

## **Special Alert:**

(as of 9/19/05)

### **Provision of Physical Therapy Services Incident to a Chiropractor**

On Monday, July 25, 2005, CMS issued instructions requiring implementation of the provisions of CR3648 related to qualifications required for staff providing services billed as physical therapy and occupational therapy services incident to the services of a physician or nonphysician practitioner. Due to pending litigation, CMS had previously delayed implementation of the regulation and manual provisions governing qualifications for auxiliary personnel furnishing services billed as physical therapy and occupational therapy services incident to the services of a physician or nonphysician practitioner. On July 22, the US District Court dismissed the suit filed by the National Athletic Trainer Association. **Chiropractors under the demonstration are also subject to these requirements as of July 25, 2005.** This means that when a physical therapy service is provided "incident to" the service of a chiropractor, the person who furnishes the service must be a physical therapy qualified practitioner other than licensure (meeting the physical therapy definition at 42 CFR 484.4 other than licensure). Unless chiropractic students, chiropractic assistants, or sports trainers have graduated from a physical therapy curriculum approved by: 1) the American Physical Therapy Association, or 2) The Committee on Allied Health Education and Accreditation of the American Medical Association, or 3) the Council on Medical Education of the American Medical Association and the American Physical Therapy Association they cannot provide therapy services incident to a chiropractor. The only exception is that certain persons trained prior to January 1, 1966 may be grandfathered (see 42 CFR 484.4).

In cases where chiropractors have chosen to participate in the demonstration, but cannot comply with Medicare requirements for the qualification of their staff, chiropractors **may** bill the beneficiary for the cost of services that are not covered by Medicare. We recommend that chiropractors use a Notice of Exclusion of Medicare Benefits (NEMB) form and inform the beneficiary that the service would be covered by Medicare if it was performed by a qualified Medicare provider of therapy services (i.e., physician or qualified therapist). (See Related Links Inside CMS area below for more information: FFS NEMB form)

If a CA is providing physical therapy service(s), the claim should be submitted without "demo 45" in Box 19 on CMS-1500 forms and, alternately, without "45" in 2300/REF02(P4) on electronic claims and have a GY modifier appended (e.g. 97035 GY). In this manner, the chiropractor will receive a denial and be able to bill the beneficiary for these services.

### **Background**

Section 651 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) (Pub. L. 108-173) provides for a two-year demonstration to evaluate the feasibility and advisability of covering chiropractic services under Medicare. These services extend beyond the current coverage for manipulation to correct neuromusculoskeletal conditions typical among eligible beneficiaries, and diagnostic and

other services that a chiropractor is legally authorized to perform by the State or jurisdiction in which the treatment is provided. Physician approval would not be required for these services. The demonstration must be budget neutral and will be conducted in four sites, two rural and two urban and one site of each area type must be a health professional shortage area (HPSA).

The legislation also requires an evaluation of the demonstration to assess cost effectiveness, cost benefit, beneficiary satisfaction, and other issues as the Secretary determines to be appropriate. A report to Congress on the evaluation no later than one year after the demonstration ends is required.

## **Top Billing Errors Guide**

Demonstration carriers have been informing us that they are seeing significant denial rates for demonstration services. Many of these denials are based on chiropractors not following the demonstration guidelines. The following are some of the most frequent

billing errors that they have seen. If chiropractors follow these guidelines, the denial rate should significantly decrease in the future.

- **AT modifier** - The AT modifier should be used for every service on all demonstration claims where active/corrective treatment is provided.
- **DEMO 45** - Demo 45 must be indicated in block 19 of the CMS 1500 claim form for all demonstration claims. For electronic submissions, it would be REF02 (REF01=P4) in the 2300 loop.
- **Demonstration services separate from spinal CMT** - All claims for demonstration services should be submitted on a separate claim form from claims for spinal CMT (98940, 98941, 98942).
- **GP modifier** - The GP modifier should be used for all therapy services.
- **25 modifier** - When manipulation and E&M codes are billed on the same visit, it is necessary to attach a 25 modifier to the E/M code.
- **Local Coverage Determinations (LCDs)** - Chiropractors must follow local coverage determinations for therapy and other demonstration services—this is particularly important for therapy services. They must also ensure that appropriate diagnosis codes are used for each procedure. Information regarding LCDs can be found on your carrier websites.

We are also aware that some chiropractors are encountering billing problems as a result of issues related to their software vendors. If you are unable to resolve these issues with your vendor, we suggest filing paper claims.

## **Federal Register Notice**

This Federal Register Notice which was published on January 28, 2005, describes the demonstration covered services, budget neutrality methodology, and site selection process for the demonstration. (See downloads area below for more information: Federal Register Notice.)

## **Press Release**

The following press release which was published on April 6 describes the implementation of the Medicare chiropractic demonstration. (See downloads area below for more information: Press Release.)

### **Medlearn Matters Articles**

The chiropractic special edition Medlearn Matters article is intended to provide educational information for chiropractors regarding participation in the demonstration. The article provides detailed information on how to submit claims during the demonstration. Additional training for the demonstration will be provided by local carriers. (See Related Links Inside CMS area below for more information: Medlearn Matters - SE0514.)

The laboratory medlearn matters article is intended to provide educational information for outpatient hospitals and independent clinical laboratories regarding the ability to accept referrals from chiropractors for laboratory services. (See Related Links Inside CMS area below for more information: Medlearn Matters – SE0521)

The radiology medlearn matters article is intended to provide educational information for outpatient hospitals and radiologists regarding the ability to accept referrals from chiropractors for radiology services. (See Related Links Inside CMS area below for more information: Medlearn Matters – SE0522)

### **Chiropractor Power Point Presentation**

The following power point presentation provides a general summary of the demonstration for chiropractors - (See downloads area below for more information: Chiropractor Power Point Presentation.)

### **Beneficiary Fact Sheets**

The "downloads area below" are beneficiary fact sheets for each state in the demonstration. Chiropractors can use these fact sheets to provide information to beneficiaries in their offices. (Iowa, Illinois, Illinois (spanish), Maine, New Mexico, New Mexico (spanish), Virginia.

### **Demonstration Geographic Areas**

The demonstration will be conducted in four geographic areas- two rural and two urban. One rural and one urban area will be located in a designated Health Professional Shortage Area (HPSA). These areas include the entire state of Maine (rural); the entire state of New Mexico (rural HPSA); 26 counties in Illinois and Scott County Iowa (urban); and 17 counties in Virginia (urban HPSA). The specific zip codes that are covered for Illinois, Iowa, and Virginia are listed below at downloads area.

### **Demonstration Diagnosis and Procedure Codes**

(See downloads area below for more information: Diagnosis and Procedure Codes).

In addition to the specific codes that are listed, chiropractors will be able to perform clinical laboratory services. These are listed in the clinical lab fee schedule which can be

found at (See Related Links Inside CMS area below for more information:  
pufdownload/#labfee)

**Current Status**

The demonstration began on April 1, 2005, and will operate for two years.

**Contact Information**

(See downloads area below for more information: Contact Information).