PROVIDER-BASED AND EMERGENCY ROOM PHYSICIANS

Regulation Reference: 42 CFR 415.162, 415.164, 415.55 to 415.70, 415.102 to 415.130, and 415.190

GENERAL: The physician regulations, 42 CFR 415.55 and 42 CFR 415.70, require the application of reasonable compensation equivalent (RCE) limits to physician compensation paid by the provider for provider services rendered by the physician. The hospital cost report applies the RCEs to the hospital complex, and, after cost allocation, brings a proportionate share of the disallowance back into Part A inpatient cost for inpatient services subject to PPS. Note that teaching physicians' compensation for provider services is subject to the RCE limits. Emphasis is on outpatient areas, cost-based areas, and high Medicare utilization.

OBJECTIVES:

1. To ensure that the provider-based physician (PBP) remuneration was correctly determined and properly distinguished between professional and provider components.
2. To ensure that payments to physicians for direct patient care and nonpatient care activities, such as research, are removed from allowable costs.
3. To ensure that reasonable compensation equivalents are properly applied to compensation.
4. To ensure that special arrangements for physician services are appropriate.
5. To ascertain that copies of physicians agreements, billing authorizations and agreements, and all other pertinent data necessary to support provider-based and emergency room physicians' agreements are in the file and updated.

OTHER REFERENCES

PRM-I, §§2108, 2109, 2122.3, 2148, 2182, 2204.1 and 2213

Cost Report Forms:
HCFA-2552, Worksheet A-8
HCFA-2552, Worksheet A-8-2
HCFA-2552, Worksheet C
HCFA-2552, Worksheet D
HCFA-2552, Worksheet D-9
HCFA-339, Exhibits 2 through 4A

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PROVIDER-BASED PHYSICIAN DOCUMENTS

1. Obtain the provider-based physician documents. These include:

   A. Worksheet A-8-2 of Form HCFA-2552 for physicians,

   B. The required time allocation agreements from the cost report questionnaire, Form HCFA-339, (see 42 CFR 415.60 and PRM-I, §2182.3D),

   C. Physician time studies, or other documentation to support hours,

   D. Physician contracts and specialties,

   E. Physician payroll register and the working trial balance,

   F. RCE limits published in PRM-I, §2182.6, and

   G. Form HCFA-339, Exhibits 2 through 4a.

PHYSICIAN COMPENSATION

2. The purpose of this section is to ensure that all compensation and fringe benefits applicable to physicians are accounted for, that these amounts are reflected in the correct cost center and that they agree with the physician contracts.

   A. Review the working trial balance and payroll register for physicians receiving compensation to ensure that all physicians are accounted for, including physicians paid by fees or through purchased service arrangements, and that the cost centers are correctly identified.

   B. Obtain the provider's schedule by physician and by cost center, listing salaries, fees and fringe benefits.

   C. Examine the physician contracts to ensure that amounts paid and recorded are in accordance with the physicians' contracts.

   D. Ensure that the physicians' total compensation includes amounts for fringe benefits. This includes amounts paid to or on behalf of the physician. It should include amounts paid to a pension plan or deferred compensation plan, health care benefits, physician malpractice, professional organization and membership dues. Employment-related taxes that are paid by a provider are considered business expenses and not fringe benefits.

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E. If physician compensation is based on a fee for service, test the amount of compensation reported (agreed fees multiplied by the number of procedures performed).

F. Review unusual or complex compensation agreement arrangements and verify total compensation based on the arrangements.

G. Where the provider has made the election to be reimbursed on a cost basis (PRM-I, §2148) for the services of teaching physicians (direct medical and surgical care) including the supervision of interns and residents, payments for volunteer services, and certain medical school costs, then Worksheet D-9 should be completed. Perform the following work:

1. Review and test the provider's accumulation of total inpatient days and outpatient visit days used on Worksheet D-9.

2. Review and test the provider's accumulation of Medicare inpatient days and outpatient visit days used on Worksheet D-9.

3. Ensure that physicians' compensation has been subjected to the RCE limits.

H. Effective for services rendered on or after September 15, 1988, physician assistant services can be billed to the Part B carrier when the necessary requirements have been met. Where the provider has received approval to bill Part B for the services of physician assistants, ensure that the related cost has been excluded from the cost report.

