

# “Incident to” Billing Requirements Overview

Shawn Bromley & Alycia Messelaar

NEPHO

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**Disclaimer:** *This presentation is offered as guidance to NEPHO providers and office administration. If you are a BILH employed practice please follow up with your practice Leadership on guidance reviewed during this presentation.*

# Agenda

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# Background Overview and Definitions

- ❑ **Background:** “Incident to” refers to Medicare billing that allows services being offered in an outpatient setting to be provided by auxiliary personnel and billed under the provider's national provider identification (NPI) number. “Incident to” the provider's professional services means that the services or supplies are furnished as an integral, although incidental, part of the provider's professional services in the course of diagnosis or treatment of an injury or illness.
  
- ❑ **Definitions:**
  - Auxiliary Personnel: any individual 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 of the legal entity that employs or contracts with the physician.
  - Provider: A health care provider who meets state licensing obligations to provide specific medical services. Medicare defines a provider to include physicians, nurse practitioners, clinical nurse specialists, certified nurse midwives, physician assistants, clinical psychologists, clinical social workers and physical and occupational therapists.
  - NPI number: A unique 10 character ID assigned by the National Provider System to providers/suppliers who bill for services or goods. The NPI is the standard unique health identifier for health care providers. The NPI was mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
  - Non-physician practitioner (NPP): A health care provider who meets state licensing obligations to provide specific medical services. For Medicare purposes, the term includes: nurse practitioner or clinical nurse specialist, certified nurse-midwife, a physician assistant, audiologist, nurse anesthetist, nurse midwife, clinical social workers, physical and occupational therapist, physician assistant and registered dietician/nutrition professional.

# Medicare “Incident to” Billing Criteria

- ❑ “Incident to” billing allows Non-Physician Practitioners (NPPs) to report services “as if” they were performed by a physician. The advantage is that, under Medicare rules, covered services provided by NPPs typically are reimbursed at 85% of the fee schedule amount; whereas, services properly reported “incident to” are reimbursed at 100% of the fee schedule value.
- ❑ “Incident to” is a Medicare concept intended to allow the physician in an office setting to bill for ancillary-type services and some limited E/M services performed by an NPPs, thus freeing the physician to see other patients at the same time.
- ❑ Billing Criteria:
  - The NPP must be a W-2 employee or leased employee with written contract.
  - Services must be provided in a physician’s office or clinic and be an integral part of the physician’s professional services (part of the physician’s treatment plan)
  - The physician must perform the initial service and have established a diagnosis and treatment plan.
  - The physician must see established patients for their first visits for any new problems.
  - The physician (or physician from the group) must be onsite when the NPP is seeing the patient within the office.
  - The physician must continue seeing the patient in such a way that it reflects ongoing involvement with the patient’s care.

# NEPHO NPP Billing Guidance

- ❑ Commercial payers guide NPP billing one of two ways:
  - Enroll NPPs and have the practice bill under NPPs own NPI and the group TIN
  - Do not enroll NPPs and have practices bill for services under the supervising physician`s name and NPI.
- ❑ “Incident to” billing is payer driven.
- ❑ Payers that do not require NPPs to be enrolled:
  - If NPPs are not enrolled the payer contract will drive if “incident to” billing allowed.
  - If payer does not allow “incident to” billing reimbursement will be paid at 85% of contracted rates and billed under NPPs NPI.
  - If NPPs are allowed to bill “incident to” under physician NPI there will be times and SA modifier will be required to support “incident to” billing.
  - The SA modifier is appended to the service when the NPP is billing under the supervising physician. Medicare does not accept modifier SA, and other payers may specify unique requirements.
- ❑ Payers that do require NPPs be enrolled:
  - If NPPs are enrolled and billing is submitted under the supervising physician’s NPI “incident to” requirements will need to be met.

# Payer Contract Enrollment Overview



**“Incident To” Enrollment and Billing Summary**  
**For Advanced Practitioners at**  
**Community-based/Primary Care Offices**  
**Not Set Up as a PCP Accepting Patient Panels**

