

## Texas Tech University Health Sciences Center El Paso Institutional Compliance Policy

<b>Policy:</b> Teaching Physician Requirements for Evaluation & Management Services, Provided under Medicare’s Primary Care Exception (PCE) Rule	<b>Policy #:</b> BCP EP 4.2
<b>Effective Date:</b> May 5, 2011	<b>Last Revision Date:</b> July 24, 2024
<b>References:</b> 42 CFR § 415.174 CMS.gov; IOM 100-04, Chapter 12, Section 100	
<b>TTUHSC El Paso Billing Compliance Website:</b> <a href="https://ttuhscep.edu/compliance/BillingCompliance/default.aspx">https://ttuhscep.edu/compliance/BillingCompliance/default.aspx</a>	

### **Policy Statement**

This policy provides guidance regarding teaching physician presence and documentation requirements for specific Evaluation and Management (E/M) services provided by residents under the supervision of teaching physicians in primary care clinics as defined under Medicare’s Primary Care Exception (PCE) Rule.

### **Scope**

This policy applies to Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) School of Medicine Physicians who involve Residents in the care of their patients. In addition, it applies to all federal, state, and private payers unless the Institutional Compliance Officer (ICO) obtains a specific written waiver.

This policy only applies to teaching physician supervision of residents in those TTUHSC El Paso primary care centers that meet the criteria outlined in this policy and that have been identified, in writing, to the TTUHSC El Paso Medicare Administrative Contractor (MAC), Novitas, as meeting the primary care exception criteria under 42 CFR 415.174.

### **Policy**

One or more teaching physicians must be physically present on-site at the PCE clinic when supervising residents. In addition, they shall meet the other requirements outlined in the Medicare regulations and this policy.

For billing purposes, the resident shall not document the teaching physician’s presence and participation in E/M services provided in a PCE clinic.

### **Definitions**

1. **Resident(s) & Fellow(s) (Trainees)** - An individual who participates in an approved or unapproved graduate medical education (GME) program. The term includes interns and fellows in GME programs recognized as approved for purposes of direct GME payments made by the FI. Receiving a staff or faculty appointment or participating in a fellowship does not alter the status of "resident."
2. **Student** - An individual who participates in an accredited educational program (e.g., a medical school). A student is never considered to be an intern or a resident. Medicare does not pay for any service furnished by a student. See §100.1.1B for a discussion concerning E/M service documentation performed by students.

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3. **Teaching Physician** - A physician (other than another resident) who involves residents in the care of their patients.
4. **Macro** - A computer or dictation application command automatically generates pre-determined text.
5. **Teaching Physician Supervision** - The teaching physician is located in the clinic where residents see patients under the PCE rule. The teaching physician is not required to have a face-to-face visit with the patient for those services that can be provided under the supervision of a teaching physician in a PCE clinic, as defined below.

### Procedure

1. **Primary Care Exception Clinic Primary Criteria**
  - a. Location: A Primary Care Exception (PCE) clinic is a center located in the outpatient department of a hospital or another ambulatory care entity. Residents' time spent in patient care activities is included in determining Medicare payments to a teaching hospital under 42 CFR 413. A non-hospital entity, such as TTUHSC El Paso, must meet the requirements of a written agreement between the hospital and the entity outlined in 413.78(e) (3) (ii). A written agreement may be a separate document or part of an overall agreement, such as a Master Coordinating Agreement (MCA).
  - b. Range of Services: The range of services provided by residents in a PCE clinic setting includes the following:
    - Acute care for undifferentiated problems of chronic care for ongoing conditions;
    - Coordination of care furnished by other physicians and providers; and
    - Comprehensive care not limited by organ system, diagnosis, or gender.
  - c. Residency Programs: TTUHSC EP residency programs that would qualify for the PCE include family practice, general internal medicine, geriatric medicine, pediatrics, and obstetrics/gynecology. Specific GME programs in psychiatry may qualify when the program furnishes comprehensive care for chronically mentally ill patients (i.e., centers in which the range of services the residents are trained to furnish and do furnish, including comprehensive medical care in addition to psychiatric care. An example would be antibiotics being prescribed as well as psychotropic drugs).
2. **Designation as Primary Care Exception Clinic**
  - a. Responsibilities of Department: The clinical Department shall promptly notify the Billing Compliance Manager whenever a clinic is designated as a Primary Care Exception clinic (PCE clinic) or when a PCE clinic is relocated or closed. Such written notice shall include the name of the Department, the name of the PCE clinic, its address, and in the case of relocation, both the previous and new addresses. This information will allow for proper written notification to the Medicare Contractor (Novitas) through the Billing Compliance Office. (See 2b below).

