Codingline

Nursing Home Orders

This is an area fraught with controversy.

BY HARRY GOLDSMITH, DPM

Welcome to Codingline Particulars, a regular feature in Podiatry Management focusing on foot and ankle coding, billing, and practice management issues.

Question: *"I have been told that the requirement in a nursing home is to have a current specific order in the chart by the admitting doctor to request a podiatrist for each visit. I rarely see it brought to attention that a chart order by the nurse or a request by patient/family member is also sufficient. I have read on Codingline that the initial request can be made by the patient or family member for a podiatrist to see the patient. Additionally, I have read on Codingline opinions that subsequent or follow-up encounters by the podiatrist do not need a 'new' order, but are based on the podiatrist's determination of medical necessity. What is correct?"*

Answer: As to your question regarding patient/family members, Michael Warshaw, DPM, CPC researched your question which, by the way, is frequently asked by podiatrists seeing patients in nursing homes, and provided the quoted language from the Medicare guidelines:

"1. BASED ON THE SOCIAL SECURITY ACT, SECTION 1862: MEDICARE WILL NOT COVER ANY SERVICE OR PROCEDURE THAT IS PERFORMED ON A PATIENT OF A NURSING FACILITY UNLESS:

The patient's attending physician (MD, DO) evaluates the patient and authorizes the order for the referral to another provider specialty [in this situation, a podiatric physician] or the patient or a patient's family member, legal guardian or power of attorney (POA) requests a NAMED [podiatric] physician to treat the patient for a specific condition. In this case, the attending physician must be notified of any change in the patient's condition and any need to alter the patient's treatment significantly."

So the request for a podiatrist or any specialist can be made by a family member, legal guardian, or power of attorney (POA), but…you will also note that the attending physician is not out of the loop. The request can be made, presumably documented in the medical record (by a nurse or staff), and the attending should not only be notified, but should essentially write the order "to alter the patient's treatment significantly." I assume the word "significantly" refers to a new order for a new treatment or service, and now the attending will specifically write it in the chart.

Takeaway? Assume you are not allowed just to wander into a nursing home and begin seeing patients you have never seen in this location before, even if the patient or family wants you to see them. The attending physician needs to be aware and involved in your initial encounter.

Now, let's see about tackling questions about a requirement in a nursing home if there is "a current specific order in the chart by the admitting doctor to request a podiatrist for each visit."

Novitas Solutions (Medicare Administrative Contractor for Jurisdictions L and H has a Local Coverage Determination ("LCD") gives more insight: "Local Coverage Determination (LCD): "Coverage of Services and Procedures in Nursing Facilities"(L34863).

Indications

This policy applies to a "PRN" or "standing" order for any provider specialty or for any routine screening service (except as otherwise specified in manual instructions, e.g., MCM 2049.4 permits a standing order for pneumococcal pneumonia vaccinations) whether the order is written on the physician's order sheet integral to the patient's comprehensive care plan, or elsewhere in the patient's medical record.

The patient's attending physician (MD, DO) evaluates the patient and authorizes the order for the referral to another provider specialty.

This contractor will not cover any service or procedure that is performed on a patient of an SNF or NF, unless: The patient's attending physician evaluates the patient in person or evaluates the signs and symptoms described via telephone by the SNF/NF nursing staff and authorizes the

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order for the service, procedure, or for the referral of the patient to another provider specialty.

A named physician, whose attendance is requested only by the patient or the patient's interested family member or legal guardian, evaluates the patient and authorizes the order for the service or procedure. The attending physician must be notified of any change in the patient's physical, mental or psychosocial status, or of the need to alter the patient's treatment significantly…

[Author's Note: This paragraph reinforces the point by Medicare—the patient's attending physician is aware and ultimately makes the final determination as to whether to "order" the referral of a specialist.]

It should be noted that this policy does not prohibit a nursing home's medical director from authorizing services or procedures in emergency situations in a manner consistent with the medical director's obligations under state or federal law. In such instances, however, there must be documentation as to why the circumstances warrant intervention into the attending physician's role of caring for the patient.

Limitations

Services or procedures rendered in a nursing facility are not eligible in the following situations:

- A service or procedure is not clearly documented in a patient's medical record with respect both to its medical necessity and nature.
- A patient's attending physician does not evaluate the patient and authorize the order for a service, procedure, or for a referral of a patient to another provider specialty.
- Another physician, whose attendance is requested by a patient or a patient's interested family member or legal guardian, does not evaluate the patient and authorize the order for the service or procedure.

