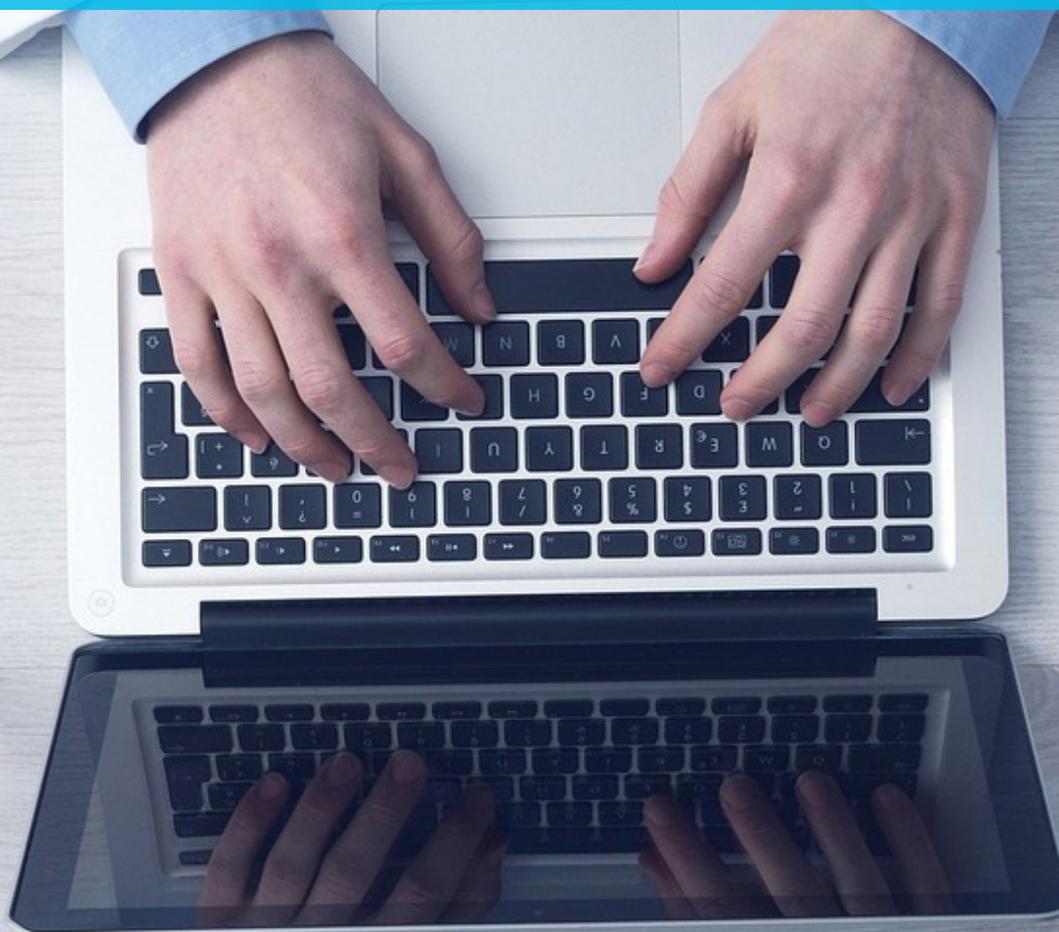


Medicare Remote Patient Monitoring: CMS Allows “Incident to” Billing



Prepared by:
Nathaniel M. Lacktman, Esq.
Chair, Telemedicine & Digital Health Industry Team
Foley & Lardner LLP
NLacktman@foley.com
www.foley.com/Nathaniel-M-Lacktman

LORMAN[®]

Published on www.lorman.com - July 2019

Medicare Remote Patient Monitoring: CMS Allows “Incident to” Billing. ©2019 Lorman Education Services. All Rights Reserved.

