Orders for Outpatient Tests and Procedures:
“What We Really Meant Was…”

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and

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Chair, NAMSS Industry & Government Relations Committee

CMS Transmittal 72
November 18, 2011

• Rehabilitation and respiratory care services may only be ordered by practitioners who “have medical staff privileges to write orders for these services.”
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CMS Survey and Certification Memo 12-17
S&C-12-17

• Issued February 17, 2012
• Rescinded portions of Transmittal 72 dealing with orders for rehabilitation and respiratory care services

S&C-12-17

• CMS had intended to expand the categories of individuals who could order rehabilitation and respiratory care services
• CMS clarified that practitioners not affiliated with a hospital can order outpatient services if certain conditions are satisfied

S&C-12-17

• Applies to orders for outpatient services
• “[w]e distinguish these outpatient referral cases from cases where a practitioner provides care in the hospital, either to inpatients or outpatients.”
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S&C-12-17

- Interprets 42 C.F.R. § 482.54 – COP governing outpatient services
- Applies to all outpatient services, not just rehabilitation and respiratory care services
- New guidance is consistent with CMS’s past practice of allowing orders for outpatient laboratory services and radiology services from individuals without clinical privileges

S&C-12-17

- Responsible for the care of the patient;
- Licensed in jurisdiction where patient is seen;
- Acting within scope of practice under state law; and
- Authorized by medical staff to order the services under a hospital policy.

S&C-12-17

Policy must be approved by the Board and must address how the hospital will verify that the referring practitioner who is responsible for the patient’s care is appropriately licensed and acting within scope of practice.
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Implementation Issues
for Development of Policy

Decide what outpatient services the hospital will allow pursuant to an order from an unaffiliated practitioner.

Examples

• Lab
• X-Ray
• Physical Therapy
• Occupational Therapy
• Respiratory Therapy
• Infusion Therapy

Implementation Issues
for Development of Policy

Consider a Task Force consisting of
• Medical staff leaders;
• Other physicians, podiatrists, and AHPs;
• CMO;
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<table>
<thead>
<tr>
<th>Implementation Issues for Development of Policy</th>
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<tbody>
<tr>
<td>Consider a Task Force consisting of:</td>
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<tr>
<td>• Individuals who register patients;</td>
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<td>• Individuals who will verify information;</td>
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<td>• Risk management; and</td>
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<td>• Legal counsel</td>
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<tr>
<th>Implementation Issues for Development of Policy</th>
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<td>Consider:</td>
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<td>• Community need;</td>
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<td>• Risk of procedure;</td>
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<td>• Ease of scheduling and availability of resources;</td>
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<td>• Financial issues;</td>
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<td>• Current avenues of receipt of outpatient orders – all through central registration? Departments? and</td>
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<td>• Hospital resources, including implementation costs</td>
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<td>Decide which types of practitioners will be permitted to order each type of service:</td>
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<tr>
<td>• All physicians;</td>
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<td>• Only in-state physicians;</td>
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<td>• In-state non-physician practitioners, like PAs and NPs;</td>
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<td>• Other LIPs like podiatrists, chiropractors, optometrists</td>
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Verification Process for Development of Policy

- Who performs the verification?
  - Department where service is performed?
  - Medical Staff Office?
  - Some other department?

State licensure must be verified prior to services being rendered.

- CMS requires that ordering practitioner be licensed in the state where the patient was treated
- Check state law for additional requirements
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Verification Process for Development of Policy

- Prescription is generally enough to verify that the practitioner is “responsible for the care of the patient.”

Verification Process for Development of Policy

- Ordering practitioner is “acting within his/her scope of practice under State law”
- Policy describes types of practitioners authorized to order types of services

Verification Process for Development of Policy

- Should only be an issue for non-physicians
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<tr>
<td><strong>Excluded Provider Status</strong></td>
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<tr>
<td>Not addressed in S&amp;C-12-17</td>
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<td>State law may impose additional requirements</td>
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<tr>
<td><strong>NPDB</strong></td>
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<td>Since privileges are not granted, hospital cannot query Data Bank</td>
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<tr>
<td>• What if an order is received on a weekend and no one is around to perform the verification?</td>
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<td>• What if the verification reveals a problem with the ordering practitioner, but the patient urgently needs the outpatient service that has been ordered?</td>
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<td>• How long is verification good for?</td>
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Verification Process for Development of Policy
- Is the hospital at risk for carrying out an inappropriate order?
- If a hospital has been accepting orders for outpatient services without a policy that meets CMS requirements, is it at risk for an enforcement action?

Adoption of Policy
- MEC may invite comments from staff
- MEC adopts policy
- Board approves
- Notice to staff
- Review as required