

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-02 Medicare Benefit Policy	Centers for Medicare & Medicaid Services (CMS)
Transmittal 10541	Date: December 31, 2020
	Change Request 12120

SUBJECT: January 2021 Update of the Hospital Outpatient Prospective Payment System (OPPS)

I. SUMMARY OF CHANGES: This Change Request implements the change in the manual requirements of chapter 6, the Medicare Benefit Policy Manual 100-02, related to Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After January 1, 2021, finalized in the CY 2021 Outpatient Prospective Payment System (OPPS)/Ambulatory Surgical Center (ASC) Final Rule.

EFFECTIVE DATE: January 1, 2021

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: January 4, 2021

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. 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: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	6/Table of Contents
R	6/20.5/20.5.3/Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After January 1, 2020 – Changes to Supervision Requirements
D	6/20.7/Non-Surgical Extended Duration Therapeutic Services

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Attachment - Business Requirements

Pub. 100-02	Transmittal: 10541	Date: December 31, 2020	Change Request: 12120
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SUBJECT: January 2021 Update of the Hospital Outpatient Prospective Payment System (OPPS)

EFFECTIVE DATE: January 1, 2021

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IMPLEMENTATION DATE: January 4, 2021

I. GENERAL INFORMATION

A. Background: This Change Request implements the change in the manual requirements of chapter 6, the Medicare Benefit Policy Manual 100-02, related to Coverage of Outpatient Therapeutic Services Incident to a Physician’s Service Furnished on or After January 1, 2021, finalized in the CY 2021 Outpatient Prospective Payment System (OPPS)/Ambulatory Surgical Center (ASC) Final Rule.

B. Policy: 1. General Supervision of Outpatient Hospital Therapeutic Services Currently Assigned to the Non-Surgical Extended Duration Therapeutic Services (NSEDTS) Level of Supervision

NSEDTS describe services that have a significant monitoring component that can extend for a lengthy period of time, that are not surgical, and that typically have a low risk of complications after the assessment at the beginning of the service. Currently, these services have a minimum default level of supervision of NSEDTS. The NSEDTS level of supervision requires 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. The NSEDTS level of supervision is described at 42 Code of Federal (CFR) 410.27(a)(1)(iv)(E).

The generally applicable minimum required level of supervision for NSEDTS will change on January 1, 2021 from the current NSEDTS level of supervision to general supervision for NSEDTS furnished by all hospitals and Critical Access Hospitals (CAHs). Also, the NSEDTS level of supervision will be eliminated, as 42 Code of Federal (CFR) 410.27(a)(1)(iv)(E) will be deleted as of January 1, 2021.

General supervision is defined in regulation at 42 Code of Federal (CFR) 410.32(b)(3)(i) to mean that the procedure is furnished under the physician's overall direction and control, but that the physician's presence is not required during the performance of the procedure. All of the policy safeguards that have been in place to ensure the safety, health, and quality standards of the outpatient therapeutic services that beneficiaries receive will continue to be in place under our new policy. These safeguards include allowing providers and physicians the discretion to require a higher level of supervision to ensure an NSEDTS is performed without risking beneficiary safety or quality of care, as well as the presence of outpatient hospital and CAH Conditions of Participation (CoPs), and other state and federal laws and regulations.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
12120 - 02.1	Medicare contractors shall refer to Pub.100-02, the Medicare	X		X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
	Benefit Policy Manual, chapter 6, section 20.5.3 for the latest revisions. Section 20.7 has been deleted.									

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
12120 - 02.2	MLN Article: CMS will make available an MLN Matters provider education article that will be marketed through the MLN Connects weekly newsletter shortly after the CR is released. MACs shall follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1, instructions for distributing MLN Connects information to providers, posting the article or a direct link to the article on your website, and including the article or a direct link to the article in your bulletin or newsletter. You may supplement MLN Matters articles with localized information benefiting your provider community in billing and administering the Medicare program correctly. Subscribe to the "MLN Matters" listserv to get article release notifications, or review them in the MLN Connects weekly newsletter.	X		X		

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Marina Kushnirova, marina.kushnirova@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 0

Medicare Benefit Policy Manual

Chapter 6 - Hospital Services Covered Under Part B

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 - 20.5.2 - Coverage of Outpatient Therapeutic Services Incident to a Physician's Services Furnished on January 1, 2010 through December 31, 2019
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 - 20.6 - Outpatient Observation Services
- 30 - Drugs and Biologicals
- 40 - Other Covered Services and Items
- 50 - Sleep Disorder Clinics
- 60 - Intermittent Peritoneal Dialysis Services
- 70 - Outpatient Hospital Psychiatric Services
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20.5.3 - Coverage of Outpatient Therapeutic Services Incident to a Physician's Service Furnished on or After January 1, 2020 – Changes to Supervision Requirements

(Rev. 10541; Issued: 12-31-20; Effective: 01-01-21; Implementation: 01-04-21)

Starting January 1, 2020, CMS requires, as the minimum level of supervision, general supervision by an appropriate physician or non-physician practitioner in the provision of all therapeutic services to hospital outpatients, including CAH outpatients. “General supervision” means the definition specified at 42 CFR 410.32(b)(3)(i), that is, the procedure or service is furnished under the physician's overall direction and control, but the physician's presence is not required during the performance of the procedure. CMS may assign certain hospital outpatient therapeutic services either direct supervision or personal supervision. When such assignment is made, “direct supervision” means the definition specified at 42 CFR 410.32(b)(3)(ii), that is, the physician must be immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean that the physician or must be present in the room when the procedure is performed. “Personal supervision” means the definition specified at 42 CFR 410.32(b)(3)(iii), that is, the physician must be in attendance in the room during the performance of the service or procedure.

The list of services starting January 1, 2020 and ending December 31, 2020 that are defined as non-surgical extended duration therapeutic services where the initiation of the service must be performed under direct supervision is available on the OPSS Website at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html>. Starting January 1, 2021, the minimum level of supervision for non-surgical extended duration therapeutic services will be general supervision for the entire service including for the initiation of the service.