INTRODUCING

Lorman's New Approach to Continuing Education

ALL-ACCESS PASS

The All-Access Pass grants you **UNLIMITED** access to Lorman's ever-growing library of training resources:

- ☑ Unlimited Live Webinars - 120 live webinars added every month
- ☑ Unlimited OnDemand and MP3 Downloads - Over 1,500 courses available
- ☑ Videos - More than 1300 available
- ☑ Slide Decks - More than 2300 available
- ☑ White Papers
- ☑ Reports
- ☑ Articles
- ☑ ... and much more!

Join the thousands of other pass-holders that have already trusted us for their professional development by choosing the All-Access Pass.



Get Your All-Access Pass Today!

SAVE 20%

Learn more: www.lorman.com/pass/?s=special20

Use Discount Code Q7014393 and Priority Code 18536 to receive the 20% AAP discount.

*Discount cannot be combined with any other discounts.

Medicare Remote Patient Monitoring: CMS Allows “Incident to” Billing

Written by [Nathaniel M. Lacktman](#), 3/14/19 [Health Care Law Today Blog](#)

CMS just announced a clarification that remote patient monitoring under CPT code 99457 may be furnished by auxiliary personnel, “incident to” the billing practitioner’s professional services. An “incident to” service is one that is performed under the supervision of a physician (broadly defined), and billed to Medicare in the name of the physician, subject to certain requirements, one of which is discussed below. The announcement came in a [technical correction](#) issued March 14, 2019 and is effective immediately. This is a highly-anticipated change among remote patient monitoring companies, as we discussed in greater detail in our [previous coverage](#).

The newest code for remote patient monitoring, CPT code 99457, went live in January 2019. It offers Medicare reimbursement for “Remote physiologic monitoring treatment management services, 20 minutes or more of clinical staff/physician/other qualified healthcare professional time in a calendar month requiring interactive communication with the patient/caregiver during the month.”

When the [final rule](#) for the 2019 Physician Fee Schedule was published in November 2018, CMS stated that CPT code 99457 describes professional time and “therefore cannot be furnished by auxiliary personnel incident to a practitioner’s professional services.” With this technical correction, CMS deleted that sentence, instead replacing it with: “We thank commenters and confirm that these services may be furnished by auxiliary personnel incident to a practitioner’s professional service.” This is a welcome revision long-awaited by telehealth providers.

The change now allows RPM services to better mirror [Chronic Care Management \(CCM\)](#) services (CPT code 99487, 99489, and 99490). However, the default rule for incident to billing under Medicare requires direct supervision, not general supervision. Direct supervision means the physician and auxiliary personnel must be in the same building at the same time (albeit not the same room). In contrast, general supervision does not require the physician and auxiliary personnel to be in the same building at the same time, and the physician could instead use telemedicine to exert general supervision over the auxiliary personnel.

For CCM Services, CMS created a regulatory exception [allowing “incident to” billing](#) under general supervision. Unfortunately, the recent technical correction for RPM does not state that CPT code 99457 can be delivered under general supervision. Indeed, CMS has not revised the RPM regulations to allow an exception to the default requirement of direct supervision. While the correction is good news for

providers and patients, changing the RPM rules to expressly allow incident to billing of CPT code 99457 under general supervision will make a huge difference in operations and business models, thereby allowing more patients to enjoy the quality-improving benefits of remote patient monitoring.

Providers and technology companies seeking a change to allow general supervision should consider submitting comments to CMS on this topic once the 2020 Physician Fee Schedule proposed rule is issued (typically the beginning of July). We will continue to track these rules and changes as they develop.

The material appearing in this website is for informational purposes only and is not legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship. The information provided herein is intended only as general information which may or may not reflect the most current developments. Although these materials may be prepared by professionals, they should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

The opinions or viewpoints expressed herein do not necessarily reflect those of Lorman Education Services. All materials and content were prepared by persons and/or entities other than Lorman Education Services, and said other persons and/or entities are solely responsible for their content.

Any links to other websites are not intended to be referrals or endorsements of these sites. The links provided are maintained by the respective organizations, and they are solely responsible for the content of their own sites.