[Author's Note: In other words, "another physician" request by a patient or family still must evaluate the patient, but more importantly must have the authority to authorize a treatment or service order. Medicare does not explain whether that goes through the attending, which I would argue is the best way to ensure professional coordination of care, reduce confusion, and avoid a future reimbursement denial.]

- A "PRN." or "standing order" is written for any provider specialty or for any routine screening service, either on the physician's order sheet or integral to the patient's comprehensive care plan, or elsewhere in the patient's medical record.

[Author's Note: I assume that any podiatrist (or other specialist) seeing patients in a nursing facility understands that any and all orders to see a patient are made based on the individual patient's needs after the attending evaluates the patient. Standing orders (or PRN orders) are among the first things an auditor looks for when reviewing orders and records in a nursing home. While nursing homes and families certainly would love that everyone residing there get palliative nail and corn/callus care, unless it is medically necessary—i.e., the patient would be "at risk" if an aid or family member performed the service—orders cannot be pre-written on admission (standing orders) or during the patient's stay (PRN services).]

- Any laboratory study ordered on a continuing basis without a cut-off time frame and/or without documentation in the medical record supporting that the results of any previously ordered study were evaluated.

So, although that was interesting, none of it answered the question: Once a podiatrist is requested to see a patient (presume no standing orders or general PRN services), does that podiatrist need a new order each time to see a patient admitted to a nursing facility?

For the record, CMS/Medicare never addresses that "requirement". As a result, there are differing opinions:

Michael Warshaw, DPM, CPC: "Please make sure that there is a new order in the nursing facility chart by the PCP of the patient, requesting care by a podiatrist and why, prior to every encounter."

David Tomback, DPM: "It is the opinion of my father, who is also a podiatrist, that a nursing home patient only needs an order from the primary care for the initial encounter for routine foot care. After that first encounter, you are taking over for the podiatric needs of the patient and an order is not needed for all future podiatry routine visits." Having stated that, Dr. Tomback asks where in the Medicare regulations or guidelines it supports or says otherwise.

Standing orders (or PRN orders) are among the first things an auditor looks for when reviewing orders and records in a nursing home.

Paul Kinberg, DPM, CSFAC: "Everyone seems to have a different opinion on the matter of needing a new order for each routine foot care (RFC) treatment provided in a nursing home (NH). I have been following this subject line for years. It all depends on several factors:

1) The contractor medical director (CMD) and Medicare Administrative Contractor (MAC);

2) The Zone Program Integrity Contractor (ZPIC) for the region; and

3) The OIG, FBI, and Assistant US Attorney (ASUA) for the region.

[Author's Note: Denial of payment or audit instigation obviously are initiated by the MAC, contracted auditors, and/or the FBI, but…the ultimate outcome is a factor of following Medicare's and your MAC's guidelines and regulations. If there is nothing that says otherwise, and you

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have been requested by the attending physician, you actually performed the services you noted in the medical record, your documentation of history/exam and medically necessity is solid, and you are following any and all other requirements qualifying the patient for reimbursed services, you should be able to fight a denial based on recurring periodic routine foot care or any follow-up for other medically appropriate services without too much problem (just headaches).

In the over 30 years that I was a Medicare consultant/advisor (reviewing charts and appropriateness of audits), as well as an outside consultant defending podiatrists in audits, I never saw an audit based specifically on follow-up care whether routine foot care or follow-up to infections or injury. I did see many that were "standing orders"-based. If someone has been audited and lost specifically on not having subsequent orders to revisit and treat the patient, write in to Podiatry Management.]

[Back to Dr. Kinberg] From my reading, there is nothing in the Internet Only Manual (IOM), the MACs' LCDs, or their attached articles I could find that addresses whether or not a new order is needed. Even before the relatively recent consolidation of the states into MAC jurisdictions, there was nothing in writing.

However, there were Contractor Medical Directors (CMDs) who verbally expressed their thoughts on this subject without reducing those talks to written form. At least one CMD, to my knowledge, has said that routine foot care (whether a covered service or not) requires a separate written order for each episode of care.

