# CMS Manual System

## Pub. 100-04 Medicare Claims Processing

**Department of Health & Human Services (DHHS)**
**Centers for Medicare & Medicaid Services (CMS)**

**Transmittal 135** **Date: April 2, 2004**

**CHANGE REQUEST 1658**

**I. SUMMARY OF CHANGES: This places into the Internet-Only Manual (IOM) Change Request 1658, Transmittal 1751, dated May 1, 2002, which was previously manualized in the Medicare Carriers Manual (MCM). The change will make the IOM consistent with the MCM.**

**MANUALIZATION – EFFECTIVE/IMPLEMENTATION DATE: Not Applicable.**

***Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.***

**II. CHANGES IN MANUAL INSTRUCTIONS: (R = REVISED, N = NEW, D = DELETED)**

| R/N/D | CHAPTER/SECTION/SUBSECTION/TITLE |
|---|---|
| **R** | 13/20.2.4.1/Carrier Payment Rules |
| **R** | 13/20.2.4.2/Payment to Physician for Purchased Diagnostic Tests |
| | |

***III. FUNDING:**

**These instructions shall be implemented within your current operating budget.**

**IV. ATTACHMENTS:**

| | |
|---|---|
| | **Business Requirements** |
| **X** | **Manual Instruction** |
| | **Confidential Requirements** |
| | **One-Time Notification** |
| | **Recurring Update Notification** |

***Medicare contractors only**

## 20.2.4.1 - Carrier Payment Rules

***(Rev. 135, 04-02-04)***

If a test is personally performed by a physician or is supervised by a physician, such physician may bill under the normal physician fee schedule rules. This includes situations in which the test is performed or supervised by another physician with whom the billing physician shares a practice. *Section 80, Chapter 15 of Pub. 100-02BP sets forth the various levels of physician supervision required for diagnostic tests.* The supervision requirement *for physician billing* is not met when the test is administered by supplier personnel regardless of whether the test is performed at the physician's office or at another location.

If a physician bills for a diagnostic test performed by an outside supplier, the fee schedule amount for the purchased service equals the lower of the billing physician's fee schedule or the price he or she paid for the service. The lower figure is the fee schedule amount for purposes of the limiting charge. (See §*30.3.12.1, Chapter 1 of this Publication.*) The billing physician must identify the supplier (including the supplier's provider number) and the amount the supplier charged the billing physician (net of any discounts). A physician who accepts assignment is permitted to bill and collect from the beneficiary only the applicable deductible and coinsurance for the purchased test. A physician who does not accept assignment is permitted to bill and collect from the beneficiary only the fee schedule amount (as defined above) for the purchased test. The limiting charge provision is not applicable.

If the physician does not identify the supplier and provide the other required information, no payment is allowed, and the physician may not bill the beneficiary any amount for the test.

## 20.2.4.2 - Payment to Physician for Purchased Diagnostic Tests

***(Rev. 135, 04-02-04)***

A physician or a medical group may submit the claim and (if assignment is accepted) receive the Part B payment, for the **technical component** of diagnostic tests which the physician or group purchases from an independent physician, medical group, or other supplier. (This claim and payment procedure does not extend to clinical diagnostic laboratory tests.) The purchasing physician or group may be the same physician or group as ordered the tests or may be a different physician or group. An example of the latter situation is when the attending physician orders radiology tests from a radiologist and the radiologist purchases the tests from an imaging center. The purchasing physician or group may not mark up the charge for a test from the purchase price and must accept the lowest of the fee schedule amount if the supplier had billed directly; the physician's actual charge; or the supplier's net charge to the purchasing physician or group, as full payment for the test even if assignment is not accepted.

In order to purchase a diagnostic test, the purchaser must perform the interpretation. The physician or other supplier that furnished the technical component must be enrolled in the Medicare program. No formal reassignment is necessary.

**A - Purchased TC Services**

Carriers must apply the purchased services limitation to the TC of radiologic services other than screening mammography procedures.

**B - Payment to Supplier of Diagnostic Tests for Purchased Interpretations**

A person or entity that provides diagnostic tests may submit the claim, and (if assignment is accepted) receive the Part B payment, for diagnostic test interpretations which that person or entity **purchases** from an independent physician or medical group if:

- The tests are initiated by a physician or medical group which is independent of the person or entity providing the tests and of the physician or medical group providing the interpretations;

- The physician or medical group providing the interpretations does not see the patient; and

- The purchaser (or employee, partner, or owner of the purchaser) performs the technical component of the test. The interpreting physician must be enrolled in the Medicare program. No formal reassignment is necessary.

The purchaser must keep on file the name, the provider identification number and address of the interpreting physician. The rules permitting claims by a facility or clinic for services of an independent contractor physician on the physical premises of the facility or clinic are set forth in Chapter 1.

**C - Sanctions**

Physicians who knowingly and willfully, in repeated cases, bill Medicare beneficiaries amounts beyond those outlined in this chapter are subject to the penalties contained under §1842(j)(2) of the Act. Penalties are assigned after post-pay review depending on the severity.

**D - Questionable Business Arrangements**

No special charge or *payment constraints are imposed on tests performed by a physician or a technician under the physician's supervision. There are two requirements for all diagnostic tests under §1861(s)(3) of the Act, as implemented by 42 CFR §410.32 and section 10 of chapter13 of this publication and section 80, chapter 15 of Pub. 100-02BP. Namely, the test must be ordered by the treating practitioner, and the test must be supervised by a physician.* However, attempts may be made by the medical diagnostic community to adjust or establish arrangements which continue to allow physicians to profit from other's work or by creating the appearance that the physician has performed or supervised his/her *technicians who are employed, contracted, or leased*. Some of these arrangements may involve cardiac scanning services and mobile ultrasound companies leasing their equipment to physicians for the day the equipment is used, and hiring out their staff to the physicians to meet the supervision requirement.

*The bonafides of such arrangements may be suspect and could be an attempt to circumvent the prohibition against the mark-up on purchased diagnostic tests. If you*

*have any doubt that a particular arrangement is a valid relationship where the physician is performing or supervising the services, this should be investigated. The Office of the Inspector General (OIG) has responsibility for investigating violations of §1842(n) of the Act.*

Another arrangement to circumvent the purchased diagnostic service provision is for the ordering physician to reassign his/her payment for the interpretation of the test to the supplier. The supplier, in turn, bills for both the test and the interpretation and pays the ordering physician a fee for the interpretation. This arrangement violates §1842(b)(6) of the Act, which prohibits Medicare from paying benefits due the person that furnished the service to any other person, subject to limited exceptions discussed in §3060.D. Also, this arrangement could constitute a violation of §1128 B (b) of the Act, which prohibits remuneration for referrals (i.e., kickbacks).

Violations of §1128B (b) of the Act may subject the physician or supplier to criminal penalties or exclusion from the Medicare and Medicaid programs. Illegal remuneration for referrals can be found even when the ordering physician performs some service for the remuneration.