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COMPLIANCE EDUCATIONAL ARTICLE

TO: Compliance Alert Distribution List

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SUBJECT: Medicare Rules for Supervision of Diagnostic Tests

DATE: September 18, 2015

Diagnostic tests include not only radiologic imaging and laboratory tests, but audiology and speech tests, cardiovascular monitoring (e.g., EKGs, holter monitors), nerve conduction tests, obstetrical ultrasounds, ophthalmological studies, psychological testing, pulmonary function tests, sleep studies, urodynamic studies, and many more.

Medicare has special and separate rules for the supervision of diagnostic tests payable under Medicare Part B. The supervision aspect of a diagnostic test pertains to the technical component (cost of the equipment, supplies and personnel used to perform the test). The technical component may be billed as part of a global fee which includes both the technical and professional component (interpretation and report) of a diagnostic test. If a physician bills the global fee, this does not relinquish the physician from the responsibility for supervising the technical component of the service.

A key concept is understanding that there is a difference between Medicare's incident-to billing rule and the requirements for supervision of diagnostic tests. These supervision requirements are not like the requirements for "incident-to" billing. Diagnostic tests are a distinct and separate Medicare benefit set forth under the *Social Security Act*. The incident-to billing rule must not be applied to services having their own benefit category. Rather, diagnostic tests should meet the requirements of their own benefit category.

All outpatient diagnostic tests covered by Medicare and payable under the physician fee schedule must be furnished under the appropriate level of supervision by a **physician.** Per Medicare regulations, services furnished without the required level of supervision are not reasonable and necessary. There are some exceptions for when the service is personally performed by certain nonphysician practitioners (NPPs).

NPPs like advanced registered nurse practitioners, certified nurse midwives, and physician assistants may not function as a SUPERVISING physician under the diagnostic tests benefit. However, when **personally performing** diagnostic tests, NPPs are not required to meet the physician supervision requirements. Instead, they may personally **perform** diagnostic tests pursuant to State scope of practice laws and under the applicable State requirements for physician supervision or collaboration. This means that the NPP must personally perform the technical component of a diagnostic test rather than simply supervise someone else (e.g., a medical assistant, registered nurse, x-ray technician) performing the test. In order to bill the global fee (which includes both the technical and professional components), a NPP must personally perform both components. If the physician supervised the technical component then the technical component must be billed under the supervising physician's provider number. In which case, only the professional component could be billed under the NPP's provider number because the professional component is the only part that the NPP personally performed.

There are 3 levels of physician supervision assigned to the technical component of a diagnostic test and these levels of supervision apply regardless of whether the technical component only is billed or whether a global fee is billed. All diagnostic x-ray and other diagnostic tests payable under the physician fee schedule must be furnished under at least a general level of physician supervision.

General Supervision

- Furnished under physician's overall direction and control
- Physician's presence not required during performance of service
- Training of nonphysician personnel who perform diagnostic service physician's responsibility
- Maintenance of necessary equipment and supplies to perform diagnostic service physician's responsibility

This means that the supervising physician does not have to be present in the room with the patient during the performance of the test or even in the office when the service is performed.

Direct Supervision

- Physician supervising is *in the office****
- Physician is immediately available to furnish assistance and direction throughout service

*** Physician presence in outpatient facility locations is different than in a physician-based office setting; however, from a billing perspective, the faculty practice plan would not be billing for the technical component of a diagnostic test or submitting a global fee for a diagnostic test (which includes both the technical and professional components) performed in a facility setting.

From a best practice perspective, calendars and clinic schedules should be able to support that the physician was in the office when the diagnostic test was performed.

Immediate availability is an important part of direct supervision. If the physician is not immediately available to furnish assistance and direction throughout the service then direct supervision cannot be assured.

Personal Supervision

- Physician must be in attendance *in the room* during the performance of the service

From a best practice perspective, the supervising physician should document his or her physical presence in the room during the performance of the test.

