

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-02 Medicare Benefit Policy	Centers for Medicare & Medicaid Services (CMS)
Transmittal 51	Date: JUNE 23, 2006
	Change Request 4400

Subject: Requirements for Diagnostic X-Ray, Diagnostic Laboratory, and Other Diagnostic Tests; Clinical Psychologist Services

I. SUMMARY OF CHANGES: To add that the physician supervision policy does not apply with a physician supervision level of 4 when the procedure is performed under the general supervision of a clinical psychologist. To allow diagnostic psychological testing services to be furnished under the general supervision of a clinical psychologist.

New/Revised Material

Effective Date: January 1, 2005

Implementation Date: September 21, 2006

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	15/80/Requirements for Diagnostic X-Ray, Diagnostic Laboratory, and Other Diagnostic Tests
R	15/160/Types of Clinical Psychologist Services That May Be Covered

III. FUNDING:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2006 operating budgets.

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

**Unless otherwise specified, the effective date is the date of service.*

Attachment - Business Requirements

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SUBJECT: Requirements for Diagnostic X-Ray, Diagnostic Laboratory, and Other Diagnostic Tests; Clinical Psychologist Services

I. GENERAL INFORMATION

A. Background: Levels of physician supervision are required for furnishing the technical component of diagnostic tests for a Medicare beneficiary who is not a hospital inpatient or outpatient. Diagnostic psychological testing may now be performed under the general supervision of a clinical psychologist.

B. Policy: In accordance with 42 CFR 410.32(b), certain exceptions are allowed to the physician supervision level. Under the physician supervision level of 4, the physician supervision policy is modified so that the policy does not apply when the procedure is furnished under the general supervision of a clinical psychologist. The policy for the performance of diagnostic psychological testing under the general supervision of a clinical psychologist is in accordance with 42 CFR 410.32(b)(2)(iii).

II. BUSINESS REQUIREMENTS

“Shall” denotes a mandatory requirement

“Should” denotes an optional requirement

Requirement Number	Requirements	Responsibility (“X” indicates the columns that apply)							
		F I	R H H I	C a r r i e r	D M E R C	Shared System Maintainers			
					F I S S	M C S	V M S	C W F	
4400.1	FIs and Carriers shall pay for the services of clinical psychologists when they supervise the performance of diagnostic psychological testing.	X		X					
4400.2	FIs and Carriers do not have to retroactively process claims for the period between January 1, 2005, and the implementation date. Carriers are to reprocess claims that are brought to their attention that have been denied with dates of service on or after January 1, 2005.	X		X					

III. PROVIDER EDUCATION

Requirement Number	Requirements	Responsibility (“X” indicates the columns that apply)								
		F I	R H I	C a r r i e r	D M E R C	Shared System Maintainers				Other
						F I S S	M C S	V M S	C W F	
4400.3	A provider education article related to this instruction will be available at www.cms.hhs.gov/MLNMatters/Articles shortly after the CR is released. You will receive notification of the article release via the established "medlearn matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within 1 week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin and incorporated into any educational events on this topic. Contractors are free to supplement Medlearn Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X		X						

IV. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

A. Other Instructions: N/A

X-Ref Requirement #	Instructions

B. Design Considerations: N/A

X-Ref Requirement #	Recommendation for Medicare System Requirements

C. Interfaces: N/A

D. Contractor Financial Reporting /Workload Impact: N/A

E. Dependencies: N/A

F. Testing Considerations: N/A

V. SCHEDULE, CONTACTS, AND FUNDING

Effective Date*: January 1, 2005 Implementation Date: September 21, 2006 Pre-Implementation Contact(s): Roberta Epps Roberta.Epps@cms.hhs.gov (410)786-4503 Post-Implementation Contact(s): Regional Offices	No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2006 operating budgets.
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80 - Requirements for Diagnostic X-Ray, Diagnostic Laboratory, and Other Diagnostic Tests

(Rev.51, Issued: 06-23-06, Effective: 01-01-05, Implementation: 09-21-06)

This section describes the levels of physician supervision required for furnishing the technical component of diagnostic tests for a Medicare beneficiary who is not a hospital inpatient or outpatient. Section 410.32(b) of the Code of Federal Regulations (CFR) requires that diagnostic tests covered under §1861(s)(3) of the Act and payable under the physician fee schedule, with certain exceptions listed in the regulation, have to be performed under the supervision of an individual meeting the definition of a physician (§1861(r) of the Act) to be considered reasonable and necessary and, therefore, covered under Medicare. The regulation defines these levels of physician supervision for diagnostic tests as follows:

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 performs the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the physician.

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.

Personal Supervision - means a physician must be in attendance in the room during the performance of the procedure.

One of the following numerical levels is assigned to each CPT or HCPCS code in the Medicare Physician Fee Schedule Database:

- 0 Procedure is not a diagnostic test or procedure is a diagnostic test which is not subject to the physician supervision policy.
- 1 Procedure must be performed under the general supervision of a physician.
- 2 Procedure must be performed under the direct supervision of a physician.
- 3 Procedure must be performed under the personal supervision of a physician.
- 4 Physician supervision policy does not apply when procedure is furnished by a qualified, independent psychologist or a clinical psychologist *or furnished under the general supervision of a clinical psychologist*; otherwise must be performed under the general supervision of a physician.
- 5 Physician supervision policy does not apply when procedure is furnished by a qualified audiologist; otherwise must be performed under the general supervision of a physician.

