

§410.77

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evaluation of each patient who is seen by the clinical nurse specialist.

(d) *Services and supplies furnished incident to clinical nurse specialists' services.* Medicare Part B covers services and supplies (including drugs and biologicals that cannot be self-administered) incident to a clinical nurse specialist's services that meet the requirements in paragraph (c) of this section. These services and supplies are covered only if they—

(1) Would be covered if furnished by a physician or as incident to the professional services of a physician;

(2) Are of the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the clinical nurse specialist's services;

(3) Although incidental, are an integral part of the professional service performed by the clinical nurse specialist; and

(4) Are performed under the direct supervision of the clinical nurse specialist (that is, the clinical nurse specialist must be physically present and immediately available).

(e) *Professional services.* Clinical nurse specialists can be paid for professional services only when the services have been personally performed by them and no facility or other provider charges, or is paid, any amount for the furnishing of the professional services.

(1) Supervision of other nonphysician staff by clinical nurse specialists does not constitute personal performance of a professional service by clinical nurse specialists.

(2) The services are provided on an assignment-related basis, and a clinical nurse specialist may not charge a beneficiary for a service not payable under this provision. If a beneficiary has made payment for a service, the clinical nurse specialist must make the appropriate refund to the beneficiary.

[63 FR 58908, Nov. 2, 1998]

**§410.77 Certified nurse-midwives' services: Qualifications and conditions.**

(a) *Qualifications.* For Medicare coverage of his or her services, a certified nurse-midwife must:

(1) Be a registered nurse who is legally authorized to practice as a nurse-

midwife in the State where services are performed;

(2) Have successfully completed a program of study and clinical experience for nurse-midwives that is accredited by an accrediting body approved by the U.S. Department of Education; and

(3) Be certified as a nurse-midwife by the American College of Nurse-Midwives or the American College of Nurse-Midwives Certification Council.

(b) *Services.* A certified nurse-midwife's services are services furnished by a certified nurse-midwife and services and supplies furnished as an incident to the certified nurse-midwife's services that—

(1) Are within the scope of practice authorized by the law of the State in which they are furnished and would otherwise be covered if furnished by a physician or as an incident to a physician's service; and

(2) Unless required by State law, are provided without regard to whether the certified nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

(c) *Incident to services: Basic rule.* Medicare covers services and supplies furnished incident to the services of a certified nurse-midwife, including drugs and biologicals that cannot be self-administered, if the services and supplies meet the following conditions:

(1) They would be covered if furnished by a physician or as incident to the professional services of a physician.

(2) They are of the type that are commonly furnished in a physician's office and are either furnished without charge or are included in the bill for the certified nurse-midwife's services.

(3) Although incidental, they are an integral part of the professional service performed by the certified nurse-midwife.

(4) They are furnished under the direct supervision of a certified nurse-midwife (that is, the midwife is physically present and immediately available).

(d) *Professional services.* A nurse-midwife can be paid for professional services only when the services have been performed personally by the nurse-midwife.

(1) Supervision of other nonphysician staff by a nurse-midwife does not constitute personal performance of a professional service by the nurse-midwife.

(2) The service is provided on an assignment-related basis, and a nurse-midwife may not charge a beneficiary for a service not payable under this provision. If the beneficiary has made payment for a service, the nurse-midwife must make the appropriate refund to the beneficiary.

(3) A nurse-midwife may provide services that he or she is legally authorized to perform under State law as a nurse-midwife, if the services would otherwise be covered by the Medicare program when furnished by a physician or incident to a physicians' professional services.

[63 FR 58909, Nov. 2, 1998]

**§ 410.78 Consultations via telecommunications systems.**

(a) *General rule.* Medicare Part B pays for professional consultations furnished by means of interactive telecommunications systems if the following conditions are met:

(1) The consulting practitioner is any of the following:

- (i) A physician as described in § 410.20.
- (ii) A physician assistant as defined in § 410.74.
- (iii) A nurse practitioner as defined in § 410.75.
- (iv) A clinical nurse specialist as described in § 410.76.
- (v) A nurse-midwife as defined in § 410.77.

(2) The referring practitioner is any of the following:

- (i) A physician as described in § 410.20.
- (ii) A physician assistant as defined in § 410.74.
- (iii) A nurse practitioner as defined in § 410.75.
- (iv) A clinical nurse specialist as described in § 410.76.
- (v) A nurse-midwife as defined in § 410.77.
- (vi) A clinical psychologist as described at § 410.71.
- (vii) A clinical social worker as defined in § 410.73.

(3) The services are furnished to a beneficiary residing in a rural area as defined in section 1886(d)(2)(D) of the Act, and the area is designated as a

health professional shortage area (HPSA) under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)). For purposes of this requirement, the beneficiary is deemed to be residing in such an area if the teleconsultation presentation takes place in such an area.

(4) The medical examination of the beneficiary is under the control of the consulting practitioner.

(5) As a condition of payment, the teleconsultation involves the participation of the referring practitioner, or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the patient and as needed to provide information to and at the direction of the consultant.

(6) The consultation results in a written report that is furnished to the referring practitioner.

(b) *Definition.* For purposes of this section, *interactive telecommunications systems* means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting real-time consultation among the patient, consultant, and referring practitioner, or a practitioner described in section 1842(b)(18)(C) of the Act (other than a certified registered nurse anesthetist or anesthesiologist assistant) who is an employee of the referring practitioner, as appropriate to the medical needs of the patient and as needed to provide information to and at the direction of the consulting practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of interactive telecommunications systems.

[63 FR 58909, Nov. 2, 1998]

**Subpart C—Home Health Services Under SMI**

**§ 410.80 Applicable rules.**

Home health services furnished under Medicare Part B are subject to the rules set forth in subpart E of part 409 of this chapter.