

# Optometry Coding & Billing Alert

## Modifiers: CMS Debuts 4 New Modifiers to Substitute for 59

**Medicare will still accept modifier 59, but use the new modifiers instead when applicable.**

Popularity can be a great thing—unless the OIG is watching. That's when you don't want to run with the crowd. Such has been the case with modifier 59, which CMS describes as "the most widely used HCPCS modifier," and intends to stop that by introducing four modifiers to take its place in specific circumstances.

As most coders are aware, modifier 59 (Distinct procedural service) can separate CCI edits, but it is not meant to be utilized solely for that reason. In fact, CMS says in Transmittal R1422 (issued on Aug. 15) that many providers misuse it for this purpose, leading the modifier to be the source of a projected one-year error rate of \$770 million.

CMS points out the following three common reasons that people use modifier 59, along with the associated error odds, according to MLN Matters article MM8863, issued on Aug. 15:

- Infrequently used to identify a separate encounter, typically used correctly
- Less commonly utilized to define a separate anatomic site, less often used correctly
- Commonly used to define a distinct service, but frequently done so incorrectly

### Say Hello to "EPSU" Modifiers

In light of the problems that CMS has faced when dealing with modifier 59, CMS felt the need to find a solution. "The 59 modifier often overrides the edit in the exact circumstance for which CMS created it in the first place," the MLN Matters article says. "CMS believes that more precise coding options coupled with increased education and selective editing is needed to reduce the errors associated with this overpayment."

To that end, CMS has debuted the following new modifiers, known as the "X(EPSU)" modifiers:

- XE: Separate encounter (A service that is distinct because it occurred during a separate encounter)
- XS: Separate structure (A service that is distinct because it was performed on a separate organ/structure)
- XP: Separate practitioner (A service that is distinct because it was performed by a different practitioner)
- XU: Unusual non-overlapping service (The use of a service that is distinct because it does not overlap usual components of the main service)

Although the new modifiers will replace modifier 59 in specific instances, CMS won't cease accepting -59 in 2015. "CMS will not stop recognizing the 59 modifier but notes that CPT® instructions state that the 59 modifier should not be used when a more descriptive modifier is available," says the Transmittal, which has an effective date of Jan. 1, 2015. "CMS will continue to recognize the 59 modifier in many instances but may selectively require a more specific X(EPSU) modifier for billing certain codes at high risk for incorrect billing."

For instance, CMS is eventually going to institute edits that will allow the XE modifier to separate a specific CCI edit pair, but won't accept modifier 59 or XU to separate that particular pair. As a way of easing into the new modifiers, CMS will initially accept either modifier 59 or the X(EPSU) modifier for a service, but "the rapid migration of providers to the more selective modifier is encouraged," the MLN Matters article notes. However, MACs can start requiring the more specific modifiers in place of modifier 59 at their convenience, so keep an eye out for local requirements.

Keep in mind that CMS does not want you to play it safe and just add all of the modifiers to each CCI edit you're trying to separate. Therefore, you can't report both the 59 modifier and an X(EPSU) modifier on the same line item.

**Resource:** To read the transmittal, visit

[www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1422OTN.pdf](http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1422OTN.pdf). To read the MLN Matters article, visit  
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