Documentation of 'Substantive Portion' for CMS, CPT May Not Align, Creating Audit Risk

By Nina Youngstrom

Although CMS has adopted the new CPT definition of "substantive portion" for a split/shared evaluation and management (E/M) visit—reportedly a welcome change for physicians and nonphysician practitioners (NPPs)—cracks are starting to show in terms of differences in documentation requirements for medical decision-making (MDM), an expert says.

The CPT Editorial Panel's 2024 definition of substantive portion seems to expect less in the way of documentation than CMS's for billing purposes, said Valerie Rock, a principal with PYA, P.C. Although CMS says it's aligning with CPT for 2024, the regulation "could be interpreted as requiring the physician to document the MDM independently in support of the E/M code," she noted. That may become a problem because "we continue to see minimal documentation by physicians in split/shared scenarios."

Medicare pays for an E/M service provided in part by a physician and in part by an NPP/advanced practice provider (APP)—such as a nurse practitioner—at an institution (e.g., hospital, skilled nursing facility). Split/shared visits are billed under the National Provider Identifier of the physician or NPP who provides the substantive portion of the visit. As CMS explained in the 2022 Medicare Physician Fee Schedule (MPFS) rule, "The practitioner who spends more than half of the total time, or performs the history, exam, or MDM can be considered to have performed the substantive portion and can bill for the split (or shared) E/M visit." The 2022 MPFS rule phased out history, exam and MDM as a basis for determining the substantive portion, leaving time as the only option starting in 2023, but CMS delayed implementation until 2024, and then in the 2024 MPFS rule, it swapped out its definition of substantive portion for the CPT definition.

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