I. PURPOSE
Medicare “Incident To” billing regulations allow physician providers to bill for services and supplies, commonly furnished in the clinical setting, which are commonly administered by ancillary staff or NPPs and that are integral, although incidental, to their professional services. Such services are paid under the physician fee schedule as though the physician personally provided the services. The purpose of this policy is to ensure that Medicare is billed for such services in accordance with established regulatory requirements.

II. POLICY FOR BILLING MEDICARE “INCIDENT TO” SERVICES

A. Ancillary Staff Services.
Services/supplies furnished by ancillary staff will only be billed to Medicare as “incident to” when they meet Medicare’s “incident to” requirements. NOTE: Any services provided by a nurse to a Medicare beneficiary must meet the “incident to” criteria in order to bill CPT code 99211.

B. Non-Physician Providers (NPPs) Services.
Services/supplies furnished by non-physician practitioners (NPPs) may be billed “incident to” a physician’s services, provided all “incident to” billing requirements are met.

NOTE: Within the scope of their licensure, some services furnished by certain NPPs (i.e. nurse practitioners, physician assistants, clinical nurse specialists, certified nurse midwives, therapists, clinical psychologists and certified registered nurse anesthetists), may be billed directly to Medicare under the NPP’s provider number, as long as no other facility or provider bills, or is reimbursed for, furnishing the same services.

III. SCOPE
This policy applies only to services/supplies provided to Medicare beneficiaries. This policy applies to all employees and agents of UCSDHS and the School of Medicine.

NOTE: Managers/ clinic supervisors must confirm with other payers on whether or not they will pay for services provided by ancillary staff or NPPs and how those services must be billed.
IV. PROCEDURE

A. What is Medicare "Incident To" Billing

"Incident to" billing allows physicians to bill for services and supplies, commonly furnished in the physician office setting, which are provided by ancillary staff or NPPs and that are an integral, although incidental, to their professional services. "Incident to" services are paid for by Medicare under the physician fee schedule as though the physician personally performed the services.

B. To be Covered as “Incident To”, Services and Supplies Must be:

1. An integral, although incidental, part of the physician's professional service.
   a. The physician must personally perform an initial service for each new condition, make an initial diagnosis and set up a treatment plan.
   b. The physician must personally perform subsequent services (i.e., face-to-face service with the patient) at a frequency that reflects his/her active participation in and management of the course of the treatment for each medical condition.

2. Commonly rendered without charge or included in the physician’s bill.
   a. To be covered, supplies, including drugs and biologicals, must represent an expense to the physician.

3. Of a type that are commonly furnished in physician’s offices or clinics.

4. Furnished under a physician’s direct personal supervision.
   a. A physician must be present in the office suite and immediately available to provide assistance and direction throughout the time the ancillary staff or NPP is performing the “incident to” services.
      1) If UCSDHS ancillary staff or NPPs provide services outside the physician office setting (i.e., a patient's home or in an institution), their services are billable as "incident to" only if there is direct personal supervision by the physician (i.e., the physician is present and immediately available).
      2) NOTE: You cannot bill "incident to" for services provided to hospital patients, e.g., patients seen in a hospital facility. Such services are covered under the hospital outpatient/inpatient benefit.

5. Furnished by an individual who is a part-time, full-time or leased employee of UCSDHS.
   a. The non-physician personnel providing "incident to" services must be employed by UCSDHS in order to bill the services to Medicare as "incident to" the physician's services. Services performed by non-physician personnel not employed or leased by UCSDHS are not billable as incident to a physician's service.

C. Billing for “Incident To” Services
1. In selecting the level of service to bill “incident to” a physician’s service, the service must be:
   
a. Provided within the non-physician provider’s scope of licensure

b. Documented by the ancillary staff or NPP providing the service and countersigned by the physician under whose number the service will be billed, and;

   c. Provided while the physician is present in the office suite.

2. Services provided by ancillary staff and other certain non-physician providers (i.e., nurses and pharmacists) may be considered “incident to” services, but their “incident to” services cannot be billed higher than a 99211 (established patient visit), the lowest possible level. Services of a certified diabetic educator providing nutrition counseling cannot be billed “incident to.”

3. Evaluation and Management (E/M) services furnished “incident to” a physician’s service by a Nurse Practitioner (NP), Certified Midwife (CMN), or Physician’s Assistant (PA) may be billed using the CPT code (established patient visit) that best describes the E/M service furnished.

D. Services / Supplies Not Covered Under Incident To Regulations

1. When billing “incident to”, nonphysician providers cannot be reimbursed for consultations or time-based E/M services, when more than 50% of the service is counseling or coordination of care. According to the Carrier’s Manual, the only time that counts is face-to-face time between the physician and the patient in the office. Billing for time in counseling or coordination of care may not be billed “incident to.”

2. “Incident to” can never be applied to a patient’s first visit.

E. Services “Incident To” a Physician’s Service to Homebound Patients Under General Supervision. (See Section 2051.1 of Medicare Carrier’s Manual for Definition of Homebound Patient)

1. Medicare Coverage: In very limited circumstances, UCSDHS may bill for individual or intermittent services provided by qualified UCSDHS NPPs to homebound patients “incident to” a physician’s services under general physician supervision. General physician supervision means that the physician need not be physically present, but the service must be performed under the physician’s overall supervision and control. All other “incident to” criteria, as outlined above, must also be met. “Incident to” services to homebound patients shall not be billed where there is an available participating HHA in the area which could provide the needed services on a timely basis.