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- b. Responsibilities of Billing Compliance Office: In the case of a new PCE clinic, the Billing Compliance Unit Manager shall prepare a written letter of attestation to the Medicare Contractor, Novitas, to be signed by the Department Chair and sent to Novitas.

### 3. Resident Requirements

#### a. General Rule

- 1.) Any resident furnishing services in a PCE under the primary care exception rule under the supervision of a teaching physician must have completed more than six (6) months of an approved residency program.
- 2.) Not more than one teaching physician may supervise four (4) residents at any given time. However, two more teaching physicians may supervise more than four (4) residents, provided there are not more than four (4) residents for each teaching physician.
- 3.) Limited Exception (Residents with Less than 6 Months Experience). The teaching physician may include residents with less than six months in a GME-approved program in the mix of four (4) residents under the teaching physician's supervision. In this case, the teaching physician must be physically present for the key portions of the services furnished by the residents with less than six months in a GME-approved residency program. To utilize this limited exception, the teaching physician's activities with residents with less than six months of experience shall not interfere with their ability to supervise the other residents. If this limited exception is used, services provided by the resident with less than six (6) months of training shall be billed using the "GC" modifier.

### 4. Teaching Physician Requirements

#### a. Teaching Physician Presence and Supervision:

The teaching physician must:

- Be on-site in the PCE clinic at all times that residents are providing care to patients and be immediately available to residents;
- Not direct more than four (4) residents at any given time in the PCE clinic;
- Not have any other responsibilities (including the supervision of additional personnel, i.e., mid-level medical students, etc.) at the time of the E/M service for which payment is sought. However, in rare instances where a patient scheduled in the PCE to be seen by a resident requires a more comprehensive service that was unexpected, the teaching physician may see the patient but must be physically present with the resident and document according to the general teaching physician rules (See BC Policy 4.1, Teaching Physician Requirements for Evaluation & Management Services, Including Time-Based Codes), and such services must be billed using the "GC" modifier for Medicare patients;
- Have primary responsibility for those patients cared for by the supervised residents;
- Ensure that the care provided was reasonable and necessary; and

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- Review with each resident, during or immediately after each visit, the patient’s medical history, findings on physical examination, diagnosis, and treatment plan (i.e., a record of tests and therapies).
- b. Teaching Physician Documentation Requirements:
- 1.) The teaching physician must personally document in the medical record their participation in the review and direction of the services furnished to each patient. Therefore, the teaching physician shall timely document their participation in the medical record.
  - 2.) Unacceptable Teaching Physician Documentation. Phrases such as “Discussed” and “Agree with resident’s assessment and plan” are unacceptable since they fail to state when the review occurred and what patient-specific information was reviewed with the resident.
- c. Supervising Teaching Physician Not Approved by all Payers:
- Services can only be billed under the supervising teaching physician for services provided by residents to those patients whose insurer/third-party payer has accepted the supervising teaching physician as an approved provider or when the supervising teaching physician is serving in a locum tenens capacity.
- 5. Billing for Services Provided in a PCE Clinic**
- a. Services that residents can provide and billed under the supervising teaching physician. The following services may be provided by the resident under teaching physician Supervision in a PCE clinic and billed under the supervising teaching physician’s name and number;
- 1.) Low to Mid-Level E/M. The following Evaluation & Management (E/M) services may be billed when provided by a resident under the supervision of a teaching physician in a PCE clinic. Effective January 1, 2022, teaching physicians may use only medical decision-making (MDM) for E/M visit level selection when billing the Medicare program under the physician fee schedule for office/outpatient E/M visits under this primary care exception. For the E/M codes listed below, teaching physicians may submit claims for services furnished by residents in the absence of a teaching physician:
    - CPT 99201-99203
    - CPT 99211- 99213
    - G0402 - Medicare Initial Preventive Physical Exam (IPPE)
    - G0438 - Annual Wellness Visit, including PPS, first visit
    - G0439 - Annual Wellness Visit, including PPS, subsequent visit.
    - Texas Medicaid Well Child Visits

