

## INSIGHTS

# CMS Relaxes E/M Documentation Requirements for Teaching Physicians

## INTRODUCTION

Centers for Medicare & Medicaid Services (CMS) has streamlined certain documentation requirements for evaluation and management (E/M) services in the recently finalized 2019 Medicare Physician Fee Schedule (MPFS) Final Rule.

The changes, effective January 1, 2019, include the removal of certain potentially duplicative documentation requirements for teaching physicians when medical residents or other clinical personnel already have noted the relevant information in the medical record. Medicare regulations historically have required teaching physicians to establish their physical presence at the time of the service, and personally document their participation in the provision of the service.

## THE FINAL RULE

The Final Rule has removed the requirement that the teaching physician's participation in the E/M service has to be personally documented by the teaching physician. Instead, the regulations will provide expressly that while such documentation is still required, the "extent of the teaching physician's participation [in an E/M service furnished by a resident in the outpatient department of a teaching hospital] may be demonstrated by the notes in the medical records made by a physician, resident, or nurse." 42 Code of Federal Regulations (CFR), § 415.174(a)(6) (2019).

## ANKURA EXPERT ANALYSIS

Our Ankura expert, Jacqueline Anderson, has analyzed the changes and believes that, overall, the move will not have much impact on documentation compliance for most providers.

"While on the surface it appears this may reduce duplication of effort of documentation components for some providers, the overall documentation requirements are still the same," Jacqueline says. As the billing provider, the teaching physician is still ultimately responsible for ensuring the composite documentation from the medical student, resident, fellow, and/or nurse for a patient encounter

accurately describes the extent of the teaching physician's participation in the service. The combined entries in the medical record must support the E/M service's level of care and the medical necessity of the service billed.

"However, expanding the roles for this level of documentation to include residents and nurses may present new challenges for some providers," Jacqueline continues. "Relying on the documentation of others to accurately reflect the participation of the teaching physician might be trying initially. Some compliance programs may opt to have their teaching physicians continue to provide this level of documentation for an extended period until they are able to evaluate the quality of the resident documentation for meeting this new threshold. Historically, this documentation standard has been a challenge for some teaching physicians, so it remains to be seen how quickly the resident population will adapt to the change. It is anticipated that some level of education will be required depending on the current state of the resident documentation."

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According to Jacqueline, it is also unclear how the Medicare Administrative Contractors (MAC) will interpret these changes and what their guidance will be regarding the changes and documentation requirements for billing. “We often see varied language from the MACs which can result in slightly different interpretations and application of the billing rules,” she says.

“Furthermore, it is also unclear if these changes will impact documentation requirements for critical care services. I did not find discussions in the CFR release, but critical care is an area that often presents slightly different challenges for providers since the teaching physician documentation must be more substantive. We will need to confirm how or if the critical care services will be impacted by the revised documentation requirements.”

### DOCUMENTATION OF CHIEF COMPLAINT AND HISTORY

The Final Rule change also clarifies that the chief complaint and history do not have to be re-documented by the provider if completed by ancillary staff or the patient. “Longstanding CMS and MAC guidelines have been that the history of present illness (HPI) must be performed by the provider,” continues Jacqueline. “The Final Rule change does not specifically address HPI documentation, but the HPI is part of the History. It will be interesting to see if the intent of the change is meant to include performance of the HPI.”

### REGULATORY CHANGES BUILD UPON EARLIER REVISIONS

These regulatory changes are consistent with, and build upon, revisions made earlier this year to the Medicare Claims Processing Manual, wherein CMS revised documentation rules [to permit teaching physicians to verify, rather than having to re-document, medical record notations entered by medical students](#) who assist in the performance of a billable E/M service.

Notably, too, this easing of the longstanding requirement that teaching physicians personally document participation in the performance of E/M services is just one of several E/M documentation and coding changes in the Final Rule. [This CMS Fact Sheet](#) provides a helpful summary.

For further information on this regulatory change, or advice on any other matter relating to Medicare documentation requirements, please get in touch with the Ankura Healthcare team at... [ankura.com/healthcare](https://ankura.com/healthcare)

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