Example 1:

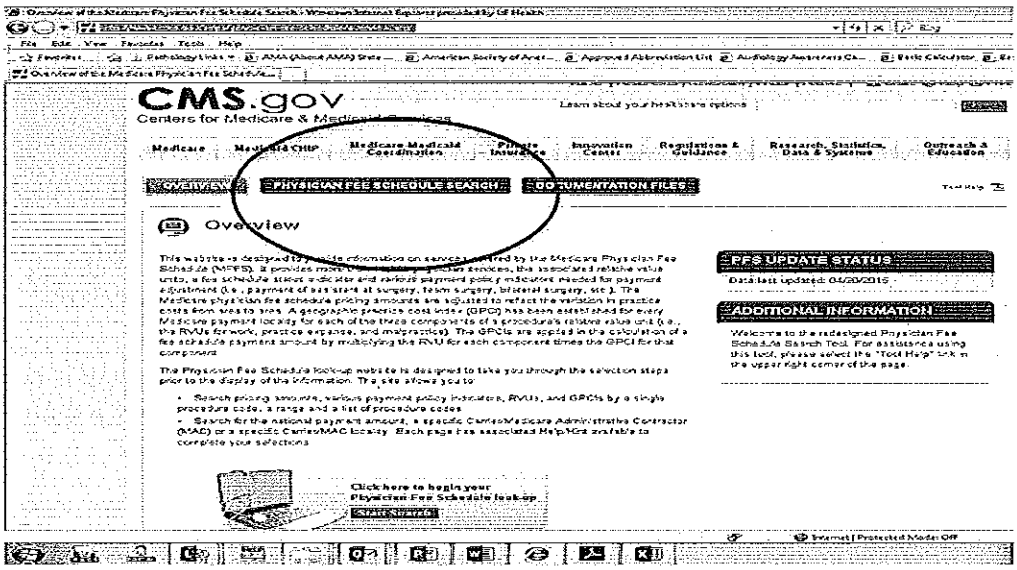
1. A patient being seen by an NPP needs an EKG.
    a. NPP personally performs the EKG and does the interpretation – NPP bills global fee
    b. Medical Assistant performs the EKG, under the supervising physician's oversight (general supervision) and the NPP performs the interpretation – bill technical component under physician's provider number and bill professional component under NPP's provider number.

Please feel free to contact me if you have any questions on this material.

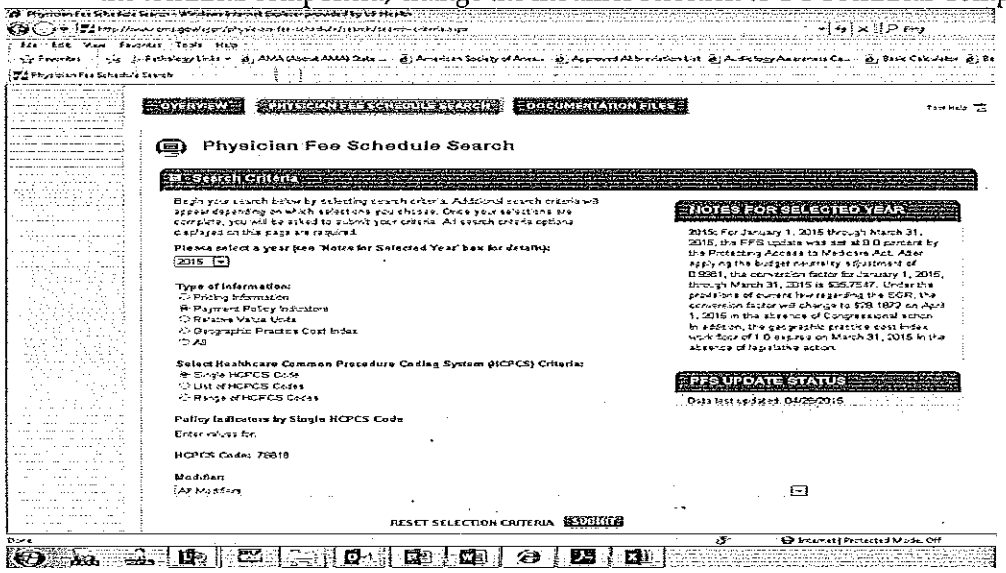
Instructions and tools for accessing the levels of physician supervision assigned to procedure codes payable by Medicare Part B are provided in further detail on the following pages.

