

## ***Policies and Procedures***

<b>SECTION:</b> <b>Administration</b>	<b>NO.</b> <b>2.5.2.</b>		
<b>CHAPTER:</b> <b>Billing Compliance</b>	<b>ISSUED:</b> 2/1/2020	<b>REV. A</b>	<b>REV. B</b>
<b>POLICY:</b> <b>Teaching Physician Requirements – Evaluation and Management (E/M) Services and Time-Based Codes</b>	<b>PAGE 1 OF 9</b>		

### **PURPOSE**

This policy addresses teaching position presence and documentation requirements for evaluation and management (E/M) services and time-based codes when residents are involved in the care of teaching physicians' patients.

### **POLICY**

To bill for services in which a resident is involved, the teaching physician must personally document his/her performance of or presence during the critical or key portions of any E/M service or time-based E/M service and participation in the management of the patient. For billing purposes, the resident cannot document the teaching physician's presence and participation.

### **SCOPE**

This policy applies to all employees, faculty, and agents of Creighton University and the School of Medicine including, but not limited to, physicians who involve residents in the care of their patients. This policy only applies to services billed under Creighton's tax identification number. This policy applies to all federal, state and private payers unless a specific written waiver is obtained from the Billing Compliance Committee.

NOTE: the presence and documentation requirements found in this policy do not apply to evaluation and management services furnished by residents supervised by a teaching physician in the primary care exception setting, which is addressed in the policy – Teaching Physician Requirements – Evaluation and Management (E/M) – Primary Care Exception.

### **DEFINITIONS**

- A. Resident. A resident is an individual who participates in an approved GME program. For purposes of this policy, a Fellow in an approved GME program qualifies as a resident, even if they are not included in the Creighton University medical centers' resident count. A Fellow who is not in an approved GME program is not a resident, but is considered a student for the purposes of this policy.
- B. Teaching Physician. A physician (other than another resident) who involves residents in

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the care of his/her patients.

- C. Student. A student means an individual who participates in an accredited educational program (e.g., a medical school) that is not an approved GME program. A student is NEVER CONSIDERED A RESIDENT for purposes of this policy.
- D. Critical or Key Portions. That part(s) of the service that the teaching physician determines is (are) critical or key portion(s). These terms are interchangeable.
- E. Physically Present. This means that the Teaching Physician is located in the same room (or partitioned or curtained area) as the patient and/or performs a face-to-face service.

### **PROCEDURES**

#### **A. Evaluation and Management Services (Excluding Time-based E/M Codes)**

##### **1. Teaching Physician Presence Requirement**

In order to bill for E/M service when a Resident is involved, the Teaching Physician must either:

- a. Personally perform the E/M service; or
- b. Be physically present during the critical or key portions of the E/M service that a Resident performs

##### **2. Teaching Physician Documentation Requirement**

- a. Teaching Physician Documentation of Presence and Participation. In order to bill for E/M services when a resident is involved, the teaching physician must personally document at least the following:
  - 1) That the Teaching Physician performed the service or was physically present during the key or critical portions of the service when performed by the resident;

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- 2) The Teaching Physician’s participation in the management of the patient.

The Resident’s documentation of Teaching Physician presence and participation is not sufficient to establish the presence and participation of the Teaching Physician for billing purposes.

b. Teaching Physician Reference to Resident Note.

- 1) When a Resident has written a note and the Teaching Physician desires to utilize the Resident’s note for documentation and billing purposes, the Teaching Physician’s note must reference the Resident’s note. For payment, the composite of the Teaching Physician’s entry and the Resident’s entry together must support the medical necessity and the level of the service billed.
- 2) The Teaching Physician can only reference the note of a Resident on his/her service (e.g., Cardiologist can only reference the note of a Resident who is currently rotating through the Cardiologist’s service).
- 3) A Resident’s documentation may be utilized by only one Teaching Physician (i.e. more than one Teaching Physician may not utilize a single Resident’s documentation).
- 4) If the Resident’s services occur on a different date than the Teaching Physician service, then the Teaching Physician should identify the date of the Resident’s note to which he/she is referring.

c. Documentation Stamps, Stickers, Templates, Checklists and Macros.

