

#### § 440.40

detect SARS-CoV-2, antibodies to SARS-CoV-2, COVID-19, or the communicable disease named in the Public Health Emergency or its causes, even if those self-collected tests would not otherwise meet the requirements of paragraph (a) or (b) of this section, provided that the self-collection of the test is intended to avoid transmission of the communicable disease. If, pursuant to this paragraph, a laboratory processes a self-collected test system that is authorized by the FDA for home use, and the test system does not meet the conditions in paragraph (a) of this section, the laboratory must notify the patient and the patient's physician or other licensed non-physician practitioner (if known by the laboratory), of the results.

[46 FR 42672, Aug. 24, 1981, as amended at 57 FR 7135, Feb. 28, 1992; 85 FR 27626, May 8, 2020]

#### **§ 440.40 Nursing facility services for individuals age 21 or older (other than services in an institution for mental disease), EPSDT, and family planning services and supplies.**

(a) *Nursing facility services.* (1) "Nursing facility services for individuals age 21 or older, other than services in an institution for mental diseases", means services that are—

(i) Needed on a daily basis and required to be provided on an inpatient basis under §§ 409.31 through 409.35 of this chapter.

(ii) Provided by—

(A) A facility or distinct part (as defined in § 483.5(b) of this chapter) that meets the requirements for participation under subpart B of part 483 of this chapter, as evidenced by a valid agreement between the Medicaid agency and the facility for providing nursing facility services and making payments for services under the plan; or

(B) If specified in the State plan, a swing-bed hospital that has an approval from CMS to furnish skilled nursing facility services in the Medicare program; and

(iii) Ordered by and provided under the direction of a physician.

(2) Nursing facility services include services provided by any facility located on an Indian reservation and certified by the Secretary as meeting the

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requirements of subpart B of part 483 of this chapter.

(b) *EPSDT.* "Early and periodic screening and diagnosis and treatment" means—

(1) Screening and diagnostic services to determine physical or mental defects in beneficiaries under age 21; and

(2) Health care, treatment, and other measures to correct or ameliorate any defects and chronic conditions discovered. (See subpart B of part 441 of this chapter.)

(c) *Family planning services and supplies for individuals of child-bearing age.* [Reserved]

[59 FR 56233, Nov. 10, 1994; 60 FR 50117, Sept. 28, 1995, as amended at 61 FR 59198, Nov. 21, 1996; 68 FR 46071, Aug. 4, 2003]

#### **§ 440.50 Physicians' services and medical and surgical services of a dentist.**

(a) "Physicians' services," whether furnished in the office, the beneficiary's home, a hospital, a skilled nursing facility, or elsewhere, means services furnished by a physician—

(1) Within the scope of practice of medicine or osteopathy as defined by State law; and

(2) By or under the personal supervision of an individual licensed under State law to practice medicine or osteopathy.

(b) "Medical and surgical services of a dentist" means medical and surgical services furnished, on or after January 1, 1988, by a doctor of dental medicine or dental surgery if the services are services that—

(1) If furnished by a physician, would be considered physician's services.

(2) Under the law of the State where they are furnished, may be furnished either by a physician or by a doctor of dental medicine or dental surgery; and

(3) Are furnished by a doctor of dental medicine or dental surgery who is authorized to furnish those services in the State in which he or she furnished the services.

[56 FR 8851, Mar. 1, 1991]

#### **§ 440.60 Medical or other remedial care provided by licensed practitioners.**

(a) "Medical care or any other type remedial care provided by licensed