The Compliance Puzzle: New Hot Topics

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It is a daunting task to understand and stay current with the various Medicare rules that have an impact on the delivery of radiology and imaging services. The fast-approaching effective date for the accreditation of advanced radiology services, the new supervision rules, and the proper use of radiologist extenders (radiologist assistants or radiology practice assistants) all illustrate this challenge. Given the many regulatory changes, it is understandable that some radiology practices remain uncertain how these rules work.

Accreditation will be required—beginning January 1, 2012—for nonhospital physician practices and IDTFs furnishing the technical component of certain advanced imaging procedures, including diagnostic MRI, CT, and nuclear medicine (including PET). Such technical-component services at accredited physicians' offices (whether owned by radiologists or nonradiologists) will have to be supervised and performed only by qualified physicians and nonphysician personnel.

CMS will eventually develop rules to define what it means to be qualified, but for now, the three accrediting bodies (the ACR®, the Intersocietal Accreditation Commission, and the Joint Commission) are authorized to apply separate and differing standards. After January 1, 2012, the technical component of these services will no longer be billed globally; the technical component and the professional component will have to be billed separately. This will be required so that the claim submitted for the technical component will be able to carry the 95 code, to identify that it was performed at an accredited facility.

Don't be surprised to see CMS issuing guidance on who should bill for the accredited technical-component service. Our best guess on what to expect is that for an accredited advanced imaging service that does not require direct or personal supervision (such as nuclear medicine, PET, or CT and MRI without contrast), the billing physician will be the performing physician. For accreditation purposes, this is the medical director, who is responsible for the overall direction and control of the imaging equipment and for all those tests that require general supervision.

For accredited advanced imaging services that require direct supervision (such as MRI or CT with contrast), the billing physician will be the physician who was supervising by being present in the office suite during the performance of those tests. For an accredited advanced imaging study that requires personal supervision, the billing physician will be that physician who was present in the room throughout the performance of the test. We anticipate that the role of the supervising radiologist will be more defined as a result of accreditation.

This brings us to a related regulatory issue: How can a radiology group effectively use radiologist extenders? Feedback on our comprehensive summary of the rules indicates that many practices failed to understand the implications of the rules.

The Bottom Line

Let's be clear: There is no Medicare Part B coverage for services performed by physician-employed auxiliary personnel in a hospital setting, regardless of whether a radiologist supervises the performance of the services. As a result, payment for the services of nonphysician auxiliary personnel is made solely to the hospital, as part of its reimbursement by Medicare under the hospital prospective payment system (PPS).

To date, the Medicare program has not recognized radiologist extenders as medical professionals who may separately bill for their own services and be reimbursed at a percentage of the Medicare Physician Fee Schedule (MPFS). The limitation imposed on billing for the services of radiologist extenders has a significant impact on the use of these professionals—at a time when hospitals and radiologists seek opportunities to reduce the cost of health-care services. These concerns are further compounded by the requirements for personal supervision that apply to many diagnostic tests.

Radiologist extenders have been used by radiology groups to assist in the performance of diagnostic tests and in the performance of physician/surgical procedures. Both uses can create problems. In a hospital setting, diagnostic tests for Medicare outpatients must be performed under the appropriate level of physician supervision designated by CMS. There are three levels of supervision applicable to the hospital setting: personal, direct, and general.

A procedure specifying personal supervision requires that the radiologist be in attendance in the room during the performance of the procedure. If direct supervision is specified, the radiologist must be immediately available to furnish assistance and direction throughout the performance of the procedure. The radiologist is not required to be present in the room when the procedure is performed. If general supervision is called for, the procedure is furnished under the radiologist's overall direction and control, but the radiologist's presence is not required during the performance of the procedure.

CMS confirmed, in the 2010 Hospital Outpatient PPS (HOPPS) rule, that nonphysician practitioners, such as nurse practitioners and physician assistants, cannot supervise diagnostic tests. Only physicians can supervise diagnostic tests for Medicare outpatients. It should be noted, of course, that the 2010 HOPPS rule does not require a physician of any particular specialty to perform the supervision of the test.

In addition, in a hospital setting, surgical or invasive procedures (with CPT® codes not in the 70000 series) must be performed by a physician who submits a claim for payment under the MPFS. The hospital submits a claim for its services to an outpatient under HOPPS; for inpatients, it submits a claim under the applicable DRG.

Any assistance rendered by a radiologist extender (as part of such a procedure in a hospital) is considered part of hospital services. The radiology group may not bill Medicare for a surgical or invasive procedure performed by the group's employed radiologist extender, even if the procedure is within the radiologist extender's scope of practice under state law.

Be cautious and follow the Medicare rules when working with radiologist extenders. To do otherwise could prove to be very costly in lost revenue, as well as in potential fines and penalties assessed against those radiology groups that bill inappropriately.

Reference
