

Coding Guide

# Teaching Physician Rules

## About the Author

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CodingIntel is a library of coding resources for physician practices. We believe we can simplify complex coding rules using citation-based resources that equip practices to submit claims that reflect what was done and documented.

Betsy Nicoletti, M.S., CPC founded CodingIntel in 2017. She and her team of dedicated editors and consultants create and update coding guides, articles, webinars, courses and reference sheets for members. This collaborative effort ensures that the resources provided are current, reliable, and aligned with the latest guidelines and best practices.

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Last Revised  
2/9/2025

## The Purpose of This Guide

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**The teaching physician rules are Medicare rules that allow for payment for combined services that are performed between an intern, a resident or a resident-fellow, and a licensed attending physician (the teaching physician).**

This Teaching Physician Coding Guide will provide you with how the following factors may differ based upon the type of medical service provided:

- The level of participation,
- who must document the participation and
- the required documentation

This coding guide starts with a quick reference sheet to help you, because whatever the medical service, there must be documentation of the attending's participation in the care of the patient. This is an area of high compliance risk and academic practices need to educate and re-educate with every new group of residents and recently hired attending physician.

To emphasize the importance, CMS announced a recent audit run by a private contractor to make sure the teaching physicians are not over-reporting the “use” of these learners. You can learn more about it in the Teaching Physician Guide.<sup>1</sup>

The Medicare Online manual,<sup>2</sup> as well as the Teaching Physician Guide have specific definitions related to the teaching physician rule which we will introduce. The two publications we reference should be next up on your reading list! (After this guide, of course.)

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<sup>1</sup> <https://www.cms.gov/files/document/guidelines-teaching-physicians-interns-residents.pdf>

<sup>2</sup> [https://www.cms.gov/G/Regulations-and](https://www.cms.gov/Guidance/Guidance/Manuals/Downloads/clm104c12.pdf) Guidance/Guidance/Manuals/Downloads/clm104c12.pdf

## Teaching Physician Quick Reference Guide

	What must the teaching physician do?	What documentation is required?	Resident's responsibilities	Comments
<b>E/M services</b>	<ul style="list-style-type: none"> <li>– See the patient</li> <li>– Perform or be physically present for the key/critical components done by the resident</li> <li>– Participate in the management of the patient</li> <li>– Most attendings sign the note; macro permitted</li> </ul>	<ul style="list-style-type: none"> <li>– The teaching physician, resident, or nurse may document the teaching physician's presence and participation in the care</li> </ul>	<ul style="list-style-type: none"> <li>– Document the encounter</li> <li>– Sign and date note</li> </ul>	<ul style="list-style-type: none"> <li>– The combined documentation of the resident and the TP are used to select the level of service</li> </ul>
<b>E/M services based on time</b>	<ul style="list-style-type: none"> <li>– Be present for the entire time on which the E/M service is based</li> <li>– Document time</li> </ul>	<ul style="list-style-type: none"> <li>– Document total attending time on the date of service</li> <li>– Document activities included in time</li> </ul>	<ul style="list-style-type: none"> <li>– Add detail to the note</li> </ul>	<ul style="list-style-type: none"> <li>– Only use the time the TP was present</li> <li>– Do not count resident's time or teaching time</li> </ul>
<b>Either of the above E/M services w Medical Student Documentation</b>	<ul style="list-style-type: none"> <li>– The attending must perform or reperform all billed physical exam and medical E/M decision-making services and verify documentation</li> </ul>	<ul style="list-style-type: none"> <li>– Students may document in the medical record</li> </ul>	<ul style="list-style-type: none"> <li>– Student participating in or contribution to services must do so in the resident or attending's physical presence.</li> </ul>	<ul style="list-style-type: none"> <li>– The medical student is not a scribe</li> <li>– The attending must verify (perform or reperform) all documentation</li> </ul>
<b>Critical care</b>	<ul style="list-style-type: none"> <li>– Provide care for a critically ill patient</li> <li>– TP must be present for time for which the claim is made</li> <li>– Supervise care provided by resident</li> </ul>	<ul style="list-style-type: none"> <li>– Document care given to patient</li> <li>– Document time personally spent in caring for the patient</li> </ul>	<ul style="list-style-type: none"> <li>– Document the status of the patient, events during the day and critical care treatment provided</li> </ul>	<ul style="list-style-type: none"> <li>– Only the time of the TP is counted in critical care</li> <li>– Do not count teaching time</li> </ul>

