

Policies and Procedures

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PURPOSE

This policy provides guidance on teaching physician presence and documentation requirements for surgical/operative procedures (including surgical endoscopies) when a teaching physician involves residents in the care of his/her patients.

POLICY

Procedures (including surgical endoscopies) in which the teaching physician involves a resident shall not be billed unless the presence and/or participation of the teaching physician has been documented as required by law.

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 University'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.

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 center resident count. A Fellow who is not in an approved GME program is not a resident, but is considered a student for purposes of this policy.
- B. Teaching Physician. A physician (other than a resident) who involves residents in the care of his/her patients.
- C. Critical or Key Portion(s). That part(s) of the service that the Teaching Physician determines is/are critical or key portion(s). These terms are interchangeable. The Teaching Physician determines whether or not the opening and/or closing of the surgical field are considered to be key or critical portions of any procedure.
- D. Minor Procedure. A procedure that takes a few minutes (5 minutes or less) to complete and involves relatively little decision making once the need for the procedure is determined (e.g. simple suture).
- E. Immediately Available. Immediately available means the Teaching Physician (or another

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qualified surgeon) remains in or near the procedure room and able to immediately return to the procedure.

F. **Physically Present.** Physically present means that the Teaching Physician is in the operating/procedure room with the Resident and patient.

G. **Entire Procedure.** In a major surgical procedure, Entire Procedure means the surgical procedure including opening and closing.

F. **Assistant at Surgery.** An assistant at surgery is a provider who actively assists the physician in charge of a case in performing a surgical procedure.

PROCEDURE

A. **Surgeries, including Endoscopic Surgeries**

1. *Single Surgery*

Presence Requirement.

For billing purposes, the Teaching Physician must be Physically Present during all Critical or Key Portions of the procedure and either be Immediately Available to furnish services during the Entire Procedure or arrange for another qualified surgeon to be Immediately Available.

Documentation Requirement.

If the Teaching Physician is Physically Present for the Entire Procedure, the Teaching Physician's presence may be documented in the medical record by the Teaching Physician, Resident, or operating room nurse. If the Teaching Physician is Physically Present during the Critical or Key Portion(s) and Immediately Available at all other times, the documentation must be completed by the Resident or Teaching Physician and reflect the Teaching Physician's presence during the Critical or Key Portion(s) and immediate availability at all other times. If the Teaching Physician has arranged for another qualified surgeon to be immediately available, the Resident or Teaching Physician must identify the qualified surgeon who remained immediately available in the medical record documentation.

2. *Two Overlapping Surgeries*

Presence Requirements.

For billing purposes, the Teaching Physician must be Physically Present during the Critical or Key Portions of both surgeries. Therefore, the Critical or Key Portions cannot take place at the same time.

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When the Teaching Physician is participating in the Critical or Key Portions of a procedure, he/she must arrange for another qualified surgeon to be immediately available to assist the Resident in the other case. When all Critical or Key Portions of the first procedure have been completed, the Teaching Physician may begin to become involved in the second “overlapping” procedure.

Documentation Requirements.

The Teaching Physician must personally document the Critical or Key Portions of both procedures and indicate who was immediately available for both procedures. The Resident or operating room nurse cannot document the Teaching Physician’s presence in two “overlapping” surgeries.

3. Post-Operative Visits.

The Teaching Physician determines the number of post-operative visits that are Critical or Key Portions and require his/her presence.

B. Procedures Performed Through an Endoscope (Excluding Endoscopic Surgeries Subject to Above)

Presence Requirement

The Teaching Physician must be Physically Present during the entire viewing, which starts at the time of insertion of the endoscope and ends at the time of removal of the endoscope. Viewing of the entire endoscopic procedure through a monitor in another room does not meet the presence requirement.

Documentation Requirement.

If the Teaching Physician is present during the entire viewing, the Teaching Physician can document his/her presence, or the Resident or operating room nurse may document the Teaching Physician’s presence.

C. Assistant at Surgery Services Furnished in a Teaching Hospital (Medicare only)

1. General Rule.

Medicare will not pay for the services of Assistants at Surgery furnished in a teaching hospital which has a training program related to the medical Specialty required for the surgical procedure when there is a qualified Resident available to perform the service.

2. When a Qualified Resident is NOT Available.

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A qualified Resident may not be available due to involvement in other activities, the complexity of the surgery, the number of residents in the program, or other valid reasons (e.g., insufficient skills or background, inexperienced). When a qualified Resident is not available and another faculty physician or staff non-physician practitioner acts as Assistant at Surgery, the following information must be documented in the operative report:

The need for an assistant for the particular procedure(s);

The following certification:

I understand that §1842(b)(7)(D) of the Social Security Act generally prohibits Medicare Part B reasonable charge payment for the services of assistants at surgery in teaching hospitals when qualified residents are available to furnish such services. I certify that the services for which payment is claimed were medically necessary, and that no qualified resident was available to perform the services. I further understand that these services are subject to post-payment review by the Medicare carrier.

3. Other Exceptions.

A claim for services of an Assistant at Surgery may be submitted to Medicare when a qualified Resident is available and not used, only under the following circumstances:

a. **Exceptional Circumstances:** This may involve emergency or life-threatening situations such as multiple traumatic injuries which require immediate treatment.

b. **Multiple Physician Specialties Involved in Surgery:** This would include complex medical procedures that may require a team of physicians (e.g. multistage transplant surgery, coronary bypass).

D. Minor Procedures

The Teaching Physician must be present for the entire Minor Procedure in order to bill for the procedure. The Teaching Physician's presence may be documented in the medical record by the Teaching Physician or Resident.

E. Modifiers

1. **"GC".** A "GC" modifier must be added to all Medicare services where Residents were involved in providing care 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.

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2. “80” – Assistant Surgeon. Use for Assistant at Surgery services when the exceptions noted in paragraph C.3 above apply.

3. “82” – Assistant Surgeon (when qualified resident surgeon not available). Use for Assistant at Surgery services when a qualified Resident is not available, See C.2 above.

ADMINISTRATION AND INTERPRETATIONS

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

AMENDMENTS OR TERMINATION OF THIS POLICY

This policy may be amended or terminated at any time.

REFERENCES

24 U.S.C. §1395u(b)(7)(A); 42 CFR §415.170-172;
Medicare Claims Processing Manual, Chapter 12, Section 100.