CMS Benefit Policy Manual

Chapter 6 - Hospital Services Covered Under Part B

20.5.2 - Coverage of Outpatient Therapeutic Services Incident to a Physician's Service Furnished on or After January 1, 2010

(Rev. 169, Issued: 03- 01- 13, Effective: 04-01-13, Implementation: 04- 01-13)

Therapeutic services and supplies which hospitals provide on an outpatient basis are those services and supplies (including the use of hospital facilities and drugs and biologicals that cannot be self-administered) which are not diagnostic services, are furnished to outpatients incident to the services of physicians and practitioners and which aid them in the treatment of patients. These services include clinic services, emergency room services, and observation services. Policies for hospital outpatient therapeutic services furnished incident to physicians' services differ in some respects from policies that pertain to "incident to" services furnished in office and physician-directed clinic settings. See Chapter 15, "Covered Medical and Other Health Services," Section 60.

To be covered as hospital outpatient therapeutic services, the services and supplies must be furnished by the hospital or CAH or under arrangement made by the hospital or CAH (see section 20.1.1 of this chapter). The services and supplies must be furnished as an integral, although incidental, part of the physician or non-physician practitioner's professional service in the course of treatment of an illness or injury.

The services and supplies must be furnished in the hospital or at a department of the hospital that has provider-based status in relation to the hospital under 42 CFR 413.65. For therapeutic services furnished during CY 2010, as specified at 42 CFR 410.27(g), "in the hospital or CAH" means areas in the main building(s) of the hospital or CAH that are under the ownership, financial, and administrative control of the hospital or CAH; that are operated as part of the hospital or CAH; and for which the hospital or CAH bills the services furnished under the hospital's or CAH's CMS Certification Number.

Hospital outpatient therapeutic services and supplies must be furnished under the order of a physician or other practitioner practicing within the extent of the Act, the Code of Federal Regulations, and State law. They must be furnished by hospital personnel under the appropriate supervision of a physician or non-physician practitioner as required in this manual and by 42 CFR 410.27 and 482.12.

This does not mean that each occasion of service by a non-physician need also be the occasion of the actual rendition of a personal professional service by the physician responsible for care of the patient. However, during any course of treatment rendered by auxiliary personnel, the physician must personally see the patient periodically and sufficiently often to assess the course of treatment and the patient's progress and, when necessary, to change the treatment regimen. A hospital service or supply would not be considered incident to a physician's service if the attending physician merely wrote an order for the services or supplies and referred the patient to the hospital without being involved in the management of that course of treatment.

CMS requires direct supervision (defined below) by an appropriate physician or non-physician practitioner in the provision of all therapeutic services to hospital outpatients, including CAH outpatients. CMS may assign certain hospital outpatient therapeutic services either general supervision or personal supervision. When such assignment is made, "general supervision" means the definition specified at 42 CFR 410.32(b)(3)(i), that is, the procedure or service is furnished under the physician's overall direction and control, but the physician's presence is not required during the performance of the procedure. "Personal supervision" means the definition specified at 42 CFR 410.32(b)(3)(iii), that is, the physician must be in attendance in the room during the performance of the service or procedure.

Effective January 1, 2011, hospitals may change to general supervision for a portion of services defined as non-surgical extended duration therapeutic services ("extended duration services") but only as specified in this manual for those services (see section 20.7). Pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services require direct supervision which must be

furnished by a doctor of medicine or osteopathy, as specified at 42 CFR 410.47 and 410.49, respectively.

The list of services that may be furnished under general supervision or that are defined as non-surgical extended duration therapeutic services is available on the OPPS Website at http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html

Beginning January 1, 2010, according to 42 CFR 410.27, in addition to physicians and clinical psychologists, licensed clinical social workers, physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-midwives may furnish the required supervision of hospital outpatient therapeutic services that they may personally furnish in accordance with State law and all additional rules governing the provision of their services, including those specified at 42 CFR Part 410. These non-physician practitioners are specified at 42 CFR 410.27(g).