- 1) In a paper medical record system, documentation stamps, stickers, templates and checklists are not permissible as the sole Teaching Physician documentation. If properly drafted and used, a documentation stamp, sticker, template or checklist may be used to supplement a Teaching Physician's personal, handwritten note. Any Teaching

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Physician desiring to use a documentation stamp, sticker, template or checklist for any part of his/her documentation must submit the proposed stamp, sticker, template or checklist to the Billing Compliance Committee and receive approval prior to use. Use of an unapproved documentation stamp, sticker, template or checklist may result in audit findings for the Teaching Physician, education, charge corrections and/or other corrective actions.

- 2) When using an electronic medical record, it is acceptable for the Teaching Physician to use a macro (defined below) as the required personal documentation if the Teaching Physician adds it personally in a secured (password protected) system. In addition to the Teaching Physician's macro, either the Resident or the Teaching Physician must provide customized information that is sufficient to support a medical necessity determination for the services provided. The note in the electronic medical record must sufficiently describe the specific services furnished to the specific patient on the specific date. It is insufficient documentation if both the Resident and the Teaching Physician use macros only. A "macro" is defined as a command in a computer or dictation application that automatically generates predetermined text that is not edited by the user.

See Appendix "A" for examples of proper Teaching Physician documentation and Appendix "B" for examples of improper Teaching Physician documentation.

### 3. Use of Medical Students Note.

Any contribution and participation of a student to the performance of a billable service (other than the review of systems and/or past family/social history which are not separately billable, but are taken as part of an E/M service) must be performed in the physical presence of a teaching physician or physical presence of a resident in otherwise billable service meeting the presence and documentation requirements.

Students may document services in the medical record. However, the teaching physician must

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verify in the medical record all student documentation or findings, including history physical exam and/or medical decision-making. The teaching physician must personally perform (or re-perform) the physical exam and medical-decision-making activities of the E/M service being billed, but may verify any student documentation of them in the medical record, rather than redocumenting this work.

### **B. Time-Based E/M Codes**

#### **1. Teaching Physician Presence Requirement**

For E/M services determined on the basis of time, the Teaching Physician must be present for the period of time for which the claim is being made. For example, if the code describes a service of from 20 to 30 minutes, the Teaching Physician must be present for 20 to 30 minutes. A Teaching Physician may not add time spent by the Resident and absent of the Teaching Physician to the Teaching Physician's time to select the E/M service code.

The following codes fall within this category of services:

Individual medical psychotherapy;  
Critical care services;  
Hospital discharge day management;  
E/M services in which counseling and/or coordination of care dominates (more than 50%) the encounter, and time is considered the key or controlling factor to qualify for a particular level of E/M service;  
Prolonged services; and  
Care plan oversight.

#### **2. Teaching Physician Documentation Requirement.**

The Teaching Physician must personally document his/her time for time – based codes. The Teaching physician shall not include the resident's time for purposes of documenting time.

### **C. Level of Service to be Billed**

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Evaluation and management services involving residence shall only be billed when the teaching physician personally documents his/her presence and participation in accordance with this policy.

The appropriate level of E/M service to be billed shall be based on "Documentation Guidelines for Evaluation and Management Services" developed by the American Medical Association (AMA) and the Health Care Financing Administration (HCFA) and implemented by the Centers for Medicare and Medicaid Services (CMS), formally known as HCFA. The level of E/M service billed should be based on the combined entries of the Teaching Physician and Resident in the medical record that support the medical necessity of the service.

### **D. Medicare Teaching Physician Modifier**

A "GC" modifier must be added to codes for all Medicare services where Residents are involved in providing services (outside the primary care exception setting) with a Teaching Physician. "Involved" means providing "hands on" care or services OR watching care or services being provided by a Teaching Physician for educational purposes.

### **ADMINISTRATION**

Questions regarding this policy should be addressed to the Billing Compliance Committee.

### **AMENDMENTS OR TERMINATION OF POLICY**

The University reserves the right to modify, amend, or terminate this policy at any time.

