**Medicare Benefit Policy Manual**

**Chapter 6 - Hospital Services Covered Under Part B**

**Table of Contents**

***(Rev. 137, 12-30-10)***

20.5 – Outpatient Therapeutic Services

20.5.1 - Coverage of Outpatient Therapeutic Services Incident to a Physician's Services Furnished on or After August 1, 2000 and Before January 1, 2010

20.5.2- Coverage of Outpatient Therapeutic Services Incident to a Physician's Services Furnished on or After January 1, 2010 *and Before January 1, 2011*

*20.5.3- Coverage of Outpatient Therapeutic Services Incident to a Physician's Services Furnished on or After January 1, 2011*

**20.5 - Outpatient Therapeutic Services**

**(Rev. 82; Issued: 02-08-08; Effective: 01-01-08; Implementation: 03-10-08)**

**Sources: 42 CFR 410.27; 65 FR 18536, April 7, 2000**

**20.5.1 - Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After August 1, 2000, and Before January 1, 2010**

**(Rev. 128, Issued: 05-28-10, Effective: 07-01-10, Implementation: 07-06-10)**

Therapeutic services and supplies which hospitals provide on an outpatient basis are those services and supplies (including the use of hospital facilities) which are incident to the services of physicians and practitioners in the treatment of patients. All hospital outpatient services that are not diagnostic are services that aid the physician or practitioner in the treatment of the patient. Such therapeutic services include clinic services, emergency room services, and observation services. Policies for hospital services incident to physicians’ services rendered to outpatients differ in some respects from policies that pertain to “incident to” services furnished in office and physician-directed clinic settings. See Chapter 15,“Covered Medical and Other Health Services,” section 60.

To be covered as incident to physicians’ services, the services and supplies must be furnished by the hospital or CAH or under arrangement made by the hospital or CAH (see section 20.1.1 of this chapter). The services and supplies must be furnished as an integral, although incidental, part of the physician or nonphysician practitioner’s professional service in the course of treatment of an illness or injury.

The services and supplies must be furnished in the hospital or at a department of the hospital which has provider-based status in relation to the hospital under 42 CFR 413.65. The services and supplies must be furnished under the order of a physician or other practitioner practicing within the extent of the Act, the Code of Federal Regulations, and State law, and furnished by hospital personnel under the direct supervision of a physician or clinical psychologist as defined at 42 CFR 410.32(b)(3)(ii) and 482.12. This does not mean that each occasion of service by a nonphysician need also be the occasion of the actual rendition of a personal professional service by the physician responsible for care of the patient. However, during any course of treatment rendered by auxiliary personnel, the physician must personally see the patient periodically and sufficiently often to assess the course of treatment and the patient’s progress and, where necessary, to change the treatment regimen. A hospital service or supply would not be considered incident to a physician’s service if the attending physician merely wrote an order for the services or supplies and referred the patient to the hospital without being involved in the management of that course of treatment.

The physician or clinical psychologist that supervises the services need not be in the same department as the ordering physician. For services furnished at a department of the hospital which has provider-based status in relation to the hospital under 42 CFR 413.65, “direct supervision” means the physician or clinical psychologist must be present and on the premises of the location (the provider-based department of the hospital) and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician must be present in the room when the procedure is performed.

If a hospital therapist, other than a physical, occupational or speech-language pathologist, goes to a patient’s home to give treatment unaccompanied by a physician, the therapist’s services would not be covered. See Chapter 15, "Covered Medical and Other Health Services," Sections 220 and 230, for outpatient physical therapy and speech-language pathology coverage conditions.

**20.5.2 - Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After January 1, 2010 *and Before January 1, 2011***

***(Rev. 137, Issued: 12-30-10, Effective: 01-01-11, Implementation: 01-03-11)***

Therapeutic services and supplies which hospitals provide on an outpatient basis are those services and supplies (including the use of hospital facilities) which are incident to the services of physicians and practitioners in the treatment of patients. All hospital outpatient services that are not diagnostic are services that aid the physician or practitioner in the treatment of the patient. Such services include clinic services, emergency room services, and observation services. Policies for hospital services incident to physicians’ services rendered to outpatients differ in some respects from policies that pertain to “incident to” services furnished in office and physician-directed clinic settings. See Chapter 15, “Covered Medical and Other Health Services,” Section 60.