- 6 Procedure must be performed by a physician or by a physical therapist (PT) who is certified by the American Board of Physical Therapy Specialties (ABPTS) as a qualified electrophysiologic clinical specialist and is permitted to provide the procedure under State law.
- 6a Supervision standards for level 66 apply; in addition, the PT with ABPTS certification may supervise another PT but only the PT with ABPTS certification may bill.
- 7a Supervision standards for level 77 apply; in addition, the PT with ABPTS certification may supervise another PT but only the PT with ABPTS certification may bill.
- 9 Concept does not apply.
- 21 Procedure must be performed by a technician with certification under general supervision of a physician; otherwise must be performed under direct supervision of a physician.
- 22 Procedure may be performed by a technician with on-line real-time contact with physician.
- 66 Procedure must be performed by a physician or by a PT with ABPTS certification and certification in this specific procedure.
- 77 Procedure must be performed by a PT with ABPTS certification or by a PT without certification under direct supervision of a physician, or by a technician with certification under general supervision of a physician.

Nurse practitioners, clinical nurse specialists, and physician assistants are not defined as physicians under §1861(r) of the Act. Therefore, they may not function as supervisory physicians under the diagnostic tests benefit (§1861(s)(3) of the Act). However, when these practitioners personally perform diagnostic tests as provided under §1861(s)(2)(K) of the Act, §1861(s)(3) does not apply and they may perform diagnostic tests pursuant to State scope of practice laws and under the applicable State requirements for physician supervision or collaboration.

Because the diagnostic tests benefit set forth in §1861(s)(3) of the Act is separate and distinct from the incident to benefit set forth in §1861(s)(2) of the Act, diagnostic tests need not meet the incident to requirements. Diagnostic tests may be furnished under situations that meet the incident to requirements but this is not required. However, carriers must not scrutinize claims for diagnostic tests utilizing the incident to requirements.

160 - Clinical Psychologist Services

(Rev.51, Issued: 06-23-06, Effective: 01-01-05, Implementation: 09-21-06)

A. Clinical Psychologist (CP) Defined

To qualify as a clinical psychologist (CP), a practitioner must meet the following requirements:

Hold a doctoral degree in psychology;

Be licensed or certified, on the basis of the doctoral degree in psychology, by the State in which he or she practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals.

B. Qualified Clinical Psychologist Services Defined

Effective July 1, 1990, the diagnostic and therapeutic services of CPs and services and supplies furnished incident to such services are covered as the services furnished by a physician or as incident to physician's services are covered. However, the CP must be legally authorized to perform the services under applicable licensure laws of the State in which they are furnished.

C. Types of Clinical Psychologist Services That May Be Covered

Diagnostic and therapeutic services that the CP is legally authorized to perform in accordance with State law and/or regulation. Carriers pay all qualified CPs based on the physician fee schedule for the diagnostic and therapeutic services. (Psychological tests by practitioners who do not meet the requirements for a CP may be covered under the provisions for diagnostic tests as described in §80.2.)

Services and supplies furnished incident to a CP's services are covered if the requirements that apply to services incident to a physician's services, as described in §60 are met. These services must be:

- Mental health services that are commonly furnished in CPs' offices;
- An integral, although incidental, part of professional services performed by the CP;
- Performed under the direct personal supervision of the CP; i.e., the CP must be physically present and immediately available;
- Furnished without charge or included in the CP's bill; and
- Performed by an employee of the CP (or an employee of the legal entity that employs the supervising CP) under the common law control test of the Act, as set forth in 20 CFR 404.1007 and §RS 2101.020 of the Retirement and Survivors Insurance part of the Social Security Program Operations Manual System.
- *Diagnostic psychological testing services when furnished under the general supervision of a CP.*

Carriers are required to familiarize themselves with appropriate State laws and/or regulations governing a CP's scope of practice.

D. Noncovered Services

The services of CPs are not covered if the service is otherwise excluded from Medicare coverage even though a clinical psychologist is authorized by State law to perform them. For example, §1862(a)(1)(A) of the Act excludes from coverage services that are not “reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member.” Therefore, even though the services are authorized by State law, the services of a CP that are determined to be not reasonable and necessary are not covered. Additionally, any therapeutic services that are billed by CPs under CPT psychotherapy codes that include medical evaluation and management services are not covered.

E. Requirement for Consultation

When applying for a Medicare provider number, a CP must submit to the carrier a signed Medicare provider/supplier enrollment form that indicates an agreement to the effect that, contingent upon the patient’s consent, the CP will attempt to consult with the patient’s attending or primary care physician in accordance with accepted professional ethical norms, taking into consideration patient confidentiality.

If the patient assents to the consultation, the CP must attempt to consult with the patient’s physician within a reasonable time after receiving the consent. If the CP’s attempts to consult directly with the physician are not successful, the CP must notify the physician within a reasonable time that he or she is furnishing services to the patient. Additionally, the CP must document, in the patient’s medical record, the date the patient consented or declined consent to consultations, the date of consultation, or, if attempts to consult did not succeed, that date and manner of notification to the physician.

The only exception to the consultation requirement for CPs is in cases where the patient’s primary care or attending physician refers the patient to the CP. Also, neither a CP nor a primary care nor attending physician may bill Medicare or the patient for this required consultation.

F. Outpatient Mental Health Services Limitation

All covered therapeutic services furnished by qualified CPs are subject to the outpatient mental health services limitation in Pub 100-01, Medicare General Information, Eligibility, and Entitlement Manual, Chapter 3, “Deductibles, Coinsurance Amounts, and Payment Limitations,” §30, (i.e., only 62 1/2 percent of expenses for these services are considered incurred expenses for Medicare purposes). The limitation does not apply to diagnostic services.

G. Assignment Requirement

Assignment is required.