[Author's Note: "Episode of care" is an interesting phrase. One might define that as 1) a single moment in time—one encounter, or 2) continuum of care for a specific condition during an admission, or 3) all care rendered by a specialist (including podiatrist) for a patient during their entire admission once an initial order for them to see the patient, regardless of condition, is written. It should be noted that many of us became aware of the term "episode of care" when teaching ICD-10 to doctors and staff. "Episode of care" was a phrase that denoted a hospital or nursing facility admission from beginning to end. Once a patient was discharged, the episode of care terminated.]

[Back to Dr. Kinberg] It is only my opinion that a separate order is necessary for each separate episode of routine foot care in a nursing home. By the way, to me, this is different than an order, for example, to treat a diabetic foot ulcer (DFU) that only needs an order to initiate treatment that would be "good" until treatment for the DFU has been completed. But you would also need to look at the ZPIC in your region for pre- or post-pay podiatry nursing home audits and/or any prosecutions by the Assistant U.S. Attorney (AUSA) for these types of services.

At least one CMD, to my knowledge, has said that routine foot care (whether a covered service or not) requires a separate written order for each episode of care.

Harry Goldsmith, DPM, CSFAC: Since I wrote the "Author's Notes" above, my points/opinions are there for all to see. Without repeating my comments, I would like to point out that no doctor—MD, DO, DPM—or other qualified healthcare person can 'walk' into a nursing facility and start to see and treat patients without a valid order based on patient need and medical necessity. And until someone can point to something very specific in the Medicare (not necessarily in LCDs or hearsay from CMDs) Manual, regulations, rules, or policies that says otherwise, in my opinion, of course, once a request and valid order is written for you to see and treat a patient whether it is in a nursing home or acute care hospital facility, you undertake to provide that patient whatever evaluation, testing, or treatment they need during their admission. I base that on evidence that MD/DO specialists are not required to have a new order to see patients in follow-up. Routine foot care follow-up is no different. The initial request/order for you to see the patient does three things: 1) it coordinates care between the admitting physician and any specialist requested to see/treat a patient, 2) it satisfies the nursing home regulations to avoid standing orders and medically appropriate care through "the captain of the ship"—the admitting physician, and 3) establishes a physician-patient relationship with an order and your encounter with the patient. As an independently licensed practitioner, same as MDs and DOs, once your skills are requested, you are the primary determiner of what medically appropriate care is needed based on your evaluations—after all, you are the specialist, just like the general surgeon, dermatologist, orthopedist, ophthalmologist, etc. asked to see a patient.

In closing, I did want to return to the definition of "episode of care". Vanderbilt University Medical Center citing CMS describes it as "the set of services provided to treat a clinical condition or procedure." In terms of a value-based bundle payment, it refers to a single payment for treating a patient with a specific medical condition across a full cycle of care. The American Health Lawyers Association defines episode of care as "An episode of care refers to all the treatments and services related to the treatment of a condition. For acute conditions (such as a concussion or a bone fracture), the episode refers to all treatment and services from the onset of the condition to its resolution. For chronic conditions, the episode refers to all services and treatments received over a given period of time, commonly one year." I

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would go back to the period of time as actually being the hospital admission based on billers and coders.

I am sorry if I was unable to cite specific Medicare language that limits podiatrists to single encounters without additional orders in nursing homes. You will have to determine, after reading the above, what you feel is reasonable and defendable. However you decide, keep in mind that a valid order based on the individual patient's attending physician's evaluation and thorough nursing facility chart documentation are key. Several Codingline expert panelists also note that you need to retain a copy of what was recorded—orders related to you, requests made of you, and your medical notes from the nursing facility chart for the patient treated—and keep that copy off the premises of the nursing facility...just in case of question or audit. Not a bad idea.

Codingline 2017

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Good News: The APMA Coding Resource Center now includes for its subscribers, for no additional charge, access to CodinglineSILVER through the CRC site. The feature will include an automatic registration and log on. The addition of CodinglineSILVER allows subscribers a "one-stop-shop" of coding resources and a means for asking coding, reimbursement, and practice management questions through the APMA Coding Resource Center. Subscribe to the CRC now—www.apmacodingrc.org.

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The Codingline Webinar Series is scheduled to be up and running featuring presentations from Codingline expert panelists in the summer. Go to www.codingline.com and click on Events to check out any scheduled webinars. **PM**

Dr. Goldsmith of Cerritos, CA is editor of Codingline.com and recipient of the Podiatry Management Lifetime Achievement Award.