

of physicians. They do not apply to administrative services performed by physicians, which are paid for as part of a prospective payment for dialysis services made to the facility under §413.170 of this chapter.

(c) *Definitions.* For purposes of this section, the following definitions apply:

*Administrative services* are physician services that are differentiated from routine professional services and other physician services because they are supervision, as described in the definition of “supervision of staff” of this section, or are not related directly to the care of an individual patient, but are supportive of the facility as a whole and of benefit to patients in general. Examples of administrative services include supervision of staff, staff training, participation in staff conferences and in the management of the facility, and advising staff on the procurement of supplies.

*Dialysis session* is the period of time that begins when the patient arrives at the facility and ends when the patient departs from the facility. In the case of home dialysis, the period begins when the patient prepares for dialysis and generally ends when the patient is disconnected from the machine. In this context, a dialysis facility includes only those parts of the building used as a facility. It does not include any areas used as a physician’s office.

*Medical direction*, in contrast to supervision of staff, is a routine professional service that entails substantial direct involvement and the physical presence of the physician in the delivery of services directly to the patient.

*Routine professional services* include all physicians’ services furnished during a dialysis session and all services listed in paragraph (d) of this section that meet the following requirements:

- (1) They are personally furnished by a physician to an individual patient.
- (2) They contribute directly to the diagnosis or treatment of an individual patient.
- (3) They ordinarily must be performed by a physician.

*Supervision of staff*, in contrast to medical direction, is an administrative service that does not necessarily require the physician to be present at the

dialysis session. It is a general activity primarily concerned with monitoring performance of and giving guidance to other health care personnel (such as nurses and dialysis technicians) who deliver services to patients.

(d) *Types of routine professional services.* Routine professional services include at least all of the following services when medically appropriate:

(1) Visits to the patient during dialysis, and review of laboratory test results, nurses’ notes and any other medical documentation, as a basis for—

- (i) Adjustment of the patient’s medication or diet, or the dialysis procedure;
- (ii) Prescription of medical supplies; and
- (iii) Evaluation of the patient’s psychosocial status and the appropriateness of the treatment modality.

(2) Medical direction of staff in delivering services to a patient during a dialysis session.

(3) Pre-dialysis and post-dialysis examinations, or examinations that could have been furnished on a pre-dialysis or post-dialysis basis.

(4) Insertion of catheters for patients who are on peritoneal dialysis and do not have indwelling catheters.

(e) *Payment for routine professional services.* Beginning August 7, 1990, routine professional services furnished by physicians may be paid under either the “initial method” of payment described in §414.313, (if all of the physicians at the facility elect the initial method) or under the “physician MCP method” described in §414.314. Physician services furnished after July 31, 1983 and before August 6, 1990, are payable only under the MCP method described in §414.314.

#### §414.313 Initial method of payment.

(a) *Basic rule.* Under this method, the intermediary pays the facility for routine professional services furnished by physicians. Payment is in the form of an add-on to the facility’s composite rate payment, which is described in part 413, subpart H of this subchapter.

(b) *Services for which payment is not included in the add-on payment.* (1) Physician administrative services are considered to be facility services and are

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paid for as part of the facility's composite rate.

(2) The carrier pays the physician or the beneficiary (as appropriate) under the reasonable charge criteria set forth in subpart E of part 405 of this chapter for the following services:

(i) Physician services that must be furnished at a time other than during the dialysis session (excluding pre-dialysis and post-dialysis examinations and examinations that could have been furnished on a pre-dialysis or post-dialysis basis), such as monthly and semi-annual examinations to review health status and treatment.

(ii) Physician surgical services other than insertion of catheters for patients who are on peritoneal dialysis and do not have indwelling catheters.

(iii) Physician services furnished to hospital inpatients who were not admitted solely to receive maintenance dialysis.

(iv) Administration of hepatitis B vaccine.

(c) *Physician election of the initial method.* (1) Each physician in a facility must submit to the appropriate carrier and intermediary that serve the facility a statement of election of the initial method of payment for all the ESRD facility patients that he or she attends.

(2) The initial method of payment applies to dialysis services furnished beginning with the second calendar month after the month in which all physicians in the facility elect the initial method and continues until the effective date of a termination of the election described in paragraph (d) of this section.

(d) *Termination of the initial method.* (1) Physicians may terminate the initial method of payment by written notice to the carrier(s) that serves each physician and to the intermediary that serves the facility.

(2) If the notice terminating the initial method is received by the carrier(s) and intermediary—

(i) On or before November 1, the effective date of the termination is January 1 of the year following the calendar year in which the termination notice is received by the carrier(s) and intermediary; or

(ii) After November 1, the effective date of the termination is January 1 of the second year after the calendar year in which the notice is received by the carrier(s) and intermediary.

(e) *Determination of payment amount.* The factors used in determining the add-on amount are related to program experience. They are re-evaluated periodically and may be adjusted, as determined necessary by CMS, to maintain the payment at a level commensurate with the prevailing charges of other physicians for comparable services.

(f) *Publication of payment amount.* Revisions to the add-on amounts are published in the FEDERAL REGISTER in accordance with the Department's established rulemaking procedures.

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**§414.314 Monthly capitation payment method.**

(a) *Basic rules.* (1) Under the monthly capitation payment (MCP) method, the carrier pays an MCP amount for each patient, to cover all professional services furnished by the physician, except those listed in paragraph (b) of this section.

(2) The carrier pays the MCP amount, subject to the deductible and coinsurance provisions, either to the physician if the physician accepts assignment or to the beneficiary if the physician does not accept assignment.

(3) The MCP method recognizes the need of maintenance dialysis patients for physician services furnished periodically over relatively long periods of time, and the capitation amounts are consistent with physicians' charging patterns in their localities.

(4) Payment of the capitation amount for any particular month is contingent upon the physician furnishing to the patient all physician services required by the patient during the month, except those listed in paragraph (b) of this section.

(5) Payment for physician administrative services (§414.310) is made to the dialysis facility as part of the facility's composite rate (part 413, subpart H of this subchapter) and not to the physician under the MCP.

(b) *Services not included in the MCP.* (1) Services that are not included in