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CMS Relaxes Incident-to Supervision Level for Behavioral Health Care

By Nina Youngstrom

Starting Jan. 1, Medicare will pay for behavioral health care services provided incident to a physician under a looser level of physician supervision—general instead of direct. The change, finalized in the 2023 Medicare Physician Fee Schedule (MPFS) rule,^[1] is designed to improve access to behavioral health services. It also will help compensate for the coming expiration of Medicare coverage for other incident-to services provided virtually at the end of the year in which the COVID-19 public health emergency (PHE) ends, according to an attorney.

The supervision change “is a carve-out for mental health,” said Richelle Marting, an attorney and certified coder in Olathe, Kansas. “It’s pretty significant.”

She said Medicare defines the behavioral health services that can be provided under the more relaxed general supervision standard as any service furnished for the diagnosis, evaluation or treatment of a mental health disorder, including substance use disorders. It’s an exception to the direct supervision requirement for incident-to billing, Marting explained. For direct supervision, the supervising provider—a physician or nonphysician practitioner (NPP)—generally must be in the office suite and immediately available to provide assistance and direction when auxiliary staff performs services. For general supervision, the supervising provider doesn’t have to be onsite, although services are provided under their overall direction and control.

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