

Part B Insider (Multispecialty) Coding Alert

INCIDENT-TO SERVICES: CMS Rescinds Recent Incident-to Advice, With No Plan to Replace It

With the new guidelines just about to take effect, CMS scraps Transmittal 87

If you spent hours poring over the 23-page incident-to guidelines that CMS had planned to implement on June 2, you can forget everything you just learned.

On the very day that practices were supposed to start using the new incident-to guidelines, CMS rescinded Transmittal 87, noting that the document -will not be replaced at this time.-

Possible rationale: Several medical associations expressed concern about the new guidelines, saying that practices didn't have enough time to learn all of the regs- nuances in the one-month period between the transmittal's publication (May 2) and the implementation date (June 2).

In a May 21 letter to CMS Acting Administrator **Kerry Weems**, the **AMA** and the **Medical Group Management Association (MGMA)** asked CMS to delay the transmittal's implementation and to -reconsider the administratively burdensome and costly documentation requirements- that the incident-to transmittal would have required.

At issue: The AMA/MGMA letter asked CMS to make the following changes before putting the incident-to transmittal into effect:

- Remove the requirement that a clinic must be physician-owned and -operated before billing incident-to services
- Delay Transmittal 87's implementation for six months
- Reconsider the requirement for -explicit documentation in medical records- of the clinical personnel's credentials
- Remove requirements that patient care plans explicitly reference services that will be provided as incident to
- Remove references to the physician self-referral law (Stark).

Reason for Rescinding Unclear

CMS did not indicate that the AMA/MGMA letter had anything to do with its intention to scrap Transmittal 87. In fact, CMS did not reveal any reason at all for choosing to rescind the transmittal.

-Not only did the AMA letter probably have something to do with it, but CMS- own contractors probably balked at the requirements,- says consultant **Randall Karpf** with **East Billing**. -It takes a lot longer than one month for a Medicare carrier to implement new rules, and it's quite possible that the carriers told CMS that there was no way they could be compliant with the new regs by June 2.-

The rescinded transmittal is available on the CMS Web site at www.cms.hhs.gov.