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Global Warning – Medicare Date of Service Rule May Require Separate Line-Item Claims for Pathology Services

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Independent clinical laboratories and physicians need to be aware of a recent change in the Medicare Claims Processing Manual regarding the manner in which physician pathology services must be billed. If the professional and technical components are deemed to have been provided on different days, the services cannot be globally billed.

Background – Date of Service Rule

In the physician fee schedule rule for calendar year 2007, the Centers for Medicare and Medicaid Services (CMS) published a regulation specifying how the date of service (DOS) for a clinical laboratory test was determined. CMS recognized the importance of the DOS determination: When a specimen was taken from a patient while he or she was receiving hospital care, but was tested after the patient was discharged from the hospital, the test's DOS could determine whether payment for the test would be "bundled" with the hospital service or whether it would be paid separately. CMS's regulation indicated that the general rule was that the test's DOS was the date that the specimen was collected. The regulation provided for exceptions for specimens collected over more than two days, tests performed on a stored specimen, and chemotherapy sensitivity tests performed on live tissue. (Pending federal legislation would change these principles and permit an independent laboratory to separately bill particular types of laboratory tests that were performed after a patient was discharged from a hospital using a sample collected during the patient's hospitalization.)

The following year, in the physician fee schedule rule for calendar year 2008, CMS amended the regulation so that it would also apply to the technical component (TC) of physician pathology services. This change, however, raised new billing issues. Unlike in the case of clinical laboratory services for which Medicare does not generally recognize a separate professional component (PC), physician pathology services generally include both a TC and a PC, which can be billed separately or together as a "global" bill.

Date of Service and Global Billing

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In the 2008 physician fee schedule rule extending the DOS regulation to the TC of physician pathology services, CMS responded to a comment questioning its application when the TC and the PC were performed by the same lab and billed globally. CMS stated that "the TC and the PC of a laboratory test should be on separate line items on the same claim when two different dates of service are involved, even when both services are performed by the same independent laboratory." According to CMS, "[o]ne line global billing is not appropriate in this instance." CMS indicated that Medicare program instructions on this issue would be forthcoming.

Recent Development

On May 22, 2009, some 18 months later, CMS issued Transmittal 1744, "Manual Update to Include Billing Instructions for Professional Component (PC) and Technical Component (TC) in Regards to One Line Global Billing for Pathology Services." As part of the Transmittal, CMS added the following statement to the Medicare Claims Processing Manual (MCPM) provision addressing DOS: "When the TC and PC of pathology services are performed on different Date of Service (DOS), they shall be billed as separate line items if the services are performed by the same independent laboratory." Therefore, the MCPM is now clear that, in this situation, an independent clinical laboratory is not permitted to submit a global bill for physician pathology services. Although not addressed in the Transmittal, presumably the same rule would apply to the TC and PC of physician pathology services billed by a physician's practice. As a result, it appears that separate billing for the TC and PC of physician pathology services will now be required frequently.

Ober|Kaler's Comments: Providers of physician pathology services and other diagnostic tests frequently prefer to bill Medicare on a global basis, i.e., submission of a single claim for the service's TC and PC. As reflected in the recent Medicare Transmittal, in some circumstances, this is not permissible, however, and the charge for the TC and the PC must be included on separate lines of the Medicare claim. Additionally, in some circumstances, such as when the TC or the PC of a physician pathology service or other diagnostic service is purchased, the TC and PC cannot even be included on the same paper claim (which can accommodate only a single address as the location of the service). While changes in payment rules receive greater attention, diagnostic service providers must remain alert for changes in related claims submission requirements as well.

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