

(e) *Denial as not reasonable and necessary.* If CMS determines that a bone mass measurement does not meet the conditions for coverage in paragraphs (b) or (d) of this section, or the standards on frequency of coverage in paragraph (c) of this section, it is excluded from Medicare coverage as not “reasonable” and “necessary” under section 1862(a)(1)(A) of the Act and § 411.15(k) of this chapter.

(f) *Use of the National Coverage Determination Process.* For the purposes of paragraphs (b)(2) and (b)(3) of this section, CMS may determine through the National Coverage Determination process that additional bone mass measurement systems are reasonable and necessary under section 1862(a)(1) of the Act for monitoring and confirming baseline bone mass measurements.

[71 FR 69783, Dec. 1, 2006]

**§ 410.32 Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.**

(a) *Ordering diagnostic tests.* All diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary (see § 411.15(k)(1) of this chapter).

(1) *Mammography exception.* A physician who meets the qualification requirements for an interpreting physician under section 354 of the Public Health Service Act as provided in § 410.34(a)(7) may order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary.

(2) *Application to nonphysician practitioners.* Nonphysician practitioners (that is, clinical nurse specialists, clinical psychologists, clinical social workers, nurse-midwives, nurse practitioners, and physician assistants) who furnish services that would be physician services if furnished by a physician, and who are operating within the

scope of their authority under State law and within the scope of their Medicare statutory benefit, may be treated the same as physicians treating beneficiaries for the purpose of this paragraph.

(b) *Diagnostic x-ray and other diagnostic tests—(1) Basic rule.* Except as indicated in paragraph (b)(2) of this section, all diagnostic x-ray and other diagnostic tests covered under section 1861(s)(3) of the Act and payable under the physician fee schedule must be furnished under the appropriate level of supervision by a physician as defined in section 1861(r) of the Act. Services furnished without the required level of supervision are not reasonable and necessary (see § 411.15(k)(1) of this chapter).

(2) *Exceptions.* The following diagnostic tests payable under the physician fee schedule are excluded from the basic rule set forth in paragraph (b)(1) of this section:

(i) Diagnostic mammography procedures, which are regulated by the Food and Drug Administration.

(ii) Diagnostic tests personally furnished by a qualified audiologist as defined in section 1861(l)(3) of the Act.

(iii) Diagnostic psychological testing services when—

(A) Personally furnished by a clinical psychologist or an independently practicing psychologist as defined in program instructions; or

(B) Furnished under the general supervision of a physician or a clinical psychologist.

(iv) Diagnostic tests (as established through program instructions) personally performed by a physical therapist who is certified by the American Board of Physical Therapy Specialties as a qualified electrophysiologic clinical specialist and permitted to provide the service under State law.

(v) Diagnostic tests performed by a nurse practitioner or clinical nurse specialist authorized to perform the tests under applicable State laws.

(vi) Pathology and laboratory procedures listed in the 80000 series of the Current Procedural Terminology published by the American Medical Association.

(3) *Levels of supervision.* Except where otherwise indicated, all diagnostic x-

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ray and other diagnostic tests subject to this provision and payable under the physician fee schedule must be furnished under at least a general level of physician supervision as defined in paragraph (b)(3)(i) of this section. In addition, some of these tests also require either direct or personal supervision as defined in paragraphs (b)(3)(ii) or (b)(3)(iii) of this section, respectively. (However, diagnostic tests performed by a physician assistant (PA) that the PA is legally authorized to perform under State law require only a general level of physician supervision.) When direct or personal supervision is required, physician supervision at the specified level is required throughout the performance of the test.

(i) *General supervision* means the procedure is furnished under the physician's overall direction and control, but the physician's presence is not required during the performance of the procedure. Under general supervision, the training of the nonphysician personnel who actually perform the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the physician.

(ii) *Direct supervision* in the office setting means the physician must be present in the office suite 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.

(iii) *Personal supervision* means a physician must be in attendance in the room during the performance of the procedure.

(c) *Portable x-ray services.* Portable x-ray services furnished in a place of residence used as the patient's home are covered if the following conditions are met:

(1) These services are furnished under the general supervision of a physician, as defined in paragraph (b)(3)(i) of this section.

(2) The supplier of these services meets the requirements set forth in part 486, subpart C of this chapter, concerning conditions for coverage for portable x-ray services.

(3) The procedures are limited to—

(i) Skeletal films involving the extremities, pelvis, vertebral column, or skull;

(ii) Chest or abdominal films that do not involve the use of contrast media; and

(iii) Diagnostic mammograms if the approved portable x-ray supplier, as defined in subpart C of part 486 of this chapter, meets the certification requirements of section 354 of the Public Health Service Act, as implemented by 21 CFR part 900, subpart B.

