# Pain Management Coding Alert

## News You Can Use: Wil Incident-to Be Part of the Past Soon?

**MedPAC investigating new NP/PA guidelines.**

Your PM practice has most likely used "incident-to" billing to great effect when one of your nurse practitioners (NPs) or physician assistants (PAs) perform evaluation and management (E/M) services that they can bill under the physician's National Provider Identifier (NPI).

**Change is coming … maybe:** This billing convention could be going the way of the dodo and the VCR, as Medicare might put the brakes on the whole practice.

Check out what went on in 2019 - and what might happen in 2020 and beyond - with incident-to billing.

**MedPAC Relays its Incident-to Reasoning**

The Medicare Payment Advisory Commission (MedPAC) has recommended that Congress remove incident-to, and instead have NPs and PAs bill Medicare directly for their services at the 85 percent rate, notes MedPAC's quarterly report. The reasoning behind this policy suggestion is threefold and surrounds billing

transparency, boosting primary care, and saving CMS money.

"Given the growing roles of NPs and PAs and their shift away from primary care, Medicare's 'incident-to' rules and lack of specialty data create several problems, including obscuring important information on the clinicians who treat beneficiaries and inhibiting Medicare's ability to identify and support clinicians furnishing primary care," MedPAC says.

**Breakdown:** According to the Commission, there are three things that factor into its recommendation to cut incident to. Firstly, between 2010 and 2017, the use of NPs - particularly advanced practice registered nurses (APRNs) - and PAs billing Medicare "more than doubled." Plus, fewer students pursue primary care medicine as a career choice than in the past, and MedPAC is concerned about the "pipeline of future primary care physicians," the report indicates. Lastly, MedPAC insists that the numbers are fuzzy, and that background details on incident-to billing are "limited" and require more study.

"Surprisingly, MedPAC didn't focus on the money, but on the lack of transparency of treatment data as a result of 'incident-to' billing and the migration of NPs/PAs to specialty care," counsels attorney **Rhonda Frey**, with law firm Frost, Brown, Todd LLC in Florence, Kentucky.

Frey adds, "It seems MedPAC believes that the expansion by NPs/PAs from primary care to specialty practices was not contemplated when incident to was introduced; and elimination of incident to may, thus, be a backdoor way to stop that migration."

Even though money wasn't the overarching factor in MedPAC's recommendation, the change could significantly cut Medicare's spending, and that could prompt CMS to "take MedPAC's recommendation to eliminate incident-to billing for midlevel providers seriously," explains partner attorney **Adam Robison**, in the Houston office of King & Spalding LLP.

Robison adds, "First, MedPAC estimated that this recommendation would save the Medicare program $50 to $250 million in the first year. Second, in MedPAC's opinion, there is not likely to be a reduction in the quality of care or clinical outcomes for Medicare beneficiaries."

**Change Could Be Around the Corner**

This isn't the first time MedPAC has discussed problems with incident to. In fact, the report doubles down on issues covered in the Commission's December 2019 meeting. However, the feds don't always follow through on MedPAC suggestions, and sometimes they slow walk implementation of unpopular recommendations.

Yet, if Congress does decide to cut incident to, expect a quick turnaround, experts warn.

"It's hard to predict timing when it comes to the government, but I'd look for them to move on this pretty quickly, if that's the direction they choose to go, since making this change doesn't need to change anything from a clinical perspective," says Frey.

**Incident-to Cut Could Lead to Financial Hit**

If your staff includes a fair number of PAs and NPs, you may feel the fiscal crunch if incident to goes away.

If CMS takes up MedPAC's suggestion and "eliminates incident-to billing, midlevel providers will be required to bill for services performed under their own NPIs, which are paid at 85 percent of the fee-for service schedule," points out Robison. "Therefore, if the recommendation ends up being adopted, physician practices would see reductions in revenue."

**Future hires:** This Medicare payment cut may cause some physician practices to steer away from hiring APRNs and PAs and decrease "their use of midlevel practitioners," suggests Robison.

Frey agrees, "I would guess that some physicians whose primary motivation is reimbursement will begin to see NPs/PAs as less useful to them if they can't obtain reimbursement at 100 percent. But for those more focused on patient care or those in rural areas or locations where it's difficult to attract physicians, there probably will be no change in perspective."