



January 29, 2018

M. Robert Yakely, MD
President
Colorado Medical Society
Sent via email

RE: Concerns regarding reimbursement of E/M and related modifiers 25 and 57

Dear Dr. Yakely:

We are in receipt of your letter sent December 15, 2017 expressing concerns with the December 1, 2017 notification of policy update to E/M and Related Modifiers 25 and 57.

In the letter, you object to an Anthem reimbursement policy dealing with reimbursement for services. Specifically, the policy provides that when a provider bills an office-based minor surgery together with a same-day office visit, Anthem will pay 100% of the allowed reimbursement for the covered surgical procedure and a reduced allowed reimbursement for the office visit (in other words, an evaluation and management ("E/M") with Modifier 25) to account for duplicative payment contained within the two billable events (the "Policy").

As an initial matter, please be advised the amount of the reimbursement reduction for the E/M service will be 25%, not 50% as was originally communicated in the initial version of the Policy.

Anthem's objectives are to provide its members with access to quality, safe, and cost-effective health care. Anthem develops policies and procedures to support these objectives that are consistent with industry practice and comply with its various contracts, member certificates, and governing laws, rules, and regulations. Anthem is committed to making decisions that reduce the cost of care while simultaneously improving the quality and efficiency of the health care system.

Payment for practice expenses (such as office space, staff, utilities, and other fixed costs) are included in the reimbursement for both minor surgeries and office visits. A physician practice incurs a certain amount of these fixed costs to operate, regardless of how many patients are seen or procedures are performed each day. The purpose of the Policy is to address the duplication of payment for certain fixed provider practice expenses when E/M services are billed with Modifier 25.

As you know, every E/M and surgical code has three components: (1) physician work; (2) practice expense; and (3) medical malpractice insurance, which make up the total Relative Value Unit (RVU) for a code. The practice expense portion of the total RVU for a code is composed of direct (variable) and indirect (fixed) costs which, together with the medical malpractice insurance component, represent approximately 50% of the total RVU for a code. CMS publishes data that defines, for each medical specialty, the direct (variable) and indirect (fixed) portion of practice expenses. Anthem recognizes that

there is duplication of the fixed/indirect practice expense when performing a minor surgery and E/M service on the same day by the same provider. The duplication of fixed/indirect practice expense may include, but is not limited to, scheduling the visits, staffing, obtaining vital signs, office lighting, and supplying the examination room for the same day medical visits.

Accordingly, where a minor surgery is performed in conjunction with a same-day office visit and the provider bills for each, the result is a duplicate payment of fixed/indirect practice expenses. To redress the duplicative payment, Anthem's Policy reduces the office visit reimbursement by 25% and, thereby, reduces the double payment for fixed/indirect practice expenses. Other health plans have implemented similar policies.

This duplicative payment for fixed/indirect practice expenses can result in significant unnecessary costs for Anthem members and Anthem employer clients. Eliminating this duplication is important to maintaining access to affordable, high-quality health plans. Notably, CMS guidelines regarding the correct use of Modifier 25 provide that Modifier 25 indicates a "significant, separately identifiable" E/M service by the same provider on the same day of the billed surgical procedure. *See Medicare Claims Processing Manual, Chapter 12, § 30.6.6(B).*

In your letter, you state that the Relative Value Scale Update Committee ("RUC") already reduces the value for procedure codes that typically are reported with an E/M and Modifier 25 to account for any overlapping pre and post-operative work. We agree with this assertion as it relates to the physician work component of an RVU. And, the citation you provided to the Federal Register addresses the work component only. However, as explained above, each RVU is composed of three separate components. Again, the reductions that you reference, which "addresses the overlap in time and work," correspond only to the "physician work" component of the RVU. The Anthem Policy addresses a different component – "practice expenses." Therefore, the reductions Anthem is implementing have not been addressed by the RUC in determining the value for procedure codes.

We hope this letter explains Anthem's reasoning for adoption of the Policy and why we believe it is appropriate. Anthem is proceeding with the Policy effective March 1, 2018. Once again we greatly appreciate your outreach and trust this letter addresses your concerns. As you know, each contracted provider has the ability to raise any concerns or objections to Anthem according to Colorado law and the terms of their contract. Please let me know if there are additional questions or items that should be discussed further.

Sincerely,



Anthem Blue Cross and Blue Shield Colorado