

Eli's Rehab Report

News You Can Use: Reporting Incident-To Therapy Services? Better Have a Therapist

Medicare says the physician with the ID has to write the plan of care

If your office provides incident-to therapy services to a Medicare patient, you had better make sure the incident-to physician meets the new regulation that says that he has to have a staff with equivalent education to a therapist - and fast! You have until June 6, 2005, to adjust.

Take Note of Who Writes Plan of Care

Even though a physiatrist may employ an occupational therapist to provide incident-to services, that occupational therapist cannot write the plan of care. Instead, the physiatrist whose Medicare ID will be on the claim must be the one who writes the plan of care for the patient.

What this means: Basically, when a licensed therapist is working under incident-to guidelines, that therapist gives up his professional identity and simply follows the plan the physician has implemented, says **Pauline Franko, PT, MCSP**, president of Encompass Consulting & Education LLC in Tamarac, Fla. Occupational therapy assistants (OTA) and physical therapy assistants (PTA) are not affected because they must be supervised by a PT or OT. You must report their services through the PT's or OT's provider number.

Therapist Providing Incident-To Must Qualify

The practices most likely to be hit the hardest are physicians such as orthopedic surgeons and PM&R providers who employ massage therapists and athletic trainers to provide therapy to their Medicare patients.

The reason is that massage therapists and athletic trainers don't meet the specifications for providing therapy. Unless they have equivalent education to that of a physical therapist, for example, they do not have the qualifications to provide physical therapy to Medicare patients.

The new policy states the incident-to staff must meet "existing qualification and training standards for therapists (with the exception of licensure) consistent with [484.4](#)," according to CMS.

"Notice that you don't have to have a license. You have to have an equivalent education - such as, someone who has a physical therapy degree but who hasn't managed to pass state boards or a foreign-trained therapist who has not received her or his U.S. licensure," Franko says. Physicians can no longer hire alternative professional or non-licensed persons to provide therapy services and bill Medicare as if provided by a physical therapist or therapist assistant.

For a Medicare patient, the only person who can provide the services has to have the equivalent education of a therapist, and the only one who can supervise under the incident-to rule is a physician, says **Marvel Hammer, RN, CPC, CCS-P, CHCO**, owner of MJH Consulting in Denver. "Just because a physician can order the physical therapy doesn't mean he or she can provide or supervise that patient's therapy."

Test Your Incident-To Know-How

Question #1: Your physiatrist wants to provide her Medicare patient with a therapy service such as 97530 (Therapeutic activities, direct [one-on-one] patient contact by the provider [use of dynamic activities to improve functional performance], each 15 minutes), so she writes the plan of care and assigns a licensed occupational therapy OT to take

care of it. She makes sure that she's in the office suite and available on that day in case of any complications. Can you report this code under incident-to?

Answer #1: Yes, you can report this code. The physiatrist's incident-to staff, in this case the OT, has the necessary training to meet Medicare regulations and therefore is qualified to provide the therapy represented by 97530 to the patient.

Question #2: An orthopedist writes a plan of care and asks a nurse to apply an ultrasound to his Medicare patient. He makes sure that he's in the office at the time of this procedure. Can you report this code under incident-to?

Answer #2: No, the orthopedist cannot report 97035 (Application of a modality to one or more areas; ultrasound, each 15 minutes) as an incident-to service, because the nurse does not meet the qualifications of a therapist.