Sec. 410.71  Clinical psychologist services and services and supplies incident to clinical psychologist services.

(a) Included services. (1) Medicare Part B covers services furnished by a clinical psychologist, who meets the requirements specified in paragraph (d) of this section, that are within the scope of his or her State license, if the services would be covered if furnished by a physician or as an incident to a physician's services.

(2) Medicare Part B covers services and supplies furnished as an incident to the services of a clinical psychologist if the following requirements are met:

(i) The services and supplies would be covered if furnished by a physician or as an incident to a physician's services.

(ii) The services or supplies are of the type that are commonly furnished in a physician's or clinical psychologist's office and are either furnished without charge or are included in the physician's or clinical psychologist's bill.

(iii) The services are an integral, although incidental, part of the professional services performed by the clinical psychologist. For example, when services are performed under the direct supervision of the clinical psychologist in the clinical psychologist's office, the clinical psychologist must be present in the office suite and immediately available to provide assistance and direction throughout the time the service is being performed.

(iv) The individual performing the service must be an employee of either the clinical psychologist or the legal entity that employs the supervising clinical psychologist, under the common law control test of the Act as more fully set forth in 20 CFR 404.1007.

(b) Application of mental health treatment limitation. The treatment services of a clinical psychologist and services and supplies furnished as an incident to those services are subject to the limitation on payment for outpatient mental health treatment services set forth in Sec. 410.155.

(c) Payment for consultations. A clinical psychologist or an attending or primary care physician may not bill Medicare or the beneficiary for the consultation that is required under paragraph (e) of this section.

(d) Qualifications. For purposes of this subpart, a clinical psychologist is an individual who--

(1) Holds a doctoral degree in psychology; and

(2) Is licensed or certified, on the basis of the doctoral degree in psychology, by the State in which he or she practices, at the independent practice level of psychology to furnish diagnostic, assessment, preventive, and therapeutic services directly to individuals.

(e) Agreement to consult. A clinical psychologist who bills Medicare Part B must agree to meet the requirements of paragraphs (e)(1) through (e)(3) of this section. The clinical psychologist's signature on a Medicare provider/supplier enrollment form indicates his or her agreement.

(1) Unless the beneficiary's primary care or attending physician has referred the beneficiary to the clinical psychologist, to inform the beneficiary that it is desirable for the clinical psychologist to consult with the beneficiary's attending or primary care physician (if the beneficiary has such a physician) to consider any conditions contributing to the beneficiary's symptoms.

(2) If the beneficiary assents to the consultation, in accordance with accepted professional ethical norms and taking into consideration patient confidentiality--

(i) To attempt, within a reasonable time after receiving the consent, to consult with the physician; and

(ii) If attempts to consult directly with the physician are not successful,
to notify the physician, within a reasonable time, that he or she is furnishing services to the beneficiary.

(3) Unless the primary care or attending physician referred the beneficiary to the clinical psychologist, to document, in the beneficiary's medical record, the date the patient consented or declined consent to consultation, the date of consultation, or, if attempts to consult did not succeed, the date and manner of notification to the physician.

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