

Centers for Medicare and Medicaid Services (CMS) Clarifies Physician Delegation of Tasks in Skilled Nursing Facilities (SNF) and Nursing Facilities (NF)

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The **Centers for Medicare and Medicaid Services** (“**CMS**”) released an important instruction for physicians, **non-physician practitioners** (“**NPPs**”) and providers who bill for services provided in **skilled nursing facilities (SNFs)** and **nursing facilities (NFs)**. In its instruction, CMS discusses physician delegation of tasks in SNFs and NFs to NPPs, including nurse practitioners, physician assistants and clinical nurse specialists, which can be found in Section 3108 of the Affordable Care Act. Specifically, CMS clarifies the regulatory differences of physician delegation of tasks in SNFs and NFs, and outlines the tasks which can be delegated to NPPs in SNFs and NFs. CMS warns that, effective May 1, 2013, improper delegation of tasks to NPPs and improper billing of those tasks will result in denial of claims. As this new phase of denial review is implemented, it is important for physicians, NPPs and providers who bill for services relating to beneficiaries in SNFs and NFs to understand the requirements surrounding physician delegation.

CMS encourages use of the following three step analysis to identify key information, which will ensure proper application of the regulations:

1. Whether the physician services are being provided in a SNF or an NF;
2. Whether the task must be performed by the physician personally; and
3. Whether or not the NPP is employed by the facility.

Federal regulations prohibit a physician from delegating a task that he or she is specifically required to perform personally, or when such a delegation is prohibited under state law or facility policy.¹ Using the three step analysis suggested by CMS, the following details the tasks that a physician may and may not delegate to an NPP:

SNFs

1. In a SNF, a physician is required to perform the initial comprehensive visit in a SNF.

Therefore, an NPP is not permitted to perform an initial comprehensive visit or sign any orders regarding that initial comprehensive visit, regardless of whether the NPP is or is not employed by the facility.

2. In a SNF, other alternative required monthly visits and other medically necessary visits (which may be performed prior to the initial comprehensive visit) may be delegated to an NPP who is or is not an employee of the facility.
3. If an NPP is not an employee of a facility, the NPP may sign certification and recertification, subject to state requirements. However, an NPP employed by the facility would be prohibited from performing such a task.

NFs

1. In an NF, an NPP who is an employee of a facility is not permitted to perform an initial comprehensive visit or sign any orders regarding that initial comprehensive visit. However, a non-employee NPP would be permitted to perform and sign for that same initial comprehensive visit in a NF.
2. In an NF, other alternative required monthly visits and other medically necessary visits may be delegated to a NPP who is not an employee of the facility. However, an NPP employee of the facility would only be permitted to perform other medically necessary visits and not other required monthly visits.

In order to avoid denial of claims, physicians, NPPs and providers who bill for services relating to beneficiaries in SNFs and NFs should ensure that tasks are being properly delegated and that billing procedures reflect that delegation. For more information, visit: <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-13-15-.pdf>.

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