

CMS' Final Decisions on the Recommendations of the Hospital Outpatient Payment Panel on Supervision Levels for Select Services

In the Calendar Year (CY) 2012 Outpatient Prospective Payment System (OPPS) /Ambulatory Surgical Center (ASC) Final Rule, the Centers for Medicare & Medicaid Services (CMS) established a process to obtain independent advice from the Hospital Outpatient Payment Panel regarding the appropriate supervision levels for individual hospital outpatient therapeutic services (76 Fed. Reg. 74360). CMS charged the Panel with recommending at the request of the Agency or the public the supervision level that will ensure the appropriate quality and safety for delivery of a given service as defined by its Healthcare Common Procedure Coding System (HCPCS) or Current Procedural Terminology code. In order to make its recommendations, the Panel uses clinical and other criteria that were established in the final rule.

On February 27-28, 2012, the Panel met and made recommendations to CMS regarding the supervision levels for 28 HCPCS codes. On April 18, 2012, in accordance with the final rule we posted our preliminary decisions based upon the Panel's recommendations on the OPPS website for public comment.

Most commenters supported our proposal to accept the Panel's recommendation that we change the requirement for the requested mental health services from direct supervision to general supervision. One medical specialty organization recommended that CMS include physicians who specialize in mental health services as Panel members so the Panel can make appropriate clinical judgments regarding the supervision of mental health services. While the commenter did not object to our proposal, the commenter recommended that CMS continue to evaluate the safety and quality of care to ensure that general supervision is appropriate and safe for the considered services. They requested that clinician stakeholders be able to share concerns with the Panel regarding proposed changes in supervision.

We encourage the nomination and participation of clinicians on the Panel who can best inform clinical issues regarding supervision levels. We are finalizing our proposed changes as follows effective July 1, 2012, and the following mental health services may be conducted under general supervision in accordance with applicable Medicare regulations and policies:

- HCPCS code 90804, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 20 to 30 minutes face-to-face with the patient*
- HCPCS code 90806, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 45 to 50 minutes face-to-face with the patient*
- HCPCS code 90808, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 75 to 80 minutes face-to-face with the patient*
- HCPCS code 90810, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an office or outpatient facility, approximately 20 to 30 minutes face-to-face with the patient*
- HCPCS code 90812, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an office or outpatient facility, approximately 45 to 50 minutes face-to-face with the patient*
- HCPCS code 90814, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an office or outpatient facility, approximately 75 to 80 minutes face-to-face with the patient*

- HCPCS code 90816, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an inpatient hospital, partial hospital or residential care setting, approximately 20 to 30 minutes face-to-face with the patient*
- HCPCS code 90818, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an inpatient hospital, partial hospital or residential care setting, approximately 45 to 50 minutes face-to-face with the patient*
- HCPCS code 90821, *Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an inpatient hospital, partial hospital or residential care setting, approximately 75 to 80 minutes face-to-face with the patient*
- HCPCS code 90823, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 20 to 30 minutes face-to-face with the patient*
- HCPCS code 90826, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 45 to 50 minutes face-to-face with the patient*
- HCPCS code 90828, *Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 75 to 80 minutes face-to-face with the patient*
- HCPCS code 90846, *Family psychotherapy (without the patient present)*
- HCPCS code 90847, *Family psychotherapy (conjoint psychotherapy) (with patient present)*
- HCPCS code 90849, *Multiple-family group psychotherapy*
- HCPCS code 90853, *Group psychotherapy (other than of a multiple-family group)*
- HCPCS code 90857, *Interactive group psychotherapy*
- HCPCS code G0177, *Training and educational services related to the care and treatment of patient's disabling mental health problems per session (45 minutes or more)*
- HCPCS code G0410, *Group psychotherapy other than of a multiple-family group, in a partial hospitalization setting, approximately 45 to 50 minutes*
- HCPCS code G0411, *Interactive group psychotherapy, in a partial hospitalization setting, approximately 45 to 50 minutes*

In addition, commenters supported CMS' proposal to change the required supervision for the following services from direct supervision to general supervision. Effective July 1, 2012 these services may be conducted under general supervision in accordance with applicable Medicare regulations and policies:

- HCPCS code 51701, *Insertion of non-indwelling bladder catheter (eg, straight catheterization for residual urine)*
- HCPCS code 90471, *Immunization administration (includes percutaneous, intradermal, subcutaneous, or intramuscular injections); 1 vaccine (single or combination vaccine/toxoid)*
- HCPCS code 90472, *Immunization administration (includes percutaneous, intradermal, subcutaneous, or intramuscular injections); each additional vaccine (single or combination vaccine/toxoid) (list separately in addition to code for primary procedure)*
- HCPCS code 90473, *Immunization administration by intranasal or oral route; 1 vaccine (single or combination vaccine/toxoid)*

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- HCPCS code 90474, *Immunization administration by intranasal or oral route; each additional vaccine (single or combination vaccine/toxoid) (list separately in addition to code for primary procedure)*
- HCPCS code 99406, *Smoking and tobacco use cessation counseling visit; intermediate, greater than 3 minutes up to 10 minutes*
- HCPCS code 99407, *Smoking and tobacco use cessation counseling visit; intensive, greater than 10 minutes*

Several commenters expressed concern about our proposal to reject the Panel's recommendation that we designate HCPCS code 94640, *Pressurized or nonpressurized inhalation treatment for acute airway obstruction or for sputum induction for diagnostic purposes (eg, with an aerosol generator, nebulizer, metered dose inhaler or intermittent positive pressure breathing [IPPB] device)*, as a non-surgical extended duration therapeutic service (extended duration service). Extended duration services require an initial period of direct supervision, but the patient may be transitioned to general supervision once he or she is stable at the discretion of the supervising practitioner. One commenter believed that the physician's presence should not be required for HCPCS code 94640 in the hospital, since this service can be performed by a patient at home. Others commented that since the Panel's charter does not prohibit the Panel from recommending extended duration services, it should be permitted to do so.

In the CY 2012 final rule, we indicated that the Panel may recommend only general, direct or personal supervision. HCPCS code 94640 is not performed over an extended period of time, and hospital patients receiving this service may require the supervising practitioner's presence depending on their condition. At a future Panel meeting the Panel may reevaluate the supervision level for this service. Therefore, we continue to require direct supervision for HCPCS code 94640.