To be covered as incident to physicians’ services, the services and supplies must be furnished by the hospital or CAH or under arrangement made by the hospital or CAH (see section 20.1.1 of this chapter). The services and supplies must be furnished as an integral, although incidental, part of the physician or nonphysician practitioner’s professional service in the course of treatment of an illness or injury.

The services and supplies must be furnished in the hospital or at a department of the hospital which has provider-based status in relation to the hospital under 42 CFR 413.65. As specified at 42 CFR 410.27(g), "in the hospital or CAH" means areas in the main building(s) of the hospital or CAH that are under the ownership, financial, and administrative control of the hospital or CAH; that are operated as part of the hospital or CAH; and for which the hospital or CAH bills the services furnished under the hospital’s or CAH’s CMS Certification Number.

The services and supplies must be furnished under the order of a physician or other practitioner practicing within the extent of the Act, the Code of Federal Regulations, and State law, and furnished by hospital personnel under the direct supervision of a physician or nonphysician practitioner as defined at 42 CFR 410.27(f) and 482.12. This does not mean that each occasion of service by a nonphysician need also be the occasion of the actual rendition of a personal professional service by the physician responsible for care of the patient. However, during any course of treatment rendered by auxiliary personnel, the physician must personally see the patient periodically and sufficiently often to assess the course of treatment and the patient’s progress and, where necessary, to change the treatment regimen. A hospital service or supply would not be considered incident to a physician’s service if the attending physician merely wrote an order for the services or supplies and referred the patient to the hospital without being involved in the management of that course of treatment. Beginning January 1, 2010, according to 42 CFR 410.27(a)(1)(iv), in addition to physicians and clinical psychologists, licensed clinical social workers, physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-*midwives* may directly supervise therapeutic services that they may personally furnish in accordance with State law and all additional *rules governing the provision of their services*, including those specified at 42 CFR *Part* 410. These nonphysician practitioners are specified at 42 CFR 410.27(f).

For services furnished in the hospital or CAH or in an on-campus outpatient department of the hospital or CAH, as defined at 42 CFR 413.65, “direct supervision” means that the physician or nonphysician practitioner must be present on the same campus and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician or nonphysician practitioner must be present in the room when the procedure is performed. This definition is specified at 42 CFR 410.27(a)(1)(iv)(A). For pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, direct supervision must be furnished by a doctor of medicine or osteopathy, as specified at 42 CFR 410.47 and 410.49, respectively.

For services furnished in an off-campus outpatient department of the hospital or CAH, as defined at 42 CFR 413.65, “direct supervision” means the physician or nonphysician

practitioner must be present in the off-campus provider-based department of the hospital or CAH and immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician or nonphysician practitioner must be present in the room when the procedure is performed. This definition is specified at 42 CFR 10.27(a)(1)(iv)(B). For pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, direct supervision must be furnished by a doctor of medicine or osteopathy, as specified at 42 CFR 410.47 and 410.49, respectively.

Immediate availability requires the immediate physical presence of the physician or nonphysician practitioner. CMS has not specifically defined the word “immediate” in terms of time or distance; however, an example of a lack of immediate availability would be situations where the supervisory physician or nonphysician practitioner is performing another procedure or service that he or she could not interrupt. Also, for services furnished on-campus, the supervisory physician or nonphysician practitioner may not be so physically far away on-campus from the location where hospital/CAH outpatient services are being furnished that he or she could not intervene right away.