Considering that hospitals furnish a wide array of very complex outpatient services and procedures, including surgical procedures, CMS would expect that hospitals already have the credentialing procedures, bylaws, and other policies in place to ensure that hospital outpatient services furnished to Medicare beneficiaries are being provided only by qualified practitioners in accordance with all applicable laws and regulations. For services not furnished directly by a physician or non-physician practitioner, CMS would expect that these hospital bylaws and policies would ensure that the therapeutic services are being supervised in a manner commensurate with their complexity, including personal supervision where appropriate.

For therapeutic services furnished during CY 2010 in the hospital or CAH or in an on-campus outpatient department of the hospital or CAH, as defined at 42 CFR 413.65, “direct supervision” means that the physician or non-physician practitioner must be present on the same campus where the services are being furnished. For services furnished in an off-campus provider based department as defined in 42 CFR 413.65, he or she must be present within the off-campus provider based department. The physician or non-physician practitioner must be immediately available to furnish assistance and direction throughout the performance of the

procedure. The physician or non-physician practitioner does not have to be present in the room when the procedure is performed.

For therapeutic services furnished during CY 2011 and following, whether in the hospital or CAH or in an on-campus or off-campus outpatient department of the hospital or CAH as defined at 42 CFR 413.65, "direct supervision" means that the physician or non-physician practitioner must be immediately available to furnish assistance and direction throughout the performance of the procedure. As discussed below, the physician is not required to be present in the room where the procedure is performed or within any other physical boundary as long as he or she is immediately available.

Immediate availability requires the immediate physical presence of the supervisory physician or non-physician practitioner. CMS has not specifically defined the word "immediate" in terms of time or distance; however, an example of a lack of immediate availability would be situations where the supervisory physician or non-physician practitioner is performing another procedure or service that he or she could not interrupt. Also, for services furnished on-campus, the supervisory physician or non-physician practitioner may not be so physically distant on-campus from the location where hospital/CAH outpatient services are being furnished that he or she could not intervene right away. The hospital or supervisory practitioner must judge the supervisory practitioner's relative location to ensure that he or she is immediately available.

For services furnished in CY 2011 and following, a supervisory practitioner may furnish direct supervision from a physician office or other nonhospital space that is not officially part of the hospital or CAH campus where the services are being furnished as long as he or she remains immediately available. Similarly, as of CY 2011, an allowed practitioner can furnish direct supervision from any location in or near an off-campus hospital or CAH building that houses multiple hospital provider-based departments where the services are being furnished as long as the supervisory practitioner is immediately available.

The supervisory physician or non-physician practitioner must have, within his or her State scope of practice and hospital-granted privileges, the knowledge, skills,

ability, and privileges to perform the service or procedure. Specially trained ancillary staff and technicians are the primary operators of some specialized therapeutic equipment, and while in such cases CMS does not expect the supervisory physician or non-physician practitioner to operate this equipment instead of technician, CMS does expect the physician or non-physician practitioner to be knowledgeable about the therapeutic service and clinically able to furnish the service.

The supervisory responsibility is more than the capacity to respond to an emergency, and includes the ability to take over performance of a procedure or provide additional orders. CMS would not expect that the supervisory physician or non-physician practitioner would make all decisions unilaterally without informing or consulting the patient's treating physician or non-physician practitioner. In summary, the supervisory physician or non-physician practitioner must be clinically able to supervise the service or procedure.

2010 CMS OPPS Final Rule

Pulmonary, Cardiac and Intensive Cardiac Rehab

For pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, direct supervision **must be furnished by a doctor of medicine or osteopathy**, as specified in §§410.47 and 410.49, respectively.

The physician must be available to furnish assistance and direction throughout the performance of the procedure. This means that the physician must be prepared to step in and perform the service, not just to respond to an emergency. This includes the ability to take over performance of a procedure and, as appropriate to both the supervisory physician and the patient, to change a procedure or the course of treatment being provided to a particular patient.

For Cardiac Rehab and Intensive Cardiac Rehab the supervising physician must be immediately available and accessible for medical consultations and medical emergencies at all times the items and services are being furnished under the CR and ICR program.

