



## The Consultation Trap

### HOW TO HANDLE E/M ENCOUNTERS

By Melody W. Mulaik, MSHS, CPC, CPC-H, RCC, PCS, FCS

One of the hot topics in the coding and compliance world today is the issue of selecting the correct evaluation and management (E/M) category. It would be nice if this were always an easy choice, but unfortunately it is not. It is critical that you provide accurate and appropriate guidance on this topic to your staff and the physicians for whom you are billing. Otherwise, you might find yourself in an uncomfortable situation during an audit.

Regardless of who is coding the E/M encounters, I recommend that you run a report of the type and levels of services being billed for your physicians. If you find that a physician is always billing consultations and has few, if any, new patient visits, you may have a problem. The fact that a physician is a specialist does not automatically mean that every new patient visit is a consultation.

Unfortunately, this misconception permeates our industry. But as patients become more educated and insurance plans loosen their "referral" requirements, more and more patients are actively seeking out specialists without going through another physician. Examples include a patient who notices an abnormal skin lesion and goes directly to a dermatologist; an older patient who has been battling high blood pressure and decides to skip the primary care physician and seek the expertise of a cardiologist; or even a parent who decides that her child needs an ophthalmology evaluation and schedules the appointment herself instead of meeting with the pediatrician first.

There is an abundance of similar scenarios for other specialists as well. It doesn't matter how we used to do

things. Times are changing, Medicare rules are being updated and we have to ensure that we are doing things correctly for today's situations, not last year's.

#### Consultation Request

A consultation is a patient encounter provided by a physician or qualified nonphysician practitioner whose opinion or advice regarding evaluation and/or management of a specific problem is requested by another physician, nonphysician practitioner, or other appropriate source. The definition of an 'appropriate source' may vary from one insurance payor to another; written payor guidelines should be followed. For simplicity's sake, the term "physician" will be used to represent all 'appropriate sources' for the remainder of this article. There are very specific requirements that must be met to report a consultation service instead of a new patient or established patient visit.

During a consultation, the physician (consultant) will evaluate a particular condition or concern and provide a recommendation to the requesting physician. The consultant does not need to gain approval from the attending physician in order to initiate treatment, and said treatment may be performed on the same day or in close proximity to the consultation.

CMS Transmittal 788<sup>1</sup> clarified Medicare's position on consultation services, and includes the following excerpt: "The intent of a consultation service is that a physician or qualified NPP or other appropriate source is asking another physician or qualified NPP for advice, opinion, a recommendation, suggestion, direction, or counsel,

etc. in evaluating or treating a patient because that individual has expertise in a specific medical area beyond the requesting professional's knowledge." A split/shared visit including services provided in part by a physician and in part by a nonphysician practitioner may **not** be reported as a consultation.

The Transmittal also states, "A transfer of care occurs when a physician or qualified NPP requests that another physician or qualified NPP take over the responsibility for managing the patients' complete care for the condition and does not expect to continue treating or caring for the patient for that condition. When this transfer is arranged, the requesting physician or qualified NPP is not asking for an opinion or advice to personally treat this patient and is not expecting to continue treating the patient for the condition. In a transfer of care the receiving physician or qualified NPP would report the appropriate new or established patient visit code according to the place of service and level of service performed and shall not report a consultation service."

In the office or outpatient setting, another consultation code may be reported if an additional request for consultation is received from the same or another physician or practitioner. The request may be related to the same problem as the prior consultation or a new problem.

#### Consultation Request

The written or verbal request for a consultation, initiated by a physician or qualified nonphysician practitioner, must be documented in the patient's medical record.

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While the consultation request may be verbal, CMS states that the "...verbal interaction identifying the request and reason for a consult must be documented in the patient's medical record by the requesting physician or qualified NPP and also by the consultant physician or qualified NPP in the patient's medical record." An evaluation that is initiated by a patient and/or family, and not requested by a physician, is not reported using the consultation codes but may be reported using office visit codes (i.e., new patient visit, established patient visit), as appropriate.

### **Reason for Consultation**

The reason for the consultation service must be documented by the consultant in the patient's medical record and

included in the requesting physician or qualified NPP's plan of care. The consultation request may be written on a physician order form by the requestor in a shared medical record. If a consultation is mandated, e.g., by a third-party payer, modifier 32 should also be reported; however, these second opinion services are not required or reimbursed by Medicare.

### **Consultation Report**

The consultant's opinion, advice, and any services that were ordered or performed must also be documented in the patient's medical record and communicated by written report to the requesting physician or other appropriate source. In an office setting, the

consultation report is a separate document communicated to the requesting physician or qualified NPP. Where there is a shared medical record, the consultant's report may be included in the medical record documentation without a separate letter. A "courtesy copy" of a history and physical is not generally considered to be the provision of opinion or advice. CMS states: "The written request and the consultation evaluation, findings, and recommendations shall be available in the consultation report."

