part of the physician's, CP's, NP's, or CNS's professional services in the course of the diagnosis or treatment of an injury or illness.
- Billing 'incident to' the physician, the physician must initiate treatment and see the patient at a frequency that reflects his/her active involvement in the patient's case. This includes both new patients and established patients being seen for new problems. The claims are then billed under the physician's NPI.
- Billing 'incident to' the CP, NP, CNS or PA, the nonphysician practitioners may initiate treatment and see the patient at a frequency that reflects his/her active involvement in the patient's case. The claims are then billed under the nonphysician practitioner's NPI.

Terminology Defined:

- **Immediately Available:** CMS has clarified that "immediately available" means "without delay" so Optum considers "immediately available" to mean the supervising physician is in the office suite or patient's home, readily available and without delay, to assist and take over the care as necessary.
- **Office Suite:** An "office suite" is limited to the dedicated area, or suite, designated by records of ownership, rent or other agreement with the owner, in which the supervising physician or practitioner maintains his/her practice or provides his/her services as part of a multi-specialty clinic.

Direct Personal Supervision

Coverage of services and supplies incident to the professional services of a physician in private practice is limited to situations in which there is direct physician supervision of auxiliary personnel. 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. Likewise, the supervising physician may be an employee, leased employee or independent contractor of the legal entity billing and receiving payment for the services or supplies.

However, the physician personally furnishing the services or supplies or supervising the auxiliary personnel furnishing the services or supplies must have a relationship with the legal entity billing and receiving payment for the services or supplies that satisfies the requirements for valid reassignment. As with the physician's personal professional services, the patient's financial liability for the

incident to services or supplies is to the physician or other legal entity billing and receiving payment for the services or supplies. Therefore, the incident to services or supplies must represent an expense incurred by the physician or legal entity billing for the services or supplies.

Thus, where a physician supervises auxiliary personnel to assist him/her in rendering services to patients and includes the charges for their services in his/her own bills, the services of such personnel are considered incident to the physician's service if there is a physician's service rendered to which the services of such personnel are an incidental part and there is direct supervision by the physician.

This does not mean, however, that to be considered incident to, each occasion of service by auxiliary personnel (or the furnishing of a supply) need also always be the occasion of the actual rendition of a personal professional service by the physician. Such a service or supply could be considered to be incident to when furnished during a course of treatment where the physician performs an initial service and subsequent services of a frequency which reflects his/her active participation in and management of the course of treatment. (However, the direct supervision requirement must still be met with respect to every non-physician service.)

When services are rendered in an office suite, direct supervision in the office suite does not mean that the physician must be present in the same room with his or her aide. However, the physician must be present in the office suite and immediately available to provide assistance and direction throughout the time the aide is performing services.

If auxiliary personnel perform services outside the office suite, e.g., in a patient's home or in an institution (other than hospital or SNF), their services are covered incident to a physician's service only if there is direct supervision by the physician. In general, if personnel perform services in the patient's home, the person providing direct supervision must be present in the patient's home for the service to qualify as an "incident to" service. For example, if a nurse accompanied the physician on house calls and administered an injection, the nurse's services are covered. If the same nurse made the calls alone and administered the injection, the services are NOT covered (even when billed by the physician) since the physician is not providing direct supervision. Services provided by auxiliary personnel in an institution (e.g., nursing, or convalescent home) present a special problem in determining whether direct physician supervision exists. The availability of the physician by telephone and the presence of the physician somewhere in the institution does not constitute direct supervision.

Non-Physician Practitioner

In addition to coverage being available for the services of such auxiliary personnel as nurses, technicians, and therapists when furnished incident to the professional services of a physician, a physician may also have the services of certain non-physician practitioners covered as services incident to a physician's professional services. These non-physician practitioners, who are being licensed by the States under various programs to assist or act in the place of the physician, include, for example, certified nurse midwives, clinical psychologists, clinical social workers, physician assistants, nurse practitioners, and clinical nurse specialists.

In order for services of a non-physician practitioner to be covered as incident to the services of a physician, the services must meet all of the requirements for coverage specified in § 60 through § 60.1. For example, the services must be an integral, although incidental, part of the physician's personal professional services, and they must be performed under the physician's direct supervision.