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2.) Level 4 and 5 E/M Codes and Unscheduled Procedures. If a more complex problem arises during a service scheduled initially with a resident in a PCE clinic, the supervising teaching physician may personally supervise the resident during the key or critical portions of the E/M service or unscheduled procedure. In such case, the teaching physician may bill for the more complex level 4 or 5 E/M service (i.e., 99204, 99205, 99214, or 99215) or unscheduled procedure while supervising the other residents and still have the other supervised resident's services billed under the primary care exception. The key consideration for allowing this billable activity by the teaching physician is the unscheduled nature of the Level 4 or 5 E/M services or procedures. In such cases, the teaching physician must document their physical presence/participation according to the general teaching physician rules, see BCP 4.1, Teaching Physician Requirements for Evaluation and Management Services, Including Time-Based Codes.

b. Services that require teaching physician presence to bill: All other services not listed in 5a above provided by residents in a PCE clinic can only be billed if the teaching physician is physically present during the service and personally documents their presence and participation according to the general teaching physician rules. See BCP 4.1, Teaching Physician Requirements for Evaluation and Management Services, Including Time-Based Codes.

c. Attestation –

- 1.) Each clinical department that conducts a primary care exception clinic must annually attest to their compliance with the regulations as described by the CMS Claims Processing Manual. “For this exception to apply, a center (department) must attest in writing that all the following conditions are met for a particular residency program. Prior approval is not necessary, but centers (departments) exercising the primary care exception must maintain records demonstrating that they qualify for the exception.”
- 2.) The attestation will be sent to the department for signatures by the clinical department administrator, department chair and program director no later than August 31 of each year. (Attachment BCP EP 4.2 (A))

### **1. Medicare Required Modifier (Medicare & Medicare Advantage Plans)**

- a. The “GE” modifier shall be added to E/M, and time-based coded billed to Medicare & Medicare Advantage Plans when a resident provides services (see 5a above) under the supervision of a teaching physician in a qualified PCE clinic. The “GE” modifier on the claim certifies that the teaching physician provided supervision by Medicare’s PCE rules located at IOM 100-04, Chapter 12, Section 100.1.1.C.

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- b. The “GC” modifier shall be added for services provided in a PCE for those services that require the physical presence of the supervising teaching physician (see 5a (2) and 5b above). The “GC” modifier on the claim certifies that the teaching physician was present for the key/critical portions of the E/M service and otherwise complied with Medicare’s teaching physician rules in IOM 100-04, Chapter 12, Section 100.1 through 100.1.6.
- c. E/M and time-based codes billed to Medicare where a resident provided services (excluding E/M services in a PCE setting) with a teaching physician. For purposes of this policy, “involved” means providing hands-on care to patients and watching care or services provided by a teaching physician.

### **Administration and Interpretation, Revisions, or Termination**

Refer to Billing Compliance Policy El Paso 1.0 Policy Development and Implementation. Failure to comply with this policy shall result in appropriate disciplinary action. Questions regarding this policy may be addressed to the TTUHSC El Paso Institutional Compliance Officer or Compliance Unit Manager.

This policy may be amended or terminated at any time, subject to approval by the Billing Compliance Committee.

### **Frequency of Review**

This policy shall be reviewed by August 31 of each year.

**Review Date:** 1/2018, 3/2018, 10/1/2021, 1/25/2023, 7/24/2024

**Revision Date:** 1/2018, 3/2018, 10/1/2021, 1/25/2023, 7/24/2024