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CLIENT/MATTER NUMBER  
**042332-0102**

April 27, 2001

W. Calvin Chaney, JD  
Associate Executive Director, Policy  
American College of  
Emergency Physicians  
1125 Executive Circle  
Irving, TX 75038-2522

Re: Medicare Reimbursement Rules for Professional Interpretation of X-ray and  
EKG Services

Dear Cal:

You asked us to summarize the consequences of failing to comply with the billing rules and regulations under Medicare in connection with reimbursement of the professional component of X-rays and **EKGs** performed in emergency department ("ED") settings. You also mentioned your interest in the rules associated with the interpretation of ultrasound tests. While the Medicare rules we describe below expressly apply to X-rays and **EKGs**, we have no reason to believe that HCFA would apply a different rule to the interpretation of a specific radiology test, such as ultrasound, than it applies to X-rays.

You stated that there are instances in which hospitals have entered into exclusive agreements with a cardiology group or a radiology group. In some instances, when the hospitals generally bill for the emergency physicians' services, the hospitals have refused to bill for, or allow the emergency physicians to bill for, the professional interpretation of X-rays and **EKGs** performed in the ED when such interpretations are rendered by the emergency physician. Rather, the hospitals are allowing the cardiologist or radiologist to bill for interpretations provided by the cardiologist or radiologist, even when the interpretations are not rendered "contemporaneously" with the X-ray or EKG.

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Under current Medicare policy, when a professional interpretation of an X-ray or EKG does not contribute to the diagnosis and treatment of the emergency patient, then such interpretation is not deemed to be medically necessary and is not reimbursable under Medicare.' The Health Care Financing Administration ("HCFA") assumes that an interpretation performed by a cardiologist or radiologist "contemporaneously" with the diagnosis and treatment of an emergency patient "directly contributes" to such diagnosis and treatment. According to HCFA, an interpretation that is provided "days or hours" after the patient is sent home does not meet this requirement. Rather, HCFA view such services as quality control activities. Thus, any interpretation that is not performed contemporaneously is not medically necessary. Billing for non-medically necessary services can carry severe consequences. It is even possible that submission of a claim for such services might be viewed as submission of a false claim.

If a hospital bills for the professional component of an X-ray or EKG, the hospital should ensure that it complies with the Medicare rules and bills only for the interpretation that was medically necessary. Attempts by the hospital to circumvent the Medicare rules by ensuring that only one bill is submitted to HCFA could potentially be deemed to be fraudulent behavior if HCFA were to discover that the hospital submitted bills for professional interpretations that did not contribute to the diagnosis and treatment of the patient and did not allow emergency physicians to bill for the interpretations that did contribute to the diagnosis and treatment of the patient.

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If you have any questions about this matter, please feel free to call us at any time.

Very truly yours,

Paula C. Ohliger

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<sup>1</sup> See attached addendum for a summary of current Medicare policy regarding this issue.

## ADDENDUM

### Current Medicare Policy

Prior to 1996, the interpretation of an X-ray or EKG furnished to an emergency room patient by a radiologist or cardiologist, respectively, “almost always” constituted a covered Part B service payable by the carrier, regardless of whether the procedure had been previously interpreted by an ER physician or whether such interpretation had been used in the diagnosis and treatment of the patient. 60 Fed. Reg. 63124 at 63173 (December 8, 1995).

However, in 1995, HCFA changed its policy in connection with X-ray services and **EKGs** furnished to ER patients after January 1, 1996. HCFA described this new policy in the Federal Register. 60 Fed. Reg. 63 124 (December 8, 1995). The policy change is not explicitly addressed in the regulations, but only addressed in the Federal Register and **in HCFA’s** instructions to the carriers.

Under the new policy, HCFA will reimburse only one interpretation of an X-ray or EKG furnished to an ER patient under Medicare, except under “unusual circumstances” such as when (i) the physician performing the initial interpretation believes another physician’s expertise is needed to interpret a questionable finding, or (ii) a secondary diagnosis results from the second interpretation of the procedure. 60 Fed. Reg. 63124 at 63132 (December 8, 1995). (As an example of the second **circumstance** in the context of X-ray services, HCFA stated that it will pay for interpretations provided by both the ER physician and a radiologist who subsequently interprets an X-ray performed in the ER, if the radiologist providing the second interpretation **finds** a suspicious area suggesting a **tumor** in addition to confirming the initial finding made by the ER physician.) If either of the foregoing “unusual circumstances” exists, HCFA will pay for both professional interpretations. If neither “unusual circumstance” exists, then the general rule will apply, and HCFA **will** pay only for one interpretation furnished to an ER patient.

HCFA chooses which professional interpretation it will reimburse by determining which interpretation “directly contributed to the diagnosis and treatment of the individual patient.” 60 Fed. Reg. 63124 at 63133. HCFA assumes that any interpretation performed by a cardiologist or radiologist “contemporaneously” with the diagnosis and treatment of an ER patient “directly contributes” to such diagnosis and treatment. 60 Fed. Reg. 63 124 at 63 130-63 13 1. HCFA defines “contemporaneously” as occurring at the same time as the diagnosis and treatment by the physician in the ER, as opposed to an interpretation that is performed “hours or days” after the beneficiary is sent home. 60 Fed. Reg. 63 124 at 63 13 1. If a cardiologist or radiologist provides the professional interpretation contemporaneously with the ER services, then the cardiologist or radiologist may bill for those professional services, and such services will be reimbursed under Medicare. In that instance, the professional interpretation furnished by the ER physician would not be paid under Medicare because it did not contribute to the diagnosis and treatment of the patient, and the ER

physician should not bill for such services. If the cardiologist or radiologist bills for professional services that were provided later than the date on which ER services were provided, then HCFA will assume that such interpretation did not contribute to the diagnosis and treatment of the ER patient. HCFA will view the second interpretation as a quality control measure provided by the hospital and will not pay for the second interpretation, unless the interpretation falls into one of the "unusual circumstances" described above.

While both interpretations may be reimbursed under Medicare if there are unusual circumstances, for example, when a cardiologist discovers a secondary diagnosis or when the ER physician is unable to diagnose a condition because of a "questionable finding" on the EKG, we note that HCFA's policy in the latter instances is somewhat ambiguous. For example, if the ER physician sends an EKG to a cardiologist for interpretation because of a questionable finding, it is difficult to determine how that situation differs from one in which the cardiologist's interpretation "contributed to the diagnosis and treatment of the patient." In the first instance, both interpretations would be reimbursed. In the second, only the cardiologist's interpretation would be reimbursed. We cannot be certain whether HCFA has discovered this ambiguity and how it has addressed it. However, the examples provided by HCFA in the Medicare Carrier's Manual appear to indicate that HCFA would likely pay only for the cardiologist's interpretation in this situation.

To summarize, under Medicare, HCFA will pay the first claim submitted in connection with the professional interpretation of an X-ray or EKG, whether such claim is from the ER physician, a cardiologist, or a radiologist. If HCFA receives two claims for the same EKG procedure, HCFA will determine which interpretation contributed to the diagnosis and treatment of the patient. If HCFA determines that the first claim submitted, regardless of which physician performed the interpretation, contributed to the diagnosis and treatment of the ER patient, HCFA will pay the first claim. HCFA will deem the second claim to be a quality control measure provided by the hospital and will deny the second claim. Likewise, if HCFA determines that the second interpretation contributed to the diagnosis and treatment of the ER patient, then HCFA will pay the second claim and institute a recovery action if HCFA has already paid the **first** claim.