A non-physician practitioner such as a physician assistant or a nurse practitioner may be licensed under State law to perform a specific medical procedure and may be able to perform the procedure without physician supervision and have the service separately covered and paid for by Optum as a physician assistant's or nurse practitioner's service. However, in order to have that same service covered as incident to the services of a physician; it must be performed under the direct supervision of the physician as an integral part of the physician's personal in-office service. This does not mean that each occasion of an incidental service performed by a non-physician practitioner must always be the occasion of a service actually rendered by the physician. It does mean that there must have been a direct, personal, professional service furnished by the physician to initiate the course of treatment of which the service being performed by the non-physician practitioner is an incidental part, and 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. In addition, the physician must be physically present in the same office suite and be immediately available to render assistance if that becomes necessary.

Physicians may have an office suite within a nursing home or other institution. Where a physician establishes an office suite within a nursing home or other institution, coverage of services and supplies furnished in the office suite must be determined in accordance with the "incident to a physician's professional service" provision, as in any physician's office. A physician's office suite



within an institution must be confined to a separately identified part of the facility which is used solely as the physician's office and cannot be construed to extend throughout the entire institution. Thus, services performed outside the "office suite" area would be subject to the coverage rules applicable to services furnished outside the office suite .

In order to accurately apply the criteria in the Medicare Benefit Policy Manual, Chapter 6, §20.4.1 or Chapter 15, §60.1, the contractor gives consideration to the physical proximity of the institution and physician's office. When his or her office suite is located within a facility, a physician may not be reimbursed for services, supplies, and use of equipment which fall outside the scope of services "commonly furnished" in physician's offices generally, even though such services may be furnished in his institutional office. Additionally, make a distinction between the physician's office practice and the institution, especially when the physician is administrator or owner of the facility. Thus, for their services to be covered under the criteria, the auxiliary medical personnel must be members of the office staff rather than of the institution's staff, and the cost of supplies must represent an expense to the physician's office practice. Finally, services performed by the employees of the physician outside the "office" area must be directly supervised by the physician; the physician presence in the facility as a whole would not suffice to meet this requirement. (In any setting, of course, supervision of auxiliary personnel in and of itself is not considered a "physician's professional service" to which the services of the auxiliary personnel could be an incidental part, i.e., in addition to supervision, the physician must perform or have performed a personal professional service to the patient to which the services of the auxiliary personnel could be considered an incidental part). Denials for failure to meet any of these requirements would be based on §1861(s) (2) (A) of the Act.

Establishment of an office suite within an institution would not modify rules otherwise applicable for determining coverage of the physician's personal professional services within the institution. However, in view of the opportunity afforded to a physician who maintains such an office for rendering services to a sizable number of patients in a short period of time or for performing frequent services for the same patient, claims for physicians' services rendered under such circumstances would require careful evaluation by the carrier to assure that payment is made only for services that are reasonable and necessary.

Questions & Answers

1	<p>Q: Will Optum Behavioral Health allow "incident to services" for commercial plans?</p> <p>A: No. Practitioners must bill under their own name and provider identification (NPI, TIN). Claims that are submitted and do not follow this guideline will be will denied unless required by State Medicaid or Federal Regulations.</p>
2	<p>Q: How do I determine "incident to" requirements and how to apply the rules and understand the documentation requirements?</p> <p>A: Please reference CMS guidelines www.cms.gov and to the link provided below for guidance related to "incident to services". Additionally the Medicare Administrative Contractor (MAC) has jurisdiction to process Medicare Part A and Part B (A/B) for Fee-For-Service (FFS) beneficiaries, however they do provide some tools specific to incident to that you may find helpful.</p> <ul style="list-style-type: none"> • https://www.novitas-solutions.com/webcenter/portal/MedicareJL/IncidentTool# • https://medicare.fcso.com/tools_center/incident_reporting/incident_to.asp
3	<p>Q: Does Optum Behavioral Health reimburse for supplies?</p> <p>A: No. Optum Behavioral Health does not reimburse for supplies.</p>

Resources

Centers for Medicare and Medicaid Services, CMS Manual System and other CMS publications and services

- 1861(s)(2)(A) Social Security administration
- 42 CFR 410
- Medicare Benefit Policy Manual – Chapter 15
- MLN Matters Number: SE0441
- MLN Medicare Mental Health Training Booklet



History / Updates

March, 2022	Annual Anniversary Review; No updates
May, 2021	Annual review; Updates to Overview and Reimbursement Guidelines Section based on CMS Added Q&As 1, 2, & 3
March, 2020	Annual review
March, 2019	Annual review
April, 2018	Annual review
March, 2017	New

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