



Related MLN Matters Article #: MM3457

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Psychotherapy Notes

Key Words

MM3457, CR3457, R98PI, Psychotherapy

Provider Types Affected

Psychotherapists and providers billing Medicare Carriers or Fiscal Intermediaries (FIs) for psychotherapy services

Key Points

- The effective date of the instruction is February 22, 2005.
- The implementation date is February 22, 2005.
- Psychotherapy notes are notes recorded by a mental health professional that:
 - Document or analyze contents of a counseling session and
 - Are separated from the rest of a medical record.
- The definition of psychotherapy notes excludes the following information:
 - Medication prescription and monitoring;
 - Counseling session start and stop times;
 - Modalities and frequencies of treatment furnished; and
 - Results of clinical tests and any summary of: diagnosis, functional status, treatment plan, symptoms, prognosis, progress, and progress to date.
- The preceding class of information does not qualify as psychotherapy note materials, and physically integrating this information into protected psychotherapy notes does not automatically transform it into protected information.
- Providers are exempt from submitting psychotherapy notes without patient authorization when the notes in question fit Privacy Rule definition in 45 Code of Federal Regulations, Part 164.501.

- Patient authorization is not required for release of information excluded from the definition of psychotherapy notes.
- Providers should release non-psychotherapy note material to demonstrate medical necessity. If the provider does not submit sufficient information to demonstrate that services were medically necessary, the claim will be denied.

Note: If a provider has combined information excluded from the definition of psychotherapy notes with a psychotherapy note (e.g., symptoms), it is the responsibility of the provider to extract the information needed to support that a Medicare claim is reasonable and necessary.

Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3457.pdf> on the CMS website.

The official instruction (CR3457) regarding this change may be viewed at

<http://www.cms.gov/Transmittals/downloads/R98PI.pdf> on the CMS website.

The *Medicare Program Integrity Manual* (Pub. 100-08), Chapter 3, Subsection 3.4.1.2 (Additional Documentation Requests (ADR) During Prepayment or Postpayment MR) has been revised to reflect this change. The updated manual instructions are attached to the official instruction.

The Code of Federal Regulations, Title 45 (Public Welfare and Human Services), Part 164 (Security and Privacy), Subpart E (Privacy of Individually Identifiable Health Information), Section 164.501 (Definitions) [45 CFR, Sec. 164.501] can be found at http://www.access.gpo.gov/nara/cfr/waisidx_04/45cfr164_04.html on the Internet.