

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Don't Bill Incident-To Unless Your Doctor Is Involved

Practices sail into 'gray area' of incident-to billing

Watch out: If your practice is considering accepting another practice's patients for ancillary services and billing "incident to," you could be setting yourself up for liability down the road.

The arrangement: Some practices recently are striking up deals with other practices to send patients over for ancillary services. For example, Practice #1 may have an infusion laboratory that administers drugs or a physical therapy group. Practice #2 may lack those capabilities and have patients who need them.

So Practice #2 sends some of its patients to Practice #1 for physical therapy, and Practice #1 bills "incident to" for the patients. Because Practice #1 has a doctor in the office suite while the patient receives the services, the service meets the technical requirements of the incident-to billing rules.

The problem: No doctor from Practice #1 is seeing those patients from Practice #2. They're only being seen by the physical therapist (or by the non-physician practitioner in the case of Part B drugs).

You can't bill "incident-to" your physician's services unless one of your physicians is actually treating the patient in question, say experts. The treating physician doesn't have to be the same one as the supervising physician, but there does have to be a treating physician in your practice. One of your doctors must have provided an evaluation and management service to the patient.

Warning: If you bill for an "incident-to" service, "it had better be truly incidental to your overall course of physician care," cautions attorney **Alan Rumph** with **Smith Hawkins Hollingsworth & Reeves** in Macon, GA.

These arrangements are in a risky "gray area," says **Roy Wyman**, an attorney with **Maupin Taylor** in Charlotte, NC. "You could say the physical therapy or other ancillary service is incident to the services of a physician," so the referring physician doesn't have to supervise, he notes. But because there's no relationship between the referring physician and your practice, enforcement agencies will look more carefully at these deals, he says.

Bottom line: If the "incident to" service isn't really integral to the physician's services, then you're risking some legal and billing problems, Wyman says.