This physician must also have expertise in the management of individuals with **cardiac pathophysiology.**

20.7 - Non-Surgical Extended Duration Therapeutic Services (NSEDTS)

(Rev. 169, Issued: 03- 01- 13, Effective: 04-01-13, Implementation: 04- 01-13)

CMS designates a limited set of therapeutic services meeting specific criteria as nonsurgical extended duration therapeutic services ("extended duration services"), defined in 42 CFR 410.27(a)(1)(v). These are outpatient therapeutic services that can last a significant period of time, have a substantial monitoring component that is typically performed by auxiliary personnel, have a low risk of requiring the supervisory practitioner's immediate availability to furnish assistance and direction after the initiation of the service, and that are not primarily surgical in nature. In the provision of these services, CMS requires a minimum of direct supervision during the initiation of the service which may be followed by general supervision for the remainder of the service at the discretion of the supervisory practitioner.

The CMS OPPS Website at http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html includes a table listing the current extended duration services for the payment year.

For these services, direct supervision means the definition specified for all outpatient therapeutic services in 410.27(a)(1)(iv), that is, immediate availability to furnish assistance and direction throughout the performance of the procedure.

General supervision means the definition specified in the physician fee schedule at 410.32(b)(3)(i), that the service is performed under the supervisory practitioner's overall direction and control but his or her presence is not required during the performance of the procedure.

"Initiation" means the beginning portion of the extended duration service, ending when the supervisory practitioner believes the patient is stable enough for the remainder of the service to be safely administered under general supervision.

The point of transition to general supervision must be documented in the patient's progress notes or medical record. The manner of documentation is otherwise at the discretion of each supervisory practitioner.

Hospital Outpatient Therapeutic Services That Have Been Evaluated for a Change in Supervision Level (March 2015)

Medicare requires direct supervision of all hospital outpatient therapeutic services unless CMS makes an assignment of either general or personal supervision for an individual service. There is also a hybrid level of supervision for certain services described as non-surgical extended duration therapeutic services (NSEDTS). Refer to CFR 410.27(a)(1)(iv)(E) for a description of NSEDTS. The following table lists the hospital outpatient therapeutic services that have been evaluated by the Hospital Outpatient Payment (HOP) Panel for a change from direct supervision and the final CMS decision on the supervision levels. Also listed are select codes with CMS-initiated supervision level changes. For new code(s), we list the effective date for the change in supervision level that applied to the predecessor code(s). For codes with N/A in the effective date column, there is no effective date provided because CMS has not made a change in supervision level. For codes with N/A in the HOP panel Recommendation column, the Panel chose not to make a recommendation.

HCPCS Code	Short Descriptor	HOP Panel Evaluation Date	HOP Panel Recommendation	CMS Decision	Effective Date
C8957	Prolonged iv inf, req	N/A	N/A	NSEDTS	January 1, 2011
11719	Trim nail(s) any	Aug, 2012	General	General	January 1, 2013
29580	Application of paste	Aug, 2012	General	General	January 1, 2013
29581	Apply multlay	Aug, 2012	General	General	January 1, 2013
36000	Place needle in vein	Aug, 2012	General	General	January 1, 2013
36430	Blood transfusion	March, 2014	General	General	July 1, 2014
36591	Draw blood off	Aug, 2012	General	General	January 1, 2013
36592	Collect blood from	Aug, 2012	General	General	January 1, 2013
36593	Declot vascular	March, 2014	General	General	July 1, 2014
36600	Withdrawal of	March, 2014	General	General	July 1, 2014
51700	Irrigation of bladder	Aug, 2012	General	General	January 1, 2013
51701	Insert bladder	Feb, 2012	General	General	July 1, 2012
51702	Insert temp bladder	Aug, 2012	General	General	January 1, 2013
51705	Change of bladder	Aug, 2012	General	General	January 1, 2013

