§ 410.28 Hospital or CAH diagnostic services furnished to outpatients: Conditions.

(a) Medicare Part B pays for hospital or CAH diagnostic services furnished to outpatients, including drugs and biologicals required in the performance of the services (even if those drugs or biologicals are self-administered), if those services meet the following conditions:

(1) They are furnished by or under arrangements made by a participating hospital or participating CAH, except in the case of an SNF resident as provided in §411.15(p) of this chapter.

(2) They are ordinarily furnished by, or under arrangements made by, the hospital or CAH to its outpatients for the purpose of diagnostic study.

(3) They would be covered as inpatient hospital services if furnished to an inpatient.

(b) Drugs and biologicals are also subject to the limitations specified in §410.29.

(c) Diagnostic services furnished by an entity other than the hospital or CAH are subject to the limitations specified in §410.42(a).

(d) Rules on emergency services furnished to outpatients by nonparticipating hospitals are set forth in subpart G of part 424 of this chapter.

(e) Medicare Part B makes payment under section 1833(t) of the Act for diagnostic services furnished by or under arrangements made by the participating hospital only when the diagnostic services are furnished under the appropriate level of physician supervision specified by CMS in accordance with the definitions in this paragraph and in §410.32(b)(3)(i), (b)(3)(ii), and (v).

(f) For purposes of this section, ‘‘nonphysician practitioner’’ means a clinical psychologist, licensed clinical social worker, physician assistant, nurse practitioner, clinical nurse specialist, or certified nurse-midwife.
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(b)(3)(iii). Under general supervision at a facility accorded provider-based status, the training of the nonphysician personnel who actually perform the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the facility. In addition—

(1) For services furnished directly or under arrangement in the hospital or in an on-campus or off-campus outpatient department of the hospital, as defined in §413.65 of this subchapter, “direct supervision” means that the physician must be immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician must be present in the room where the procedure is performed.

(2) For services furnished under arrangement in nonhospital locations, “direct supervision” means the definition specified in §410.32(b)(3)(ii).

(f) The rules for clinical diagnostic laboratory tests set forth in §§410.32(a) and (d)(2) through (d)(4) of this subpart are applicable to those tests when furnished in hospitals and CAHs.

§410.29 Limitations on drugs and biologicals.

Medicare part B does not pay for the following:

(a) Except as provided in §410.28(a) for outpatient diagnostic services and §410.63(b) for blood clotting factors, and except for EPO, any drug or biological that can be self-administered.

(b) Any drug product that meets all of the following conditions:

(1) The approved labeling includes the indication for preventing or treating the rejection of a transplanted organ or tissue.

(2) The approved labeling includes the indication for use in conjunction with immunosuppressive drugs to prevent or treat rejection of a transplanted organ or tissue.

(c) Any drug product that is identical, related, or similar, as defined in 21 CFR 310.6, to a drug product that meets the conditions of paragraph (b) of this section.

§410.30 Prescription drugs used in immunosuppressive therapy.

(a) Scope. Payment may be made for prescription drugs used in immunosuppressive therapy that have been approved for marketing by the FDA and that meet one of the following conditions:

(1) The approved labeling includes the indication for preventing or treating the rejection of a patient’s transplanted organ or tissue.

(2) The approved labeling includes the indication for use in conjunction with immunosuppressive drugs to prevent or treat rejection of a transplanted organ or tissue.

(3) Have been determined by a carrier (in accordance with part 421, subpart C of this chapter), in processing a Medicare claim, to be reasonable and necessary for the specific purpose of preventing or treating the rejection of a patient’s transplanted organ or tissue. (In making these determinations, the carriers may consider factors such as authoritative drug compendia, current medical literature, recognized standards of medical practice, and professional medical publications.)

(b) Eligibility. For drugs furnished on or after December 21, 2000, coverage is available only for prescription drugs used in immunosuppressive therapy, furnished to an individual who received an organ or tissue transplant for which Medicare payment is made, provided