(d) *Diagnostic laboratory tests—(1) Who may furnish services.* Medicare Part B pays for covered diagnostic laboratory tests that are furnished by any of the following:

(i) A participating hospital or participating RPCH.

(ii) A nonparticipating hospital that meets the requirements for emergency outpatient services specified in subpart G of part 424 of this chapter and the laboratory requirements specified in part 493 of this chapter.

(iii) The office of the patient's attending or consulting physician if that physician is a doctor of medicine, osteopathy, podiatric medicine, dental surgery, or dental medicine.

(iv) An RHC.

(v) A laboratory, if it meets the applicable requirements for laboratories of part 493 of this chapter, including the laboratory of a nonparticipating hospital that does not meet the requirements for emergency outpatient services in subpart G of part 424 of this chapter.

(vi) An FQHC.

(vii) An SNF to its resident under § 411.15(p) of this chapter, either directly (in accordance with § 483.75(k)(1)(i) of this chapter) or under an arrangement (as defined in § 409.3 of this chapter) with another entity described in this paragraph.

(2) *Documentation and recordkeeping requirements—(i) Ordering the service.* The physician or (qualified nonphysician practitioner, as defined in paragraph (a)(3) of this section), who orders the service must maintain documentation of medical necessity in the beneficiary's medical record.

(ii) *Submitting the claim.* The entity submitting the claim must maintain the following documentation:

(A) The documentation that it receives from the ordering physician or nonphysician practitioner.

(B) The documentation that the information that it submitted with the claim accurately reflects the information it received from the ordering physician or nonphysician practitioner.

(iii) *Requesting additional information.* The entity submitting the claim may request additional diagnostic and other medical information to document that the services it bills are reasonable and necessary. If the entity requests additional documentation, it must request material relevant to the medical necessity of the specific test(s), taking into consideration current rules and regulations on patient confidentiality.

(3) *Claims review.* (i) *Documentation requirements.* Upon request by CMS, the entity submitting the claim must provide the following information:

(A) Documentation of the order for the service billed (including information sufficient to enable CMS to identify and contact the ordering physician or nonphysician practitioner).

(B) Documentation showing accurate processing of the order and submission of the claim.

(C) Diagnostic or other medical information supplied to the laboratory by the ordering physician or nonphysician practitioner, including any ICD-9-CM code or narrative description supplied.

(ii) *Services that are not reasonable and necessary.* If the documentation provided under paragraph (d)(3)(i) of this section does not demonstrate that the service is reasonable and necessary, CMS takes the following actions:

(A) Provides the ordering physician or nonphysician practitioner information sufficient to identify the claim being reviewed.

(B) Requests from the ordering physician or nonphysician practitioner those parts of a beneficiary's medical record that are relevant to the specific claim(s) being reviewed.

(C) If the ordering physician or nonphysician practitioner does not supply the documentation requested, informs the entity submitting the claim(s) that the documentation has not been supplied and denies the claim.

(iii) *Medical necessity.* The entity submitting the claim may request addi-

tional diagnostic and other medical information from the ordering physician or nonphysician practitioner to document that the services it bills are reasonable and necessary. If the entity requests additional documentation, it must request material relevant to the medical necessity of the specific test(s), taking into consideration current rules and regulations on patient confidentiality.

(4) *Automatic denial and manual review.* (i) *General rule.* Except as provided in paragraph (d)(4)(ii) of this section, CMS does not deny a claim for services that exceed utilization parameters without reviewing all relevant documentation that is submitted with the claim (for example, justifications prepared by providers, primary and secondary diagnoses, and copies of medical records).

(ii) *Exceptions.* CMS may automatically deny a claim without manual review if a national coverage decision or LMRP specifies the circumstances under which the service is denied, or the service is specifically excluded from Medicare coverage by law.

(e) Diagnostic laboratory tests furnished in hospitals and CAHs. The provisions of paragraphs (a) and (d)(2) through (d)(4), inclusive, of this section apply to all diagnostic laboratory test furnished by hospitals and CAHs to outpatients.

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#### § 410.33 Independent diagnostic testing facility.

(a) *General rule.* (1) Effective for diagnostic procedures performed on or after March 15, 1999, carriers will pay for diagnostic procedures under the physician fee schedule only when performed by a physician, a group practice of physicians, an approved supplier of portable x-ray services, a nurse practitioner, or a clinical nurse specialist when he or she performs a test he or she is authorized by the State to perform, or an independent diagnostic testing facility (IDTF). An IDTF may be a fixed location, a mobile entity, or