HCPCS Code	Short Descriptor	HOP Panel Evaluation Date	HOP Panel Recommendation	CMS Decision	Effective Date
51798	Us urine capacity	Aug, 2012	General	General	January 1, 2013
90471	Immunization admin	Feb, 2012	General	General	July 1, 2012
90472	Immunization admin	Feb, 2012	General	General	July 1, 2012
90473	Immune admin	Feb, 2012	General	General	July 1, 2012
90474	Immune admin	Feb, 2012	General	General	July 1, 2012
90832	Psytx pt&/family 30	Feb, 2012	General	General	July 1, 2012
90834	Psytx pt&/family 45	Feb, 2012	General	General	July 1, 2012
90837	Psytx pt&/family 60	Feb, 2012	General	General	July 1, 2012
90785	Psytx complex	Feb, 2012	General	General	July 1, 2012
90846	Family psytx w/o	Feb, 2012	General	General	July 1, 2012
90847	Family psytx	Feb, 2012	General	General	July 1, 2012
90849	Multiple family group	Feb, 2012	General	General	July 1, 2012
90853	Group psychotherapy	Feb, 2012	General	General	July 1, 2012
90857	Intac group psytx	Feb, 2012	General	General	July 1, 2012
94640	Airway inhalation	Feb, 2012	NSEDTS	Direct	July 1, 2012
94640	Airway inhalation	March, 2014	None	Direct	N/A
94667	Chest wall	March, 2014	General	General	N/A
94668	Chest wall	March, 2014	General	General	July 1, 2014
96360	Hydration iv infusion	Aug, 2012	General	General	January 1, 2013
96361	Hydrate iv infusion	Aug, 2012	General	General	January 1, 2013
96365	Ther/proph/diag iv	Aug, 2012	General	NSEDTS	N/A
96366	Ther/proph/diag iv	Aug, 2012	General	General	January 1, 2013
96367	Tx/proph/dg addl	Aug, 2012	General	NSEDTS	N/A
96368	Ther/diag concurrent	Aug, 2012	General	NSEDTS	N/A
96369	Sc ther infusion up to	March, 2014	General	NSEDTS	N/A
96370	Sc ther infusion addl	March, 2014	General	General	July 1, 2014
96371	Sc ther infusion reset	March, 2014	General	NSEDTS	N/A
96372	Ther/proph/diag inj	Aug, 2012	General	General	January 1, 2013
96374	Ther/proph/diag inj	Aug, 2012	General	NSEDTS	N/A
96375	Tx/pro/dx inj new	Aug, 2012	General	NSEDTS	N/A
96376	Tx/pro/dx inj same	Aug, 2012	General	General	January 1, 2013
96401	Chemo anti-neopl	March/August 2014	General	Direct	N/A
96402	Chemo hormon	March/August 2014	General	Direct	N/A

HCPCS Code	Short Descriptor	HOP Panel Evaluation Date	HOP Panel Recommendation	CMS Decision	Effective Date
96409	Chemo iv push sngl	March/August 2014	General	Direct	N/A
96411	Chemo iv push addl	March/August 2014	General	Direct	N/A
96413	Chemo iv infusion 1 hr	March/August 2014	General	Direct	N/A
96415	Chemo iv infusion	March/August 2014	General	Direct	N/A
96416	Chemo prolong infuse	March/August 2014	General	Direct	N/A
96417	Chemo iv infus each	March/August 2014	General	Direct	N/A
96521	Refill/maint portable	Aug, 2012	General	General	January 1, 2013
96523	Irrig drug delivery	Aug, 2012	General	General	January 1, 2013
97597	Rmvl devital tis 20	March, 2014	General N/A	Direct	N/A
99406	Behav chng smoking	Feb, 2012	General	General	July 1, 2012
99407	Behav chng smoking >	Feb, 2012	General	General	July 1, 2012
99490	Chron care mgmt srvc	N/A	N/A	General	January 1, 2015
99495	Trans care mgmt 14	N/A	N/A	General	January 1, 2015
99496	Trans care mgmt 7	N/A	N/A	General	January 1, 2015
G0008	Admin influenza virus	Aug, 2012	General	General	January 1, 2013
G0009	Admin pneumococcal	Aug, 2012	General	General	January 1, 2013
G0010	Admin hepatitis b	Aug, 2012	General	General	January 1, 2013
G0127	Trim nail(s)	Aug, 2012	General	General	January 1, 2013
G0176	Opps/php;activity	March, 2014	General	General	July 1, 2014
G0177	Opps/php; train &	Feb, 2012	General	General	July 1, 2012
G0378	Hospital observation	Aug, 2012	None	NSEDTS	N/A
G0379	Direct refer hospital	Aug, 2012	General	NSEDTS	January 1, 2013
G0410	Grp psych partial hosp	Feb, 2012	General	General	July 1, 2012
G0411	Inter active grp psych parti	Feb, 2012	General	General	July 1, 2012