

Report on Medicare Compliance Volume 33, Number 18. May 13, 2024 Transmittal on Split/Shared Points to CPT, Says Nothing on Documentation

By Nina Youngstrom

In a new Medicare transmittal (12604) on split/shared evaluation and management (E/M) services, CMS again shines a light on the performance of the “substantive portion,” but providers are still more or less in the dark about documentation requirements for medical decision-making (MDM).^[1]

In the transmittal, CMS points to the CPT Panel’s definition of substantive portion in terms of driving whether the physician or nonphysician practitioner (NPP) claims credit for the split/shared visit, said Valerie Rock, a principal with PYA. “Now we know what you have to perform, which we had a sense of already. But what do you have to document? CMS has not yet provided direct guidance,” she said. “Performance is one thing, but documentation is another.”

Medicare pays for an E/M service provided in part by a physician and in part by an NPP at an institution (e.g., hospital, skilled nursing facility). Split/shared visits are billed under the National Provider Identifier (NPI) of the physician or NPP who provides the substantive portion of the visit—with a 15% drop in reimbursement if the visit is billed under the NPI of the NPP.

Things Are Barely Clearer

In the 2024 Medicare Physician Fee Schedule (MPFS) rule, CMS adopted the CPT Editorial Panel’s 2024 definition of substantive portion. It’s “more than half of the total time spent by the physician and NPP performing the split (or shared) visit or a substantive part of the medical decision making” except for critical care because it’s a time-based service or “for the purpose of reporting E/M services within the context of team-based care, performance of a substantive part of the MDM requires that the physician(s) or other QHPs [qualified health professionals] made or approved the management plan for the number and complexity of problems addressed at the encounter and takes responsibility for that plan with its inherent risk of complications and/or morbidity or mortality of patient management. By doing so, a physician or other QHP has performed two of the three elements used in the selection of the code level based on MDM. If the amount and/or complexity of data to be reviewed and analyzed is used by the physician or other QHP to determine the reported code level, assessing an independent historian’s narrative and the ordering or review of tests or documents do not have to be personally performed by the physician or other QHP because the relevant items would be considered in formulating the management plan. Independent interpretation of tests and discussion of management plan or test interpretation must be personally performed by the physician or other QHP if these are used to determine the reported code level by the physician or other QHP (2024 CPT Codebook, pg. 6).”

Although it adopted the CPT definition, the 2024 MPFS rule didn’t elaborate on the scope of what physicians had to perform and document, Rock said. There was one notable line, but it wasn’t much to write home about: CMS stated that “although we continue to believe there can be instances where MDM is not easily attributed to a single physician or NPP when the work is shared, we expect that whoever performs the MDM and subsequently bills the visit would appropriately document the MDM in the medical record to support billing of the visit.” That was interpreted by some people as requiring physicians to perform the MDM and independently document it to

bill for the split/shared visit, which sort of defeated the purpose of a shared visit and wasn't in line with the CPT definition, she said.

CMS has now updated the manual, and things are barely clearer, Rock said. According to the transmittal, "Beginning January 1, 2024, substantive portion means more than half of the total time spent by the physician and NPP performing the split (or shared) visit, or a substantive part of the medical decision making (MDM) as defined in the CPT E/M Guidelines (see 2024 CPT Codebook)...When MDM is used as the substantive portion, we believe each practitioner could perform certain aspects of MDM, but the billing practitioner must perform the substantive part of MDM laid out in the CPT E/M Guidelines in order to bill the shared visit."

'There Are Audit Risks Without Them'

There are three elements of MDM: number and complexity of diagnoses to be addressed; the amount and/or complexity of data to be analyzed; and the risk of complications or morbidity from testing or treating. If the NPP develops the management plan but the physician approves it for the number and complexity of problems addressed during the encounter and takes responsibility for the management plan, the physician has essentially performed two of the elements and is allowed to bill for the split/shared visit.

With the manual update, CMS reiterates that it adopted the CPT definition of substantive portion, which allows the physician to perform the two elements required for the MDM by approving the plan and taking on the risk, Rock said. In the absence of more elaborate CPT manual documentation requirements, CMS may be hesitant to step in. But Rock said there are audit risks without them. For example, physicians and auditors may argue about who did the substantive portion when the physician made the management plan and accepted the risk for it, but the NPP documented it, Rock said. Essentially, physicians should document what they're actually doing and use terms in the CPT manual related to approving the management plan versus redocumenting.

And Rock recommends they steer clear of canned statements for every visit. "Simply document the interaction, whether with or without the patient, any changes to the plan and agreement with the management plan otherwise," Rock suggested. Medicare still requires documentation from both practitioners who were involved in the visit and the signature of the billing practitioner.

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1 Internet-Only Manual (IOM) Updates for Split (or Shared) Evaluation and Management Visits, Trans. 12604, *Medicare Claims Processing Manual*, Pub. 100-04, May 3, 2024, <https://bit.ly/3wxPYj>.

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