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CMS Eyes Time-Based Visits; Observation/Inpatient Codes Have Twist for Consulting M.D.s

By Nina Youngstrom

In a new Medicare transmittal, CMS puts providers on notice that evaluation and management (E/M) levels of service based on time will come under scrutiny, raising the stakes for the credibility and volume of the documentation, an attorney said.^[1]

According to transmittal 11,842, CMS said its “reviewers will use the medical record documentation to objectively determine the medical necessity of the visit and accuracy of the documentation of the time spent (whether documented via a start/stop time or documentation of total time) if time is relied upon to support the E/M visit.”

The language suggests that providers should be prepared for reviews of how they spend their time with patients and “be careful to document what they’re doing during that time,” said Richelle Marting, an attorney and certified coder in Olathe, Kansas. It fits with another assertion in the transmittal that “the volume of documentation should not be the primary influence upon which a specific level of service is billed.” What Marting dislikes about this dynamic is that “it’s incredibly challenging to defend a provider when you have a medical reviewer disputing that a provider’s time was reasonable and appropriate. My reaction to this challenge is that the provider doesn’t seem to get the benefit of the doubt.”

The emphasis on reviews of time reflects the change in the way that providers assign codes in the wake of the American Medical Association’s 2021 update to the E/M guidelines for office and outpatient visits and for most other E/M visits in 2023. Physicians and advanced practice providers (APPs) select codes based on time or medical decision-making without factoring in the extent of the patient history or exam. The definition of time is also more expansive. Instead of physicians/APPs documenting they spent more than 50% of their time on counseling and coordination of care, CPT and CMS now allow activities outside the face-to-face encounter with the patient, such as ordering medications, tests or procedures.

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