Physician Supervision Levels – Access Tools and Instructions

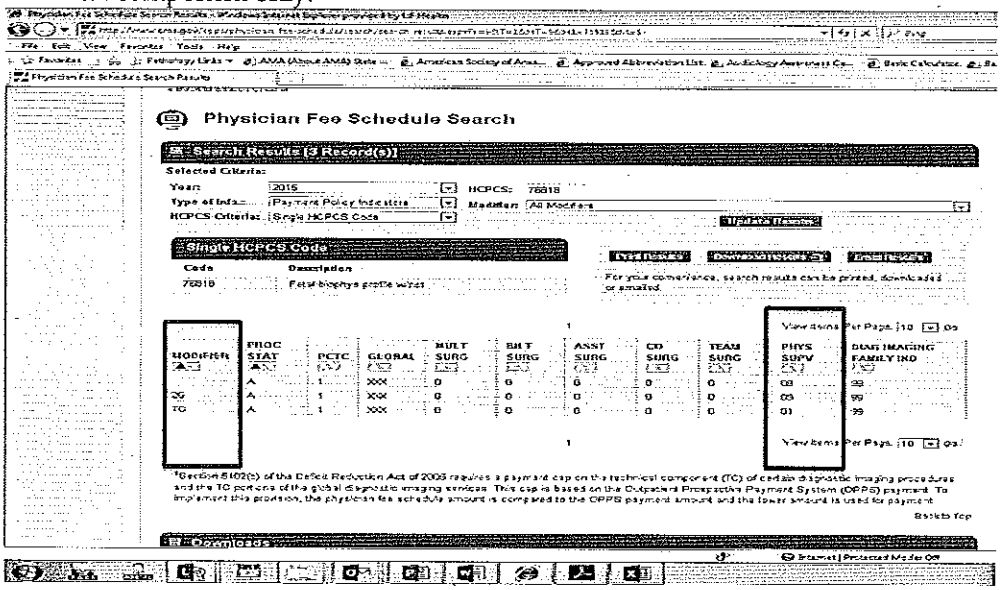
In order to determine the level of physician supervision assigned a procedure code payable under the Medicare Part B physician fee schedule, feel free to access this on-line tool.
http://www.cms.gov/apps/physician-fee-schedule/overview.aspx



1. Enter year
2. Select Payment Policy Indicators
3. Select Procedure Code or Codes
4. Select Modifier – If only concerned about the level of physician supervision required for the technical component, change the modifier selection to TC Technical Component



If "All Modifiers" is selected, 3 lines will appear if there is a technical and professional component for the procedure code entered. The first row is for the global service (including both the technical and professional components), the second line with the 26 modifier is for the professional component only, and the third line with the TC is for the technical component only.



The concept of physician supervision only applies to the technical component of diagnostic test which is why the payment policy indicator code "09" for "concept does not apply" is listed under the professional component row and the global row. However, simply because a physician bills for the global service, does not relinquish the physician's responsibility for supervising the technical component of the service.

Different payment policy indicators are assigned for each level of supervision required. For the procedure code selected, the payment policy indicator for Physician Supervision (abbreviated "PHYS SUPV") of the Technical Component (TC row) is "01."

MODIFIER	PROC STAT	PCTC	GLOBAL	MULT SURG	BILT SURG	ASST SURG	CO SURG	TEAM SURG	PHYS SUPV	DIAG IMAGING FAMILY IND
	A	1	000	0	0	0	0	0	09	99
26	A	1	000	0	0	0	0	0	09	99
TC	A	1	000	0	0	0	0	0	01	99

You may find the payment policy indicators in the *Medicare Claims Processing Manual* Internet-only Publication #100-04, Chapter 23, Section 100.5. Here is a link to that manual:

http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c23.pdf