## Teaching Physician Quick Reference Guide

	What must the teaching physician do?	What documentation is required?	Resident's responsibilities	Comments
<b>Minor procedures</b>	<ul style="list-style-type: none"> <li>– Be present for entire procedure</li> </ul>	<ul style="list-style-type: none"> <li>– TP, resident or nurse may document TP's presence</li> </ul>	<ul style="list-style-type: none"> <li>– Perform and document procedure</li> </ul>	<ul style="list-style-type: none"> <li>– For this purpose only, a minor procedure is one that takes 5 minutes or less</li> </ul>
<b>Single major surgery, including endoscopic surgery</b>	<ul style="list-style-type: none"> <li>– Be present for entire procedure or</li> <li>– Be present for key or critical components of the procedure, and be immediately available for entire procedure</li> </ul>	<ul style="list-style-type: none"> <li>– TP, resident or nurse may document TP's presence</li> <li>– “There is no required information that the teaching surgeon must enter into the medical records”</li> </ul>	<ul style="list-style-type: none"> <li>– Perform procedure under TP supervision and document the procedure</li> </ul>	<ul style="list-style-type: none"> <li>– TP determines what are the key or critical components</li> </ul>
<b>Two overlapping surgeries</b>	<ul style="list-style-type: none"> <li>– Be present for key or critical components of both procedures and</li> <li>– Arrange for another surgeon to be available to assist in the case should the need arise</li> </ul>	<ul style="list-style-type: none"> <li>– TP personally documents presence during key/critical portions of both procedures</li> </ul>	<ul style="list-style-type: none"> <li>– Perform procedure under TP supervision and document the procedure</li> </ul>	<ul style="list-style-type: none"> <li>– TP determines what are the key or critical components</li> </ul>
<b>Endoscopy</b>	<ul style="list-style-type: none"> <li>– Be present for the entire viewing from insertion to removal of scope</li> </ul>	<ul style="list-style-type: none"> <li>– TP, resident or nurse may document TP's presence</li> </ul>	<ul style="list-style-type: none"> <li>– Perform and document procedure</li> </ul>	<ul style="list-style-type: none"> <li>– Electronic viewing is not sufficient</li> </ul>

## Teaching Physician Quick Reference Guide

	What must the teaching physician do?	What documentation is required?	Resident's responsibilities	Comments
<b>Primary care exception</b>	<ul style="list-style-type: none"> <li>– Supervise no more than 4 residents and have no other responsibilities during that time</li> <li>– Review the care provided by the resident during or immediately after each visit</li> </ul>	<ul style="list-style-type: none"> <li>– Document the extent that you took part in patient services, direction, and review.</li> <li>– These are E/M services, so follow the documentation requirements for those</li> <li>– Only use MDM</li> </ul>	<ul style="list-style-type: none"> <li>– Document the encounter</li> <li>– Sign and date the note</li> </ul>	<ul style="list-style-type: none"> <li>– 99202–99203, 99211–99213, 99421–99423, G2010 or 98016, G0402, G0438 &amp; G0439 could be done under the PCE</li> <li>– Use modifier GE</li> </ul>
<b>Psychiatry</b>	<ul style="list-style-type: none"> <li>– General policies apply to these services</li> <li>– For certain services, requirement for TP may be met by concurrent observation via one-way mirror or video equipment</li> <li>– For psychotherapy determined by time, report the time the TP was present; do not report resident time</li> </ul>	<ul style="list-style-type: none"> <li>– Medical record must show the teaching physician took part in the service (in person, or via one-way mirror or audio/visual)</li> <li>– CMS does not say who must document the TP's presence</li> </ul>	<ul style="list-style-type: none"> <li>– Document the encounter</li> <li>– Sign and date the note</li> </ul>	<ul style="list-style-type: none"> <li>– Psychotherapy performed by a resident alone (without TP presence or concurrent observation) is not reportable</li> </ul>

## Teaching physician rules

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The teaching physician rules are Medicare rules that allow for payment for services that are performed jointly between an intern, resident or resident-fellow, and a licensed attending physician (the teaching physician).

- Resident is in an approved graduate medical education (GME) program or who is not in a GME but is authorized to practice only in a hospital setting

### **Documentation should show**

- The service furnished
- The teaching physician participation in the care
- That the teaching physician was physically present for the service

*Under § 415.172, if a resident participates in a service furnished in a teaching setting, PFS payment is made only if the teaching physician is present during the key portion of any service or procedure for which payment is sought. March 30, 2020 rule CMS-1744-IFC*

- **Presence of the attending required**
- Exceptions: primary care exception, for diagnostics, “performed and reviewed,” and for psych codes, “by the use of one-way mirror, video equipment or similar device.”

