

## Q6 Modifiers – What You Need to Know

### **What is the Q6 modifier used for?**

This modifier is assigned when a Medicare-enrolled physician arranges for a substitute to provide services for patients who have arranged or seek care from the regular physician. This arrangement was previously termed *locum tenens* but is now referred to as a fee-for-time compensation arrangement in Medicare rules. The change was based on the title of Section 16006 of the 21<sup>st</sup> Century Cures Act. The regular physician receives payment and pays the substitute, who works as an independent contractor.

### **When can the Q6 modifier be used?**

The Q6 modifier can be assigned when the regular physician is absent for a period of up to sixty (60) continuous days. However, under Centers for Medicare and Medicaid (CMS) rules, if the regular physician is