



April 28, 2023

The Honorable Chiquita Brooks-LaSure, MPP
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Medicare Split (or Shared) Billing Policy

Dear Administrator Brooks-LaSure,

The American Academy of PAs (AAPA), on behalf of the more than 168,300 PAs (physician assistants/associates) throughout the United States and the beneficiaries to whom they provide care, requests the Centers for Medicare & Medicaid Services (CMS) revise the implementation of the planned 2024 definition of a *substantive portion* for split (or shared) services and retain the 2023 definition as either more than half of the total time or all of the history, examination, or medical decision making, except for strictly time-based services (i.e., hospital discharge management services and critical care services) for which the substantive portion would only be determined by time.

In the Calendar Year (CY) 2022 Physician Fee Schedule (PFS) and Quality Payment Program (QPP) Proposed Rule, CMS proposed to make significant changes to the split (or shared) billing policy and to define a substantive portion as “more than half of the total time” of a service. In the 2022 PFS and QPP Final Rule, CMS allowed for the substantive portion to be determined by time or all of the history, examination, or medical decision-making, except for strictly time-based services (i.e., hospital discharge management services and critical care services) for which the substantive portion could only be determined by time. CMS indicated that in CY 2023, a substantive portion would only be able to be based on time; however, in the 2023 PFS and QPP Final Rule, the implementation of this policy change was subsequently delayed until CY 2024.

The AAPA and other professional associations have significant concerns with a time-based-only definition of a substantive portion.¹ AAPA encourages CMS to retain the current definition of a substantive portion as either time or the history, examination, or medical decision making.

Time may not be the best determinant of a substantive portion or contribution to a split (or shared) encounter. One practitioner could perform a substantive portion even though another practitioner spent more than half of the total time on other important aspects of care, such as the history, examination, care coordination, medical record documentation, accurate computerized provider order entry, and other components of a service. In addition, time may be influenced by the individual attributes of a practitioner and by uncontrollable variables such as whether family or

caregivers are present, social determinants of health are being addressed, or considerable care coordination is required. Furthermore, the tracking and documenting of the time that various practitioners contribute to a service is administratively burdensome.

Changes that were made to split (or shared) billing policy have already disrupted collaborative practice patterns that have been established for decades and are associated with high-quality care.²⁻
³ Additional changes to the substantive portion, as proposed, will likely further disrupt collaborative practices and workflows. Concerns have been expressed regarding the potential effects of the proposed 2024 changes on practitioner burnout, satisfaction, collaboration, and compensation.⁴⁻⁵ The effect of any of these could adversely affect patient experience and outcomes and indirectly increase care costs.

To avoid further adverse consequences, AAPA urges CMS to retain the current definition of a substantive portion as either more than half of the total time or all of either the history, examination, or medical decision-making, except for strictly time-based services (i.e., hospital discharge management services and critical care services) for which the substantive portion would only be determined by time.

AAPA welcomes further discussion with CMS regarding this issue. Please do not hesitate to contact me at michael@aapa.org with any questions you may have.

Respectfully,



Michael L. Powe
Vice President of Reimbursement & Professional Advocacy

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1. American Medical Association, et al. Public Comment Letter. March 29, 2022. <https://searchf.ama-assn.org/letter/documentDownload?uri=%2Funstructured%2Fbinary%2Fletter%2FLETTERS%2FSign-on-letter-to-CMS-re-Split-or-Shared-Visits-Final-03-29-22.pdf>
 2. Society of Hospital Medicine. Public Comment Letter. March 29, 2022. <https://www.hospitalmedicine.org/policy--advocacy/letters/shm-sends-letter-to-cms-on-split-or-shared-billing-policy/>
 3. Kleinpell RM, Grabenkort WR, Kapu AN, Constantine R, Sicoutris C. Nurse practitioners and physician assistants in acute and critical care: A concise review of the literature and data 2008-2018. *Crit. Care Med.* 2019; 47(10): 1442-1449. DOI:10.1097/CCM.0000000000003925
 4. Rumpke A. New CMS rule on split/shared encounters set to be delayed until 2024. *MGMA Insight.* July 8, 2022. <https://www.mgma.com/practice-resources/revenue-cycle/new-cms-rule-on-split-shared-encounters-set-to-be>
 5. Maquire M. Split visit billing rules physicians and NPs/PAs. *Today's Hospitalist.* January 2022. <https://www.todayshospitalist.com/split-visit-billing-new-rules-physicians-nps-pas/>