

MDS Alert

Medicare/Medicaid Compliance: Make Sure Physician Extenders Don't Stretch The Rules

Otherwise, you're risking technical denials, F tags and worse.

What's the one thing nurse practitioners and clinical nurse specialists can do that physician assistants should never do?

They should never certify a Medicare Part A resident for a SNF level of care - unless your facility is willing to eat the cost of an entire Part A-stay. NPs and clinical nurse specialists who are not employed by the nursing facility can sign cert/recert documents for Medicare residents, if state law permits. But PAs may not, regardless of their employment status. That's according to a recent letter from the **Centers for Medicare & Medicaid Services** to state survey agency directors (S&C 04-08).

The CMS memo, which replaces the April 2003 version (S&C-03-18), specifies what physician extenders can do for Medicare versus Medicaid residents. For example, PAs, NPs and CNSs may sign cert/recert documents in Medicaid nursing facilities (or for Medicaid residents in a dually eligible facility), regardless of whether they are on the facility's payroll - if state law allows.

Watch for Payment, Compliance Problems

Facilities that don't follow the rules for Medicare cert/recerts may end up with a technical denial as the result of medical review by the fiscal intermediary, cautions **Cindy MacQuarrie, RN, MN**, managing consultant with **BKD LLP** in Kansas City, MO. And technical denials can only be challenged based on errors in factual findings, notes **Donna Thiel**, attorney with **Morgan Lewis & Bockius LLP** in Washington.

Facilities with a pattern or practice of allowing physician extenders to sign cert/recert paperwork are paving the way for a program integrity audit by their FI, at the least, Thiel cautions. "That's not an official [HHS] Office of Inspector General or Department of Justice audit, but it's still pretty serious," she says. The facility could then be subjected to potential focused medical review or even OIG action, depending on the audit's findings.

Don't Invite an F Tag

Your facility must also comply with regs spelling out when physician extenders can visit and write medical orders for residents. And only physicians can complete the initial comprehensive visit/orders for Medicare nursing home residents, the CMS letter says. So if the physician doesn't do the initial visit/orders - or if an NP, CNS or PA does it instead - the facility is asking for an F tag.

Under Medicare, physician extenders may perform other required visits (the required monthly visits that may be alternated between physician and non-physician practitioners). And they may perform other medically necessary visits and orders.

Medicaid has a different set of requirements so that physician extenders who are NOT facility employees may perform and sign initial comprehensive visits/orders. And PEs not employed by the facility may also perform other required visits and other medically necessary visits and orders. Under Medicaid, facility-employed PEs may not perform initial comprehensive visits or other required visits but they can perform and sign other medically necessary visits/orders.

Coding P7 and P8

How will CMS' memo affect its August 2003 RAI user's manual clarification for counting physician visits/orders in Section P7 and P8? That update clarifies that facilities can count visits/orders by NPs, CNSs and PAs working in collaboration with a physician (whether they are employed by the facility or not).

As of press time, CMS hadn't clarified that issue officially, according to **Ruta Kadonoff**, senior health policy analyst for the **American Association of Homes & Services for the Aging**. "But since the CMS letter lays out when physician extenders have the authority to do medically necessary visits and orders, it shouldn't affect coding of Section P," she theorizes. In other words, NPs, CNSs and PAs should only be doing what they are authorized to do. "So it's an issue of following the rules for when visits/orders are allowable (and thus can be counted on the MDS)," according to Kadonoff.

Check This Out: What do your facility's policies say about delegating tasks to physician extenders? The federal regs say a physician may not delegate a task when prohibited by the facility's own policy. 