<p><b>I. All APs <u>must</u> be enrolled with the following insurers:</b></p> <ul style="list-style-type: none"> <li>• Anthem – all products (<i>NPs only/does not enroll PAs</i>)</li> <li>• BCBSMA – all products</li> <li>• HPHC – Stride (Medicare Advantage)</li> <li>• Humana/TriCare – all products</li> <li>• Humana - Medicare Advantage</li> <li>• MassHealth - Medicaid</li> <li>• Medicare</li> <li>• MVP – all products</li> <li>• New Hampshire – Medicaid</li> <li>• United – all products</li> </ul>	<p><b>II. Recommend APs at community-based/primary care offices (not set up as PCP accepting patient panels) to <u>not</u> be enrolled with the following insurers:</b></p> <ul style="list-style-type: none"> <li>• Aetna – all products</li> <li>• AllWays (formerly Neighborhood HP) – all products</li> <li>• BMC – all products</li> <li>• Cigna – all products</li> <li>• Commonwealth Care Alliance – all products</li> <li>• Coventry – all products</li> <li>• Fallon – all products</li> <li>• HPHC – all commercial products</li> <li>• MultiPlan - all products</li> <li>• Tufts Health Plan – all products</li> <li>• Tufts Health Public Plans – all products</li> <li>• Tufts Medicare Preferred &amp; SCO</li> <li>• UniCare/GIC/Wellpoint – all products</li> <li>• Uniformed Services (<i>does not enroll APs</i>)</li> </ul>
<p><b>IIIA. If AP is enrolled, “Incident To” billing is <u>not</u> allowed by the following insurers (even if Supervising MD is on site)*:</b></p> <ul style="list-style-type: none"> <li>• HPHC – commercial only</li> <li>• Humana/TriCare – all products</li> <li>• MassHealth – Medicaid</li> <li>• MultiPlan – all products</li> <li>• New Hampshire - Medicaid</li> </ul>	<p><b>IV. If AP is enrolled, “Incident To” billing is allowed by the following insurers if a Supervising MD is on-site at time services are rendered:</b></p> <ul style="list-style-type: none"> <li>• Aetna – all products</li> <li>• AllWays (formerly Neighborhood HP) – all products</li> <li>• Anthem – all products</li> <li>• BCBSMA – all products</li> <li>• BMC – all products</li> <li>• Cigna – all products</li> <li>• Commonwealth Care Alliance – all products</li> <li>• Coventry – all products</li> <li>• Fallon – all products</li> <li>• HPHC – Stride (Medicare Advantage)</li> <li>• Humana - Medicare Advantage</li> <li>• Medicare</li> <li>• MVP – all products</li> <li>• Tufts Health Plan – all products</li> <li>• Tufts Health Public Plans – all products</li> <li>• Tufts Medicare Preferred &amp; SCO</li> <li>• UniCare/GIC/Wellpoint – all products</li> <li>• United Health Care – all products</li> </ul>
<p><b>IIIB.</b></p> <p>In addition to the insurers in IIIA, if AP is enrolled and there is no Supervising MD on site at time services are rendered, “Incident-to” billing is <u>not</u> allowed by any other insurer.</p>	

\*All services for APs enrolled with these insurers must be billed under AP’s NPI

Last Updated: 5/2/19

**\*Disclaimer: This grid was created by Lahey to help guide practices in determining enrollment and billing for NPPs. Please check payer policies for updated requirements as they can change based on payer reimbursement rules\***

# Example of Rules for Common Payers

- ❑ If NPPs are enrolled “incident to” billing is allowed if the supervising physician is on-site at the time services are rendered:
  - BCBSMA - all products
  - Commonwealth Care Alliance – all products
  - Tufts Medicare Preferred & SCO
- ❑ If NPPs are enrolled, “incident to” billing is not allowed even if supervising physician is on site:
  - HPHC – commercial only
  - MassHealth – Medicaid
- ❑ All NPPs must be enrolled with these payers:
  - BCBSMA – all products
  - Medicare
  - United – all products
- ❑ Enrollment of NPs vs. PAs:

Health Plan	Plan Enrolls NPs	Plan Enrolls PAs	NOTES
AllWays	Yes	Yes	LCPN contract does not include private practice APs
BCBS of MA	Yes	Yes	
BCBS of MA Med Adv	Yes	Yes	LCPN contract does not include private practice APs
BMC	Yes	Yes	
CIGNA	Yes	Yes	
CCA	Yes	Yes	
Fallon	Yes	Yes	
Harvard Pilgrim Health Care	Yes	PCP PAs only	HPHC does not enroll PA specialists in Massachusetts
THPP	Yes	Yes	
THP	Yes	Yes	
TMP	Yes	Yes	
UniCare	Yes	Yes	