*The physician or nonphysician practitioner that supervises the services need not be in the same department as the ordering physician. Notwithstanding,* the supervisory physician or nonphysician practitioner must have, within his or her State scope of practice and hospital-granted privileges, the knowledge, skills, ability, and privileges to perform the service or procedure. Specially trained ancillary staff and technicians are the primary operators of some specialized therapeutic equipment, and while in such cases CMS does not expect the supervisory physician or nonphysician practitioner to operate this equipment instead of a technician, CMS does expect the physician or nonphysician practitioner to be knowledgeable about the therapeutic service and clinically appropriate to furnish the service. The supervisory responsibility is more than the capacity to respond to an emergency, and includes the ability to take over performance of a procedure and, as appropriate to the supervisory physician or nonphysician practitioner and the patient, to change a procedure or the course of care for a particular patient. CMS would not expect that the supervisory physician or nonphysician practitioner would make all decisions unilaterally without informing or consulting the patient’s treating physician or nonphysician practitioner. In summary, the supervisory physician or nonphysician practitioner must be clinically appropriate to supervise the service or procedure.

Direct supervision is the minimum standard for supervision of all Medicare hospital outpatient therapeutic services. Considering that hospitals furnish a wide array of very complex outpatient services and procedures, including surgical procedures, CMS would expect that hospitals already have the credentialing procedures, bylaws, and other policies in place to ensure that hospital outpatient services furnished to Medicare beneficiaries are being provided only by qualified practitioners in accordance with all applicable laws and regulations. For services not furnished directly by a physician or nonphysician practitioner, CMS would expect that these hospital bylaws and policies would ensure that the therapeutic services are being supervised in a manner commensurate with their complexity, including personal supervision where appropriate.

If a hospital therapist, other than a physical, occupational or speech-language pathologist, goes to a patient’s home to give treatment unaccompanied by a physician, the therapist’s services would not be covered. See Chapter 15, "Covered Medical and Other Health Services," Sections 220 and 230 for outpatient physical therapy and speech-language pathology coverage conditions.

***20.5.3 - Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After January 1, 2011***

***(Rev. 137, Issued: 12-30-10, Effective: 01-01-11, Implementation: 01-03-11)***

*Therapeutic services and supplies which hospitals provide on an outpatient basis are those services and supplies (including the use of hospital facilities) which are incident to the services of physicians and practitioners in the treatment of patients. All hospital outpatient services that are not diagnostic are services that aid the physician or practitioner in the treatment of the patient. Such services include clinic services, emergency room services, and observation services. Policies for hospital services incident to physicians’ services rendered to outpatients differ in some respects from policies that pertain to “incident to” services furnished in office and physician-directed clinic settings. See Chapter 15, “Covered Medical and Other Health Services,” Section 60.*

*To be covered as incident to physicians’ services, the services and supplies must be furnished by the hospital or CAH or under arrangement made by the hospital or CAH (see section 20.1.1 of this chapter). The services and supplies must be furnished as an integral, although incidental, part of the physician or nonphysician practitioner’s professional service in the course of treatment of an illness or injury.*

*The services and supplies must be furnished in the hospital or at a department of the hospital which has provider-based status in relation to the hospital under 42 CFR 413.65. The services and supplies must be furnished under the order of a physician or other practitioner practicing within the extent of the Act, the Code of Federal Regulations, and State law, and furnished by hospital personnel under the supervision of a physician or nonphysician practitioner as defined at 42 CFR 410.27(f) and 482.12. This does not mean that each occasion of service by a nonphysician need also be the occasion of the actual rendition of a personal professional service by the physician responsible for care of the patient. However, during any course of treatment rendered by auxiliary personnel, the physician must personally see the patient periodically and sufficiently often to assess the course of treatment and the patient’s progress and, where necessary, to change the treatment regimen. A hospital service or supply would not be considered incident to a physician’s service if the attending physician merely wrote an order for the services or supplies and referred the patient to the hospital without being involved in the management of that course of treatment.*

*Beginning January 1, 2010, according to 42 CFR 410.27(a)(1)(iv), in addition to physicians and clinical psychologists, licensed clinical social workers, physician assistants, nurse practitioners, clinical nurse specialists, and certified nurse-midwives may directly supervise therapeutic services that they may personally furnish in accordance with State law and all additional rules governing the provision of their services , including those specified at 42 CFR Part 410. These nonphysician practitioners are specified at 42 CFR 410.27(f).*

