

New Subset Modifiers – 59 Distinct Procedural Services

The Centers for Medicare and Medicaid Services (CMS) has created new Healthcare Common Procedure Coding System (HCPCS) modifier – 59 coding requirements that could impact your reimbursement.

Effective January 1, 2015 with an implementation date of January 5, 2015, CMS is establishing the following four new HCPCS modifiers; collectively referred to as –X {EPSU} modifiers that define subsets of modifier – 59, a modifier that is currently used to identify a “Distinct Procedural Service”:

- XE – Separate Encounter, A Service That Is Distinct Because It Occurred During A Separate Encounter,
- XS – Separate Structure, A Service That Is Distinct Because It Was Performed On A Separate Organ/Structure,
- XP – Separate Practitioner, A Service That Is Distinct Because It Was Performed By A Different Practitioner, and
- XU – Unusual Non-Overlapping Service, The Use Of A Service That Is Distinct Because It Does Not Overlap Usual Components Of The Main Service.

Modifier -59 is the most widely used HCPCS modifier and is broadly applied. According to CMS, some providers are using it incorrectly to bypass the Medicare National Correct Coding Initiative (NCCI) edits. As a result, considerable abuse and high levels of manual audit activity have led to reviews, appeals and even civil fraud and abuse litigation.

CMS will continue to recognize modifier – 59, but notes in Current Procedural Terminology (CPT) instructions that it should not be used when a more descriptive modifier is available. Although modifier – 59 will continue to be recognized, CMS may selectively require a more specific –X {EPSU} modifier for billing certain codes that are at high risk for being incorrectly used, i.e., a particular NCCI Procedure To Procedure (PTP) code pair may only be payable with the –XE Separate Encounter modifier. **Because the –X {EPSU} modifiers are more selective versions of modifier – 59, it would be incorrect to include both modifiers on the same line.** At this time, CMS will initially accept either modifier – 59 or a more selective –X {EPSU} modifier. Note: these new modifiers are valid even before national edits are in place allowing Medicare Administrative Contractors to require their use when necessitated by local program integrity and compliance needs.

We believe, in the near future, the local contractors will issue more guidance for specific CPT code pairs. As we learn more, in the upcoming months before or upon the implementation date of January 5, 2015, look for new tips on MerlinoHCCC web site, or on your local contractors web sites.

For additional details and to download a copy of the August 15, 2014 MLM Matters Article MM8863, click [HERE](#) or for a copy of the official Transmittal R14220TN, click [HERE](#).