

(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.