# “Incident to” Billing Requirements

- ❑ **Immediately Available:** Medicare has clarified that "immediately available" means "without delay" "immediately available" means the supervising physician is in the office suite or patient's home, available to assist and take over the care if needed.
- ❑ **Office Suite:** An "office suite" is limited to the dedicated area, or suite, designated by records of ownership, rent or other agreement with the owner, in which the supervising physician or practitioner maintains his/her practice or provides his/her services as part of a multi-specialty clinic.
- ❑ **Employee:** The NPP performing the 'incident to' service may be a part-time, full-time, or a leased employee of the physician group practice, or of the legal entity that employs the physician who provides direct personal supervision.
- ❑ All of the following requirements must be met in order for services provided on an “incident to” basis to be billable by the billing physician:
  - The billing physician must have seen the patient and established a plan of care.
  - The “incident to” service must be performed by a qualified clinician.
  - The “incident to” service must be performed in an office setting (virtually all), not hospital.
  - A supervising physician must be in the office and available to assist at the time the “incident to” service is performed.
  - The “incident to” service is always billed under the billing physician’s name.
- ❑ If “incident to” requirements are not met the billing will need to be submitted under the NPPs NPI and reimbursed at 85% of payer contracted rates.



# Patient Visits Defined

## □ **New Patient Visit:**

- The physician has to perform an initial visit on each new patient to establish the physician-patient relationship.
- After the initial visit, the physician does not need to be involved in each patient encounter.
- The physician should actively participate in the patients course of treatment and some practices require every 3<sup>rd</sup> visit the patient see the physician to ensure management of care is on track.
- Medicare has not stipulated a specific timeframe of physician involvement, so this is left to the physician's medical judgment, based on the patient's condition and needs.

## □ **Established Patient Visit:**

- The patient is seen for a follow-up visit by the NPP and the physician is in the office and available to answer questions or assist with the visit if necessary.
- The NPP documents in the medical record that the physician's treatment plan was being followed.
- The visit can be billed using the physician's NPI.

# Patient Management of Care

## □ Change in Management of Care:

- There is a change in management of care for the patient or there is a new problem to review can the service be billed for “incident to” if the physician can be reached by phone?

### **NO:**

- The physician must provide direct supervision by being physically present and available in the office suite to render assistance if needed and be prepared to step in and perform the service if necessary or be available to change the course of treatment if needed.
- Incident-to billing requires an NPP to be following a treatment plan that has been documented by the physician in the patient’s chart after the physician has examined the patient face-to-face for that specific condition. Since the physician has never seen the patient for that condition before, the physician could not have previously documented a treatment plan for that condition.

## □ Documentation:

- Services meeting “incident to” requirements may be billed under the supervising physician’s NPI, as if the physician personally performed the service.
- Documentation should detail who performed the service, and that a supervising physician was in the office suite (although not necessarily the same room), at the time of the service.
- NPPs cannot use "incident to" billing for new patients or for a new issue for an established patient. They must bill under their NPI.

# Management of Risk

- ❑ To consider billing “incident to” the provider must have initiated the course of treatment, and the care provided by the auxiliary personnel must be an incidental part of the patient's treatment, for instance a follow up visit.
- ❑ The provider (or as noted above a provider in a group practice) must be present in the office and immediately available to provide assistance and direction to the auxiliary personal.
- ❑ Incident-to claims that do not meet Medicare rules are potentially false claims. Such claims are punishable by the Department of Justice and the Office of the Inspector General (OIG).
- ❑ When considering use of “incident to” billing it is strongly suggested that research into this type of billing be done by reviewing the Medicare guidelines and discussing this option with the facilities billing experts.
- ❑ Payer contracts and policies drive “incident to” billing requirements. The practice must have a clear understanding of the incident to” billing criteria to meet when submitting claims for reimbursement.
- ❑ Have a clear understanding of the fee schedules for each payer and review the impact of reimbursement at 100% vs. 85% to maximize revenue potential.

## Resources:

- ❑ <https://www.physicianspractice.com/view/basics-incident-billing>
- ❑ <https://www.aafp.org/fpm/2001/1100/p23.html>
- ❑ [https://assets.hcca-info.org/Portals/0/PDFs/Resources/Conference\\_Handouts/Compliance\\_Institute/2006/302.pdf](https://assets.hcca-info.org/Portals/0/PDFs/Resources/Conference_Handouts/Compliance_Institute/2006/302.pdf)
- ❑ [https://www.facs.org/-/media/files/advocacy/bulletin-articles/2020\\_05\\_nonphysician.ashx](https://www.facs.org/-/media/files/advocacy/bulletin-articles/2020_05_nonphysician.ashx)
- ❑ <https://med.noridianmedicare.com/web/jeb/topics/incident-to-services#direct>

## Contact Information

Shawn Bromley

978-236-1704

[shawn.m.bromley@lahey.org](mailto:shawn.m.bromley@lahey.org)

Alycia Messelaar

978-236-1784

[alycia.messelaar@lahey.org](mailto:alycia.messelaar@lahey.org)