2. Availability of Home Health Agency (HHA) Services: When services can be performed by an HHA in the local area, “incident to” services to a homebound patient shall not be billed, except when the following conditions exist:

   a. Where the patient has exhausted home health benefits, or

   b. Where the HHA could not respond on a timely basis, or
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c. Where the physician could not have foreseen that intermittent services would be needed, and more services are necessary.

3. Covered Services: Section 14-3-2051.B of the Medicare Carriers Manual identifies the “incident to” services that may be covered when provided to homebound patients when the above criteria are met. Medicare will not pay for Evaluation and Management (E/M) services provided to homebound patients by ancillary staff or NPPs.

F. Supervision

1. Supervision of “Incident to” Services: Once the initial physician relationship has been established, incident-to services can be billed even when there is not a physician in the room. He / she must only be on the premises and immediately available to assist the non-physician provider rendering the services. The supervising physician does not need to be the physician who performed the initial patient visit. Any physician in the group who is in the clinic or office seeing other patients qualifies to provide requisite supervision, even if he/she is not the patient’s primary physician or not even of the same specialty as the primary physician. Independently contracting physicians who reassign their right to payment to the group practice can also supervise nonphysician services as the on-premises supervisor.

2. Supervision of Diagnostic Tests: Supervision requirements for diagnostic tests are different than for office visits. The Centers of Medicare Medicaid Services (CMS) developed three levels of supervision requirements: general, direct and personal. The CPT code determines which level of supervision is required.
   a. General Supervision: Services are under the general quality control of physicians, a physician does not need to be in the office, e.g., electrocardiogram (CPT 93000).
   b. Direct Supervision: Services require that the physician is on the premises in the “office suite”, e.g., “incident to” services.
   c. Personal Supervision: The physician must be in the room while the nonphysician provider / technician is performing the service, e.g., transesophageal echocardiogram (CPT 93312).

G. Implementation

Each Department Administrator and Clinic Manager shall assure that services provided by ancillary staff and NPPs to Medicare beneficiaries that are billed as “incident to” a physician’s services meet the criteria set forth above.

V. ADMINISTRATION AND INTERPRETATIONS

Questions regarding this policy may be addressed to your Billing Supervisor, Department Administrator, or the Compliance Office staff.

VI. AMENDMENTS OR TERMINATION OF THIS POLICY

This policy may be amended or terminated at any time.
VII. REFERENCES

- 42 U.S.C. §1395x(s)(2)(A),
- Medicare Carriers Manual, Chapter 14-3 - §§2049.3, 2050, 2050.1, 2050.2, 2050.3, 2051, 2051.1, 4147.1; 15501.G,
- Social Security Act, Section 1861(s)(2)(A): No Medicare coverage of the services of physician-employed auxiliary personnel as “incident to” services.
- TransAmerica Newsletter, June 1998 (p. 45)
- Web site: [http://www.cms.hhs.gov/manuals/pm_trans/B0128.pdf](http://www.cms.hhs.gov/manuals/pm_trans/B0128.pdf) [Supervision requirements for diagnostic tests]
- Web site: [http://compliance/ucsd.edu/compliance](http://compliance/ucsd.edu/compliance)
### Table 1: Summary of Requirements for Medicare “Incident to...” Services

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<th>General Description</th>
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| 1  | Non-Physician Providers (NPP)                   | NPP or auxiliary personnel refers to any licensed non-physician provider* who is acting under the supervision of a physician*, regardless of whether the individual is an employee, leased employee or independent contractor of the physician (or other practitioner).  
* Includes: NP, PA, CNS, CNM, OT (occupational therapists), registered dieticians |
| 2  | Direct Supervision Requirements                | 'Incident to' Services: The level of supervision by the physician* as defined in 410.32(b)(3)(ii) requires that physician* be present means on the premises in the “office suite”.
Diagnostic Tests: Diagnostic tests must be done under the testing supervision requirements (general, direct, personal) as determined by the CPT code. |
| 3  | Supervising Physician*                         | Supervising physician (or other practitioner) is defined as a physician who is authorized to receive payment under Medicare (Part-B) for services incident to his or her own services. |
| 4  | Integral, incidental service to the physician’s* professional services | Services and supplies must be an integral, though incidental, part of the service of a physician* in the course of diagnosis, or treatment of an injury or illness; must be of a type that are commonly furnished in the office or clinic of a physician*; commonly rendered without charge or included in the physician’s bill. Physician* must perform the initial patient visit and on-going services of a frequency to demonstrate active involvement in the patient’s care.
Excludes: self-administered drugs. |
| 5  | Physician Office Settings (Non-Institutional Setting) | Includes: All settings other than a hospital or skilled nursing facility.  
Includes: Physician offices and clinics  
Note: “Incident to” services cannot be done in the Hospital (e.g., inpatient, outpatient and ED settings) #1861(s)(2)(B) of the Act authorizes payment of “incident to” services to hospitals under the hospital benefit. |
| 6  | Billing Codes for "Incident to Services" in Physician Office Settings only | 99211: RNs  
99211-99213: NPs, CNSs, PAs – level dependent upon service rendered. (See section 4 of this table.) |No time based billing permitted under ‘incident to rules’ |
| 7  | Clinical Trials                                | Charges for visits, tests and other services (e.g., lab, radiology, etc.) provided to subjects as a result of their direct participation in a clinical trial should not be billed to the subject's insurance. For further information, please call the UCSD Health Sciences Central Clinical Trials Office (CCTO), 858 822-4653 or visit the CCTO intranet web site:  
http://www-ucsdhealthcare.ucsd.edu/researchCompliance/ |

* Reference: 45 CFR #410.26 – 11/1/2001  
/Approved: 4/24/02; Revised: 5/23/02 kn