WORKSHEET A-8-2

3. The purpose of the Worksheet A-8-2 is to ensure that physician compensation does not exceed the Reasonable Compensation Equivalent (RCE) and that physician direct patient care amounts and other nonreimbursable compensation are removed from the cost report.

A. Verify that the correct amount of physician total compensation calculated in the previous steps is shown on the correct line of the Worksheet A-8-2.

1. The Worksheet A-8-2 should reflect any Worksheet A-6 reclassifications and/or physician compensation

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added through a Worksheet A-8-1 entry.

2. Physician data related to general service cost centers should be reported on a separate schedule similar to Worksheet A-8-2 and any adjustment should appear on the designated line on Worksheet A-8.

B. Trace the physician time allocation from the underlying signed and dated time studies or other documentation to the HCFA-339 and Worksheet A-8-2.

1. Verify the percentage allocations and the hours worked.

2. If there is no allocation agreement, all physician compensation is considered to be 100 percent Part B. If there are allocation agreements, verify the time records or other information used to support the physician compensation allocation.

3. Ensure that the portion of provider-based physicians' compensation attributable to time spent teaching interns and residents is included in the Interns and Residents Approved Programs cost center. Check against approved allocation agreements.

4. Document any unusual situation in the workpapers, for example, professional component is not covered by physician's compensation. Ensure that nonreimbursable activities are correctly treated on Worksheet A and Worksheet A-8-2 and documented accordingly.

C. Verify that physician allocation amounts and hours are properly stated in the correct cost center on Worksheet A-8-2. Ensure that the provider component only includes administration of a department, committee work, supervision and teaching, and autopsies.

D. Verify that the correct RCE limits are used.

1. Ensure that they are reflected in the appropriate cost centers. For example, if a part of the pathologist's compensation was included in another cost center, offset any RCE disallowance proportionately against both cost centers.

2. The appropriate RCE limit should be applied to each physician in a cost center. If a group of

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physicians in the cost center have the same specialty, the RCE limit may be applied in the aggregate.

E. Ensure that the actual cost of memberships and continuing education are shown correctly. Membership and continuing education costs are also shown as part of physician compensation. Membership and continuing education costs are limited to the lesser of actual costs incurred, or 5 percent of the RCE for the physician's specialty adjusted for the proportion of the physician's total work year spent on provider services.

EMERGENCY ROOM SERVICES

4. A. Determine the propriety of unmet guarantee or availability costs paid to emergency room physicians by the provider. Test the data shown on Form HCFA-339.

Note: Physicians' unmet guarantee or availability costs are allowed only for emergency room services.

B. Ascertain that copies of the current agreements of the physicians who contract to work in the hospital emergency rooms under these arrangements are on file and agree with the data in the cost report.

C. Obtain or prepare working papers showing that:

1. Conditions outlined in PRM-I, §2109.3 were met in order for the availability services costs to be recognized as an allowable hospital cost for Medicare reimbursement purposes.

2. Charges, and not collections, were considered in determining the incurred costs to meet the guarantee for the service of emergency room physicians.

3. An imputed charge has been established for those services rendered for which no charge is made when determining the guaranteed amount.

4. Costs were distributed between Part A (inpatient services) and Part B (outpatient services) in accordance with PRM-I, §2109.4.

5. Emergency room costs were reduced for any cost recovery considerations paid by any agency, such as city or county, for maintaining emergency room services.

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6. Guaranteed standby fees do not include subsidies to attract physicians to the community.

D. Determine if an adjustment is needed to correct provider costs for physicians' unmet guaranteed amounts for hospital emergency services.

PROVIDER COSTS INCURRED

5. A. If the contractual agreement with provider-based physicians requires the physician to reimburse the provider for costs incurred by the provider related to physician services, these costs should bear an appropriate portion of general service costs (PRM-I, §2328.E).

B. Where direct medical services are rendered by a physician to non-provider patients, all direct and indirect provider costs incurred in connection with such services should be identified and deducted from provider costs (PRM-I, §2108.10).

DEPARTMENT OPERATED BY PHYSICIAN

6. Where the department was operated by an independent physician rather than the provider, ascertain that the income (if received) from the physician, for space-related costs or supplies and salaries paid for by the provider, was offset against the allowable costs.