



Insurance Reimbursement Complications in the Age of Remote Patient Monitoring, by Attorneys Abbye Alexander, Christopher Tellner, and Henry Norwood, as published in the Benefits Law Journal, Vol. 37, No. 2 Summer 2024

The now commonplace practice of Intraoperative neuro physiological monitoring (IONM) – the electronic monitoring of a patient's nervous system while the patient undergoes a surgical procedure – has birthed a host of questions surrounding the processing of insurance claims for such services by providers, including how to code such claims, how to process such claims when more than one person is being monitored by the same remote servicer at a time, what standards of care are required for processing these claim codes, etc. While ambiguity remains until the courts bring further procedural clarity for such claims, healthcare and insurance providers can gain an understanding of best practices to minimize complications when handling these nuanced claims.

INTRAOPERATIVE NEUROPHYSIOLOGICAL MONITORING

IONM is the electronic monitoring of a patient's nervous system while the patient undergoes a surgical procedure. IONM is utilized to prevent life-threatening injury during surgery such as paralysis and death where the patient's nervous system could be harmed. IONM can immediately identify changes in the brain, spinal cord, and peripheral nerve function of a patient, potentially providing early warning signals if the patient's nervous system is at risk. One or more physicians oversee IONM and this oversight can take place either in the operating room (OR) or remotely via live feed outside of the OR.

When IONM is performed remotely without in-person continuous physician oversight, reimbursement for IONM services by health insurers had been a contested issue between IONM providers and health insurers, resulting in the creation of new insurance claim codes. Complicating the issue though is the practice of remotely overseeing multiple patients simultaneously. This results in a higher number of claims submitted for the same time period. From the insurer's perspective, this practice strains the level of care the provider can deliver. From the provider's perspective, this practice allows more patients to receive IONM care.

REIMBURSEMENT FOR REMOTE IONM

The remote IONM problem has been addressed in the public health insurance realm. The Centers for Medicare and Medicaid Services (CMS) established a separate CPT code for IONM services reimbursable through a public insurance program. Private insurers do not benefit from the CMS CPT code, but instead must rely on other sources of authority to dispute multiple, concurrent, remote IONM claims.

CPT codes for IONM services are divided into two separate categories: (1) the time component, and (2) base codes. Prior to January 1, 2013, the universal code for the time component was CPT 95920, established by the American Medical Association (AMA). CPT 95920 was removed from Jan. 1, 2013 on and was replaced by two new codes applicable to private insurers and an additional new code created by CMS afterward. Time component codes currently accepted by insurers include HCPCS G0453, CPT 95940, and CPT 95941. These CPT codes allow the provider or facility to bill for time spent performing the appropriate IONM service.

CPT Code 95940 is designated for exclusive, continuous, one-on-one monitoring in the OR, according to AMA guidance. Private insurers accept CPT code 95940 with the requirement that no other cases can be monitored at the same time. CPT 95940 cannot be submitted unless there is a record in the OR log documenting the IONM physician's attendance in the OR. CPT Code 95941 is specified for continuous IONM from outside the OR, remotely or near the OR, or for monitoring more than one surgery while in the OR. Private insurers generally accept CPT 95941. CPT 95941 cannot be used unless there is documentation of real-time, continuous interpretation by the IONM physician and communication by the physician of that interpretation to the operator of the IONM equipment in the OR. This CPT Code raises the question as to whether multiple patients can be monitored concurrently and be submitted to private insurers for payment. Private insurers may argue, relying on the CMS guidance underlying HCPCS G0453 and the AMA guidance underlying CPT Codes 95940 and the former 95920, that providers should only be able to submit a single monitoring claim at a time.

HCPCS G0453 is specified for continuous IONM monitoring from outside the operating room, remotely or nearby. Insurers that require G0453 include Medicare, Worker's Compensation, and certain HMOs. G0453 cannot be used unless there is documentation of real-time, continuous interpretation by the IONM physician and communication by the physician of that interpretation to the operator of the

IONM equipment in the OR. Medicare created HCPCS G0453 to be used in place of CPT 95941 because Medicare does not allow a physician to bill for multiple, concurrent surgeries for overlapping periods of time, requiring the undivided attention of the monitoring physician to a single patient.

Prior to 2013, when all payers, including Medicare, accepted CPT 95920 for both in-person and remote monitoring, Medicare rules still only allowed the use of CPT 95920 once per hour, even if multiple patients were monitored simultaneously. In other words, under the prior CPT code, Medicare still only allowed remote monitoring of one surgery at a time. Since the adoption of HCPCS G0453 by Medicare, Worker's Compensation carriers have also mandated the use of HCPCS G0453 and have adopted Medicare's rules associated with this code.

SOLELY DEDICATED AND AVAILABLE TO INTERVENE

Reimbursement for these CPT codes requires that the monitoring physician provided continuous, real-time monitoring of the IONM feedback throughout the surgery. CPT introductory language and AMA coding guidance is clear that in order to bill these codes (95940, 95941, or G0453) the service must be performed by a monitoring professional who is solely dedicated to performing IONM and is available to intervene at all times during the surgery as necessary. The monitoring professional may not provide any other activities aside from IONM during the same period of time billed for monitoring.

The tension arises when the question is asked whether an IONM provider can be solely dedicated to and available to intervene in a specific patient's procedure if that provider is monitoring multiple patients at the same time. Providers generally take the position that multiple patients may be monitored without compromising the availability to intervene. Insurers have pushed back on this, contending a one-patient-at-a-time approach is needed and only reimbursing a single claim for payment at a time.

The concern that practitioners may bill for monitoring more than one beneficiary for the same work during the same period of time was a primary purpose behind the creation of HCPCS code G0453 (continuous IONM, from outside the operating room, with attention directed exclusively to one patient). HCPCS code G0453 may be billed only for undivided attention by the monitoring physician to a single patient, not for simultaneous attention by the monitoring physician to more than one patient. CMS noted the threats of abuse when allowing a provider to bill for the simultaneous remote monitoring of patients and other federal health programs have agreed with this view.

The preface language of CPT 95941 permits providers to bill for overlapping IONM services provided to multiple patients at the same time. When monitoring more than one procedure, there must be the immediate ability to transfer the patient monitoring to another monitoring professional during the surgical procedure should that professional's exclusive attention be required for another procedure. The number of cases monitored at any one time should not exceed the requirements for providing adequate attention to each patient.

CONTRACTING AROUND THE ISSUE

Some insurers have included provisions in contracts with in-network providers imposing limits on the number of overlapping IONM cases that can be provided and billed. This practice would not limit the number of patients insured by different insurers that a provider can monitor. For example, if an IONM provider simultaneously monitored three patients who are covered by three different insurers, each insurer would only receive one claim even though the provider monitored three patients at the same time. Contracting around the issue also does not address out-of-network providers who would not be subject to any IONM limitation provision.

THE OUTLOOK FOR INSURERS AND PROVIDERS

Until the IONM issue is addressed by courts, providers will continue submitting multiple, concurrent claims for remote IONM services and many insurers will attempt to limit the number of simultaneous, reimbursable claims. Provisions in provider agreements clarifying the number of overlapping claims an insurer will reimburse may provide an understanding between the provider and payer and avoid disputes down the road. On the other hand, overlapping claims submitted by out-of-network providers remains a legal blind spot with insurers referencing the stance of CMS and providers noting the absence of any clear restriction on the number of patients a provider may simultaneously monitor. Insurers should expect that simultaneous IONM claims will be submitted and providers should be aware they may face resistance to payment.

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