*CMS requires direct supervision in the provision of all therapeutic services to hospital outpatients, including CAH outpatients. Hospitals may provide some general supervision in the provision of non-surgical extended duration therapeutic services (“extended duration services”) but only as specified in the manual for those services (see section 20.7). [****Note****; the CY 2011 listing of such CPT codes, found at* [*https://www.cms.gov/HospitalOutpatientPPS/Downloads/CY2011\_List\_Ext\_Duration\_Services-csr.pdf*](https://www.cms.gov/HospitalOutpatientPPS/Downloads/CY2011_List_Ext_Duration_Services-csr.pdf)*, does NOT include any of those for radiation oncology.]*

*For services furnished in the hospital or CAH including in an on-campus or off-campus outpatient department of the hospital or CAH, as defined at 42 CFR 413.65, “direct supervision” means that the physician or nonphysician practitioner must be immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician or nonphysician practitioner must be present in the room when the procedure is performed. This definition is specified at 42 CFR 410.27(a)(1)(iv). For pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, direct supervision must be furnished by a doctor of medicine or osteopathy, as specified at 42 CFR 410.47 and 410.49, respectively.*

*“Immediate availability” requires the immediate physical presence of the supervisory physician or nonphysician practitioner. CMS has not specifically defined the word “immediate” in terms of time or distance. However, examples of a lack of immediate availability would be situations where the supervisory practitioner is performing another procedure or service that he or she could not interrupt, or where he or she is so physically far away from the location where services are being furnished that he or she could not intervene right away. The hospital or supervisory practitioner must judge their relative location to ensure that they are immediately available. Therefore, a supervisory practitioner may supervise from a physician office or other nonhospital space that is not officially part of the hospital campus as long as he or she remains immediately available. In another example, an allowed practitioner can supervise from any location in or near an off-campus hospital building that houses multiple hospital provider-based departments as long as the supervisory practitioner is immediately available.*

*The supervisory physician or nonphysician practitioner must have, within his or her State scope of practice and hospital-granted privileges, the knowledge, skills, ability, and privileges to perform the service or procedure. Specially trained ancillary staff and technicians are the primary operators of some specialized therapeutic equipment, and while in such cases CMS does not expect the supervisory physician or nonphysician practitioner to operate this equipment instead of a technician, CMS does expect the physician or nonphysician practitioner to be knowledgeable about the therapeutic service and clinically appropriate to furnish the service.*

*The supervisory responsibility is more than the capacity to respond to an emergency, and includes the ability to take over performance of a procedure and, as appropriate to the supervisory physician or nonphysician practitioner and the patient, to change a procedure or the course of care for a particular patient. CMS would not expect that the supervisory physician or nonphysician practitioner would make all decisions unilaterally without informing or consulting the patient’s treating physician or nonphysician practitioner. In summary, the supervisory physician or nonphysician practitioner must be clinically appropriate to supervise the service or procedure.*

*Considering that hospitals furnish a wide array of very complex outpatient services and procedures, including surgical procedures, CMS would expect that hospitals already have the credentialing procedures, bylaws, and other policies in place to ensure that hospital outpatient services furnished to Medicare beneficiaries are being provided only by qualified practitioners in accordance with all applicable laws and regulations. For services not furnished directly by a physician or nonphysician practitioner, CMS would expect that these hospital bylaws and policies would ensure that the therapeutic services are being supervised in a manner commensurate with their complexity, including personal supervision where appropriate.*

*If a hospital therapist, other than a physical, occupational or speech-language pathologist, goes to a patient’s home to give treatment unaccompanied by a physician, the therapist’s services would not be covered. See Chapter 15, "Covered Medical and Other Health Services," Sections 220 and 230 for outpatient physical therapy and speech-language pathology coverage conditions.*

*Source:* [*https://www.cms.gov/manuals/Downloads/bp102c06.pdf*](https://www.cms.gov/manuals/Downloads/bp102c06.pdf)

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