

Part B Insider (Multispecialty) Coding Alert

INCIDENT-TO BILLING: Group Practices Performing Diagnostic Tests Should Beware

Tests won't be incident-to any longer, CMS officials say

For decades, physician practices have been billing diagnostic tests on an "incident-to" basis if the physician supervised them. Now the **Centers for Medicare & Medicaid Services** officials are saying that's incorrect.

Despite numerous official issuances and statements to the contrary, a group of CMS officials have decided that diagnostic tests can never be billed incident-to a physician's services. While this doesn't affect the reimbursement levels for the tests, it does prevent an individual physician from receiving compensation for the tests within a group practice (See "You Could Be Throwing \$140 Away").

"Diagnostic tests do have a benefit category of their own," a CMS official tells **PBI**. Because they fall under their own category, it's incorrect to bill them incident-to, the official claims.

The official says that CMS laid out this interpretation in the 2003 [physician fee schedule](#), published in the Dec. 31, 2002 Federal Register. On page 79,994, buried in a host of rehashed language from previous years, CMS says that physicians should only bill a service incident-to if it doesn't have its own benefit category. The Register lists diagnostic x-ray tests and the administration of influenza vaccines as examples.

CMS goes on to say that items with their own benefit category can be billed incident-to by statute, including outpatient physical therapy services. Also, physicians can bill incident-to for the services of nurse practitioners, clinical nurse specialists and physician's assistants, as long as incident-to requirements are met.

"Only services that do not have their own benefit category are appropriately billed as incident-to a physician's services," summarizes the CMS official. "That's what we said, that's what we meant, that's what we still say." This comes as news to attorneys and coding experts, however.

Numerous other sources state that physicians can bill diagnostic tests "incident-to," insists attorney **Alice Gosfield** with **Gosfield & Associates** in Philadelphia, PA. For example, the preface to the recent Phase 2 regulations implementing the Stark II law OKs incident-to billing for diagnostic tests. (Federal Register, March 26, 2004) It may be that CMS officials plan to fix that discrepancy in the final Stark II regs.