Any specifically identifiable procedure (i.e., identified with a specific CPT<sup>®</sup> code) performed on or subsequent to the date of the initial consultation should be

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reported separately.

### Consultation Level

When assigning a code for a consultation, the level of service must be met in all three components: history, examination, and medical decision-making. If the three key components do not support the same level of service, the component with the lowest level determines the overall level of E/M code selected.

According to Medicare, the following do **not** meet the criteria for consultations:

- Standing orders in the medical record for consultations
- No order for a consultation
- No written report for a consultation

Also remember that a 'courtesy copy'

of the patient history and physical may not meet the requirements for the provision of opinion and/or advice to the attending physician.

### Key Consultation Points:

- Consultations must be requested by a physician or other appropriate source (non-physician practitioners may request a consultation); this request must be documented.
- Consultations must be performed by a physician or qualified nonphysician practitioner.
- The medical necessity for the consultation must be documented in the patient medical record.
- The consultant must prepare a separate written report for the attending physician.

- When a transfer of care for the specific condition occurs, a new patient visit or established patient visit should be coded and billed.
- If a 'confirmatory consultation' is mandated by an insurance payor or other source, modifier 32 (mandated services) is appended to the E/M procedure code.

The Medicare Claims Processing Manual, Section 30.6.10, contains complete information on consultation services: [www.cms.hhs.gov/manuals/104\\_claims/clm104c12.pdf](http://www.cms.hhs.gov/manuals/104_claims/clm104c12.pdf) ▲

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## Where, Oh Where, Have My Clients Gone?

### YOU'VE GOT THAT LONESOME FEELING

By David F. Jakielo, CHBME

**T**he billing industry is more volatile today than I have seen in many years. Good companies that have been providing excellent service to long-time customers are losing some of those customers. And if a company hasn't been growing and has not positioned itself so that no one customer makes up more than ten percent of the firm's total revenue, a loss of a large customer can have a devastating impact.

What is causing clients to leave a company that has been providing excellent service? Some of the factors that I have encountered with some of my clients are as follows:

- Practices are jumping on the electronic medical record (EMR) bandwagon and purchasing systems from vendors who are telling the practices that the system includes a billing module that is so easy to use that you no longer need a billing company.
- Due to economic pressures, practices are merging with one another to increase market share and reduce overhead costs, which can be achieved if the merger is handled properly.
- Believe it or not hospitals are still buying physician practices. When will they ever learn? Buying a successful practice that has been built by a group of independent physicians usually leads to disaster for both the hospital and the practice. What both sides seem to miss in the transaction is that "independent physicians" who have been calling their own shots for many years rarely make good employees.
- Younger partners in the practice attend a convention and meet a new billing vendor. Wanting to put their own footprint on the practice, they convince the other doctors that it is time for a change in billing vendors.

Losing a client is inevitable because we all know that nothing lasts forever. When we fail to admit to ourselves that eventually there will be attrition in our firms, we are on the path to self destruction, especially if we do not have any replacement candidates in the pipeline.

However, numerous actions can be taken to ensure you don't find yourself in a situation where you have to tell some of your long time and very loyal employees that you can no longer keep them employed. Remember, losing a large client may mean your bonus is smaller this year; when you layoff

employees, it may be devastating to them and their families' economic welfare.

So what steps can you take to protect your firm from suffering a crushing blow when you lose a client?

- Position your client base so that no one client is more than 10 percent of your total revenue.
- Devote a minimum of 20 percent of your time to marketing and build your pipeline of prospects. Keep in mind that, on average, you will close about 10 to 20 percent of the prospects in your pipeline, so if you want to add one to two new clients per year, there should be 10 to 20 prospects in your pipeline.
- Make a list of the top 10 prospects that you would like to turn into clients and concentrate your marketing efforts on those prospects. You don't have the time or money to try to land every possible prospect, but you definitely have the ability to concentrate on 10.
- Never assume that your current clients know that you are looking for additional business. Always ask them after every interaction, "Is there anyone else you know whom I should be talking to about my services?" Someone once told me that when he asked a client that question, the client responded, "I don't want you to grow because that means you'll spend less time on my account." If you have a client with that attitude, I highly recommend you "fire" him immediately. He is probably telling the rest of the marketplace that your service is terrible so that you don't grow.

Lastly, remember that every contact with every person is a marketing opportunity; make sure you take advantage of it. And keep in mind that you don't necessarily need to be out "networking" all the time—but if you aren't, eventually you'll be "not working." ▲

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