### **REFERENCES/RELATED POLICIES**

42 U.S.C. §1395u(b)(7)(A); 42 CFR §415.170-172; Medicare Claims Processing Manual, Chapter 12, Section 100; Medicare Teaching Physician Questions & Answers, December 2003, Association of American Medical Colleges.

### **CMS SCENARIOS - TEACHING PHYSICIAN E/M SERVICES**

(Rev. 2303, Issued 09-14-11, Effective: 06-01-11, Implementation: 07-26-11)

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**SCENARIO 1** - Teaching Physician performs E/M Service without the Resident

The Teaching Physician personally performs all the required elements of an E/M service without a resident. In this scenario the resident may or may not have performed the E/M service independently.

- No Resident Note. In the absence of a note by a resident, the Teaching Physician must document as he/she would document an E/M service in a non-teaching setting.
- Resident Note. Where a resident has written notes, the Teaching Physician's note may reference the resident's note. The Teaching Physician must document that he/she performed the critical or key portion(s) of the service and that he/she was directly involved in the management of the patient.

### Examples of Minimally Acceptable Documentation

Admitting Note: "I performed a history and physical examination of the patient and discussed his management with the resident. I reviewed the resident's note and agree with the documented findings and plan of care."

Follow-up Visit: "Hospital Day #3. I saw and evaluated the patient. I agree with the findings and the plan of care as documented in the resident's note."

Follow-up Visit: "Hospital Day #5. I saw and examined the patient. I agree with the resident's note, except the heart murmur is louder, so I will obtain an echo to evaluate."

**NOTE:** In any of these situations, if there are no resident's notes, the Teaching Physician must document as he/she would document an E/M service in a non-teaching setting.

**SCENARIO 2** - Teaching Physician Present with the Resident.

The resident performs the elements required for an E/M service in the presence of, or jointly with, the teaching physician and the resident documents the service. In this case, the Teaching

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Physician must document that he/she was present during the performance of the critical or key portion(s) of the service and that he/she was directly involved in the management of the patient. The Teaching Physician's note should reference the resident's note. For payment, the composite of the Teaching Physician's entry and the resident's entry together must support the medical necessity and the level of the service billed by the Teaching Physician.

Examples of Minimally Acceptable Documentation:

Initial or Follow-up Visit: "I was present with resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note."

Follow-up Visit: "I saw the patient with the resident and agree with the resident's findings and plan."

*SCENARIO 3* - Teaching Physician Performs Service with or without the Resident present.

The resident performs some or all of the required elements of the service in the absence of the Teaching Physician and documents his/her service. The Teaching Physician independently performs the critical or key portion(s) of the service with or without the resident present and, as appropriate, discusses the case with the resident. In this instance, the Teaching Physician must document that he/she personally saw the patient, personally performed critical or key portions of the service, and participated in the management of the patient. The Teaching Physician's note should reference the resident's note. For payment, the composite of the Teaching Physician's entry and the resident's entry together must support the medical necessity of the billed service and the level of the service billed by the Teaching Physician.

Examples of Minimally Acceptable Documentation:

Initial Visit: "I saw and evaluated the patient. I reviewed the resident's note and agree, except that picture is more consistent with pericarditis than myocardial ischemia. Will begin NSAIDs."

Initial or Follow-up Visit: "I saw and evaluated the patient. Discussed with resident and agree with resident's findings and plan as documented in the resident's note."



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Follow-up Visit: "See resident's note for details. I saw and evaluated the patient and agree with the resident's finding and plan as written."

Follow-up Visit: "I saw and evaluated the patient. Agree with resident's note but lower extremities are weaker, now 3/5; MRI of LIS Spin today."

### **CMS EXAMPLES OF UNACCEPTABLE TEACHING PHYSICIAN DOCUMENTATION**

"Agree with above.", followed by legible countersignature or identity. "Rounded, Reviewed, Agree.", followed by legible countersignature or identity.

"Discussed with resident. Agree.", followed by legible countersignature or identity.

"Seen and agree", followed by legible countersignature or identity.

"Patient seen and evaluated", followed by legible countersignature or identity.

A legible countersignature or identity alone.

This type of documentation is not acceptable because the documentation does not make it possible to determine whether the Teaching Physician was present, evaluated the patient, and/or had any involvement in the plan of care.