### **How about macros?**

*“...a command in a computer or dictation application that automatically generates predetermined text that is not edited by the user.”*

- TP may use a macro
- In addition, either the TP or the resident must provide customized information
- Not allowed: both TP and resident use a macro only, without additional information

**For E/M service performed jointly by a resident and a teaching physician (not in a primary care exception setting), the documentation must show:**

- Teaching physician performed the service, personally, OR
- TP was physically present during the key/critical portions done by the resident AND
- The participation of the TP in the management of the patient

*“The presence of the teaching physician during E/M services may be demonstrated by the notes in the medical records made by physicians, residents, or nurses.”*

However, the November 2024 “Teaching Physicians, Interns and Residents Guide” says on page 11:

*“The combined medical record entries of the teaching physician and resident make up the documented service. And it must cover medical necessity. Residents can’t justify medical necessity by documenting the teaching physician’s presence during the service.”*



## Change Relating to Medical Student Services

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There was a change in 2018 related to documentation requirements for medical student services. The citation from the CMS manual that changed is below. The text in italics represents the change in the manual in March, 2018.

➤ **B. E/M Service Documentation Provided By Students**

*Any contribution and participation of a student to the performance of a billable service (other than the review of systems and/or past family/social history which are not separately billable, but are taken as part of an E/M service) must be performed in the physical presence of a teaching physician or physical presence of a resident in a service meeting the requirements set forth in this section for teaching physician billing.*

*Students may document services in the medical record. However, the teaching physician must verify in the medical record all student documentation or findings, including history, physical exam and/or medical decision making. The teaching physician must personally perform (or re-perform) the physical exam and medical decision making activities of the E/M service being billed, but may verify any student documentation of them in the medical record, rather than re-documenting this work.*

**Service requirement  
remains the same;  
documentation  
requirement changed**

What this says is the teaching physician must still do the work. But, the teaching physician doesn't have to re-document the work. It saves re-documentation on the part of the attending, in the same fashion as the attending doesn't need to re-document all of the resident's work.

What didn't change is the definition of student which still says (below) "Medicare does not pay for any service furnished by a student." This isn't contradictory. Medicare is not paying for the service done by the student but for the service done by the attending physician. Keep in mind: it is the documentation requirement that has changed, not the service requirement.

- **Student** - *An individual who participates in an accredited educational program (e.g., a medical school) that is not an approved GME program. 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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**A minor procedure performed by a student is not a billable service.**

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## Nurse practitioner and physician assistant students

Changed  
in 2020

Documentation performed by medical students, advance practice nursing students, and physician assistant students:

*Per CMS: “Therefore, we propose to establish a general principle to allow the physician, the PA, or the APRN who furnishes and bills for their professional services to review and verify, rather than re-document, information included in the medical record by physicians, residents, **nurses, students or other members of the medical team.** This principle would apply across the spectrum of all Medicare-covered services paid under the PFS.”*

- Now, physician assistant and nurse practitioner students are treated the same way as medical students for documentation purposes.
- Any physician or NPP who bills a service can “review and verify” rather than re-document.
- Includes “information included in the medical record by physicians, residents, nurses, students or other members of the medical team.”

## Moonlighting:

**Another problem area** relates to the use of the term “fellow”. The CMS manual defines a resident as including interns, residents, and fellows. The fact that the resident is doing a fellowship doesn’t change their status from a billing perspective when the fellow and attending physician jointly provide services.

Sometimes, however, a fellow will moonlight in a location other than their teaching physician hospital, or at their teaching hospital but in a different capacity outside of the training program. This fellow, who will have an independent license, is hired to work a shift in another clinic, not as part of their fellowship. When this is the case, the fellow must be licensed and credentialed with individual payers and report their services under their own individual provider number. While moonlighting for pay outside of the teaching physician setting, the group does not bill for the fellow jointly with an attending physician

CMS identifies three criteria which, when met, indicate that the service provided by the fellow is not a teaching physician service. These are:

- The services are physician services for the diagnosis and treatment of the patient;
- The fellow is fully licensed to practice in this state; and
- The services are furnished separately from the training program.

**Finally**, some academic services have both residents and non-physician practitioners (NPP) in their department. NPP is the term that Medicare uses for physician assistants and advanced practice registered nurses.

In the hospital, an attending physician may bill for services jointly provided with an NPP under the physician’s provider number using the shared services rule. However, there is no provision for shared services between an attending *and* a resident *and* an NPP.

The attending either bill for services jointly provided with the resident under the teaching physician rules or an attending and an NPP each performs a portion of an E/M service and reports it under the shared services rule.

