

Services provided under the in-office ancillary exception to the physician self-referral law

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Growth of ancillary services in physician offices

- Increase in imaging, lab tests, physical therapy in physician offices
- Ancillary services account for significant share of Part B revenue for certain specialties
- CMS asked for comment on whether certain services should no longer qualify for exception

Radiation therapy provided under in-office exception

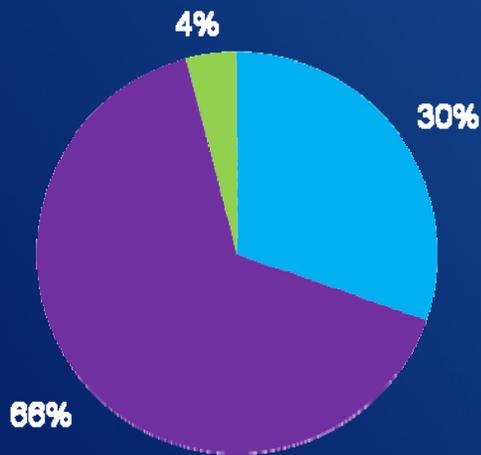
- Covers physicians (other than radiation oncologists) who refer patients for radiation therapy provided in their offices
- Medicare paid \$104 million to specialties other than radiation oncology for radiation therapy in 2008
 - 84% increase from 2003
- But their share of total radiation therapy payments (5%) did not change from 2003 to 2008

Outpatient therapy provided under in-office exception

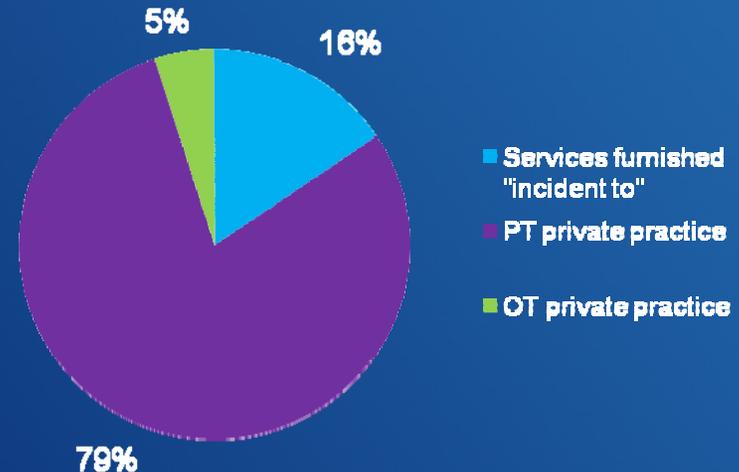
- Covers physicians who order therapy that is provided by therapists employed by physicians' group
- Therapists employed by physician may provide therapy "incident to" physician's services or bill Medicare independently
 - Incident to services must be supervised by physician in office when service delivered
 - Therapists who bill independently (therapists in private practice) do not require physician supervision

Physician fee schedule spending for therapy services shifted to therapists in private practice, 2003 to 2008

2003
Total spending = \$1.4 billion



2008
Total spending = \$2.2 billion



Note: We are unable to estimate proportion of therapists in private practice who are employed by physicians.

Data are preliminary and subject to change.

Source: MedPAC analysis of 5% carrier file, 2003-2008.

Options to address concerns about in-office ancillary services: Overview

Radiation therapy & physical therapy

Exclude from in-office exception

Exclude unless practice is clinically integrated

Improve payment accuracy

Diagnostic imaging & lab tests

Exclude from in-office exception unless provided on same day

Exclude unless practice is clinically integrated

Reduce payment rates for tests performed by self-referring physicians

Improve payment accuracy

Outpatient therapy and radiation therapy: Exclude from in-office exception

- Physician investment in therapeutic services may skew decisions about treatment
- Patients could still receive care from
 - Therapists not part of physician groups
 - Radiation oncology practices
- Would affect clinically-integrated groups that include medical and radiation oncologists

Outpatient therapy and radiation therapy: Exclude from exception unless group has significant clinical integration

- How to define clinical integration
 - E.g., each physician in the group provides substantial share (e.g., 75%) of his/her services through the group
- Would discourage arrangements primarily designed to capture ancillary revenue
- Even integrated groups have incentives to drive volume under current payment systems
- Eventually, need to hold providers accountable for costs and quality

Imaging and lab tests: Exclude from in-office exception unless usually provided on same day as office visit

- Certain tests often used by physicians to make rapid diagnoses during office visit
- Options for defining which tests should be covered by exception
 - Tests that are frequently provided on same day as visit (based on numeric threshold), or
 - Tests that do not require advance preparation by patients
- Several implementation challenges

Imaging and lab tests: Exclude from exception unless group has significant clinical integration

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 - E.g., each physician in the group provides substantial share (e.g., 75%) of his/her services through the group
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Imaging and lab tests: Reduce payment rates for tests performed by self-referring physicians

- Evidence that self-referral of imaging and lab tests associated with increased volume
- Lower payment rates for self-referring physicians would offset some of additional Medicare spending
- Should policy apply to all diagnostic tests or a subset?
 - CMS could exempt low-cost tests or tests frequently done on same day as office visit
- How to determine size of payment reduction

For Commissioner discussion: Which strategies should we pursue?

Radiation therapy & physical therapy

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Exclude unless practice is clinically integrated

Improve payment accuracy

Imaging & lab tests

Exclude from in-office exception unless provided on same day

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