Centers for Medicare & Medicaid Services, HHS § 410.27

(6) Services and supplies must be furnished by the physician, practitioner with an incident to benefit, or auxiliary personnel.

(7) A physician (or other practitioner) may be an employee or an independent contractor.

(c) Limitations. (1) Drugs and biologicals are also subject to the limitations specified in §410.29.

(2) Physical therapy, occupational therapy and speech-language pathology services provided incident to a physician's professional services are subject to the provisions established in §§410.59(a)(3)(iii), 410.60(a)(3)(iii), and 410.62(a)(3)(ii).


§ 410.27 Therapeutic outpatient hospital or CAH services and supplies incident to a physician's or nonphysician practitioner's service: Conditions.

(a) Medicare Part B pays for therapeutic hospital or CAH services and supplies furnished incident to a physician's or nonphysician practitioner's service, which are defined as all services and supplies furnished to hospital or CAH outpatients that are not diagnostic services and that aid the physician or nonphysician practitioner in the treatment of the patient, including drugs and biologicals that cannot be self-administered, if—

(1) They are furnished—

(i) By or under arrangements made by the participating hospital or CAH, except in the case of a SNF resident as provided in §411.15(p) of this subchapter;

(ii) As an integral although incidental part of a physician's or nonphysician practitioner's services;

(iii) In the hospital or CAH or in a department of the hospital or CAH, as defined in §413.65 of this subchapter; and

(iv) Under the direct supervision (or other level of supervision as specified by CMS for the particular service) of a physician or a nonphysician practitioner as specified in paragraph (g) of this section, subject to the following requirements:

(A) For services furnished in the hospital or CAH, or in an outpatient department of the hospital or CAH, both on and off-campus, as defined in §413.65 of this subchapter, "direct supervision" means that the physician or nonphysician practitioner must be immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician or nonphysician practitioner must be present in the room when the procedure is performed;

(B) Certain therapeutic services and supplies may be assigned either general supervision or personal supervision. When such assignment is made, general supervision means the definition specified at §410.32(b)(3)(i), and personal supervision means the definition specified at §410.32(b)(3)(ii);

(C) Nonphysician practitioners may provide the required supervision of services that they may personally furnish in accordance with State law and all additional requirements, including those specified in §§410.71, 410.73, 410.74, 410.75, 410.76, and 410.77;

(D) For pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, direct supervision must be furnished by a doctor of medicine or a doctor of osteopathy, as specified in §§410.47 and 410.49, respectively; and

(E) For nonsurgical extended duration therapeutic services (extended duration services), which are hospital or CAH outpatient therapeutic services that can last a significant period of time, have a substantial monitoring component that is typically performed by auxiliary personnel, have a low risk of requiring the physician's or appropriate nonphysician practitioner's immediate availability after the initiation of the service, and are not primarily surgical in nature, Medicare requires a minimum of direct supervision during the initiation of the service which may be followed by general supervision at the discretion of the supervising physician or the appropriate nonphysician practitioner. Initiation means the beginning portion of the
nonsurgical extended duration therapeutic service which ends when the patient is stable and the supervising physician or the appropriate nonphysician practitioner determines that the remainder of the service can be delivered safely under general supervision.

(2) In the case of partial hospitalization services, also meet the conditions of paragraph (e) of this section.

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

(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 (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 the definition specified in §410.32(b)(3)(i).

(f) The rules for clinical diagnostic laboratory tests set forth in §§410.32(a) and (d)(2) through (d)(4) of this subpart...