One CMS definition that is worth discussing is the term critical or key portion. CMS defines it as

- “That part (or parts) the service that the teaching position determines is (are) a critical or key portion(s). For purposes of this section, these terms are interchangeable.”

**When reviewing the rules for surgical procedures, this definition will be important.**

## Evaluation and Management Services (E/M)

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### 2019 change to E/M rules and teaching physicians

The CMS rules got a major update with the April 26, 2019 Transmittal 4823. A transmittal is a communication from CMS to the Medicare Administrative Contractors. It is followed by an update to the CMS Claims Processing Manual and the release of a MedLearns Matter article, explaining the change.

The new rules allow the attending, the resident or the nurse to document the attending's participation in the care of the patient when performing an E/M service. CMS said they were going to do this in the 2019 Physician Fee Schedule Final Rule, released in November of 2018, but the transmittal wasn't released until April 26, although there is an effective date of January 1, 2019 and an implementation date of July 1, 2019. The transmittal does not include any of the examples of linking statement that were in the manual for so many years. It is brief—here is the section on E/M.

### 100.1.1 - Evaluation and Management (E/M) Services

*(Rev. 4283, Issued: 04-26-19, Effective: 01-01-19, 07-29-19)*

#### A. General Documentation Requirements

Evaluation and Management (E/M) Services -- For a given encounter, the selection of the appropriate level of E/M service should be determined according to the code definitions in the American Medical Association's Current Procedural Terminology (CPT®) book and any applicable documentation guidelines.

For purposes of payment, E/M services billed by teaching physicians require that the medical records must demonstrate:

- That the teaching physician performed the service or was physically present during the key or critical portions of the service when performed by the resident; and
- The participation of the teaching physician in the management of the patient.

The presence of the teaching physician during E/M services may be demonstrated by the notes in the medical records made by physicians, residents, or nurses.

## E/M services:



How might these new rules be implemented in teaching settings? If there are team rounds that include residents, fellows and the attending, and the attending is physically present in the room for the history and exam, and participates in the treatment plan, the resident can note that.

If the attending sees the patient at another time, the attending would still need to perform the service. In that case, the documentation of the attending's participation in the care could be documented by the attending, or by the resident or nurse.

- The teaching physician must either perform the service or be present when the resident performs the key or critical components,
- The teaching physician must participate in the care,
- The record should demonstrate this, and the documentation of it may be provided by the attending, resident or nurse.
- If the attending sees the patient at a different visit than the resident, it is likely that the attending will personally document his or her participation in the care.
- Some groups have opted to continue to use the attestation statements that were in place before these rules changed.

## Primary Care Exception

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Only a few services may be reported under the primary care exception.

These are new and established patient visits, level 1-3 and the Welcome to Medicare and Wellness Visits.

99211—99213

99202—99203

99421-99423

G2010 or 98016

G0402

G0438

G0439

This primary care exception allows residents who have been in residency for longer than six months to see patients in a primary care practice under the supervision of the attending, but without the requirement that the attending see each patient. The primary care center must attest in writing that it meets the requirements.

- The teaching physician may only supervise four or fewer residents at a time and must be immediately available to provide assistance.
- The teaching physician may not have other responsibilities at that time and must have primary responsibility for those patients treated by the residents in the primary care program.
- The teaching physician must document the extent of his or her participation in the review and care of the services.
- The teaching physician must review care provided during or immediately after the patient is seen.
- The April 2019 transmittal that updated E/M services added this statement.

*“The patient medical record must document the extent of the teaching physician’s participation in the review and direction of the services furnished to each beneficiary. The extent of the teaching physician’s participation may be demonstrated by the notes in the medical records made by physicians, residents, or nurses.”*

That is, the resident may document that the attending supervised and participated in the care.

CMS has requirements for what types of programs are eligible to be residency programs that qualify and the type of care that must be given. In order to qualify for the primary care exception, the center or office must be the primary care center in which a group of patients receive primary care services. The resident must be expected to follow the same group of patients during that period and care for acute and chronic problems, coordinate the care of other physicians and provide comprehensive care not limited by organ system or diagnosis.

The CMS manual states that the most likely qualifying programs for this exception include family practice, general internal medicine, pediatrics, geriatric medicine and OB/GYN.

## Telehealth Services

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“Teaching physicians can use 2-way, interactive, audio-video telehealth when residents provide telehealth services, in all residency training locations through the end of CY 2025.”

However, in order to qualify, the resident cannot be in the same location as the patient; all participants must be in their own, remote location.

## Surgical Services

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From the CMS manual:

-  *The teaching surgeon is responsible for the preoperative, operative, and postoperative care of the beneficiary. The teaching physician's presence is not required during the opening and closing of the surgical field unless these activities are considered to be critical or key portions of the procedure.*
-  *The teaching surgeon determines which postoperative visits are considered key or critical and require his or her presence.*

The teaching physician must be present  
for all "critical and key portions of the procedure."

## Procedures Where Attending Must Be Present the Entire Time:

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### Minor Surgical Procedures

For this purpose only, minor procedures are defined as services that take **less than five minutes**

- The teaching physician must be present the entire time.
- The resident or nurse may document the teaching physician's presence.

### Endoscopy

- The teaching physician must be present in the room **for the entire procedure** from the time the scope is inserted to the time the scope is removed. (Scope in/scope out) The resident or nurse may document the attending's presence. Endoscopic surgeries follow the major procedure rule.



## Major Surgical Procedures

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Major surgical procedures require the surgeon's presence during key or critical portions of the procedure.

The attending determines which parts of the procedure are key/critical.

Major surgical procedures require the surgeon's presence during key or critical portions of the procedure. The teaching physician must be immediately available for the entire procedure, able to return to the procedure if needed. If they are not immediately available, then they must arrange for another qualified surgeon to be available.

The attending determines which parts of the procedure are key/critical. If the teaching surgeon is present for the entire surgery, and only one surgery is performed, the surgeon, nurse or resident may document that presence.

For two concurrent surgeries, the surgeon must document his or her own presence during critical or key portions of the procedure. Key/critical components may not take place at the same time for concurrent surgeries. The surgeon must designate another surgeon who can provide assistance if needed if they are not available.

For three concurrent surgeries, the surgeon's role is considered supervisory and it may not be billed.

### Attestation statement

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For each type of service described above there is a requirement for the documentation that is required to show the presence and participation of the attending physician. It is the attending physician's provider number under which the claim is filed, of course. When the attending must add an attestation statement to the record, this statement and the signature may be dictated and transcribed, typed, hand written or computer generated.

CMS does allow a macro in the computer or an electronic health record. However, the attending physician must enter this in a secure or password-protected system, meeting the signature requirements that CMS has developed for using an electronic health record. In addition to a signature, however, for most services the attending must describe the work that was done.

## Modifiers

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Append modifier **GC** to all services performed under the teaching physician rules.

Use modifier **GE** for services that qualify under the primary care exception.

Definition of modifier GC: this service has been performed in part by a resident under the direction of a teaching physician.

Definition of modifier GE: Service has been performed by a resident without the presence of a teaching physician under the primary care exception

## Critical Care

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When reporting critical care that is provided jointly between a resident and an attending physician, **only the time of the attending physician may be counted** in the time for billing critical care. Typically, the resident's note provides significant detail about the condition of the patient and the events and treatments. The attending must perform key and critical portions of the critical care, must be physically present, and must document their participation in the care. Only the time spent by the attending physician is used to select the critical care codes. The attending must personally document his or her own participation and the amount of time spent.

## E/M Based on Time

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The CMS manual regarding codes based on time has a simple explanation in the first sentence.

- “For procedure codes determined on the basis of time, the teaching physician must be present for the period of time for which the claim is made.”

That is, only the attending physician's time may be used when selecting a code based on time.

- Office visit codes 99202--99215
- Critical care services 99291—99292
- Hospital discharge day management 99238—99239
- E/M codes in which counseling dominates the visit [this does not reflect the updated 2021 or 2023 E/M Guidelines, but is still in the manual]
- Prolonged services codes 99358—99359 [Medicare no longer reimburses for these codes but they are still listed in this section of the manual]
- Care plan oversight G0181-G0182
- Individual medical psychotherapy

(See [CodingIntel Psychiatry Coding Guide](#) and other articles on CodingIntel.)

## Psychiatry

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In psychiatry if reporting time-based psychotherapy services, the time of the attending physician is the time used to select the code.

For psychiatry services that are not time based, the requirement for the presence of the physician may be met if the attending uses a one-way mirror or video (not audio) equipment. This concurrent observation for non-time-based services, such as an initial diagnostic evaluation, is permitted.

The attending must be a physician.

A psychologist may not jointly provide a service with a resident (supervise a resident) and bill for it under the teaching physician rules. Only a psychiatrist may bill for services provided jointly with a resident.

## CMS Resources

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Medicare Claims Processing Manual, Chapter 12, Section 100

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c12.pdf>

CMS, “Guidelines for Teaching Physicians, Interns, and Residents

<https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Teaching-Physicians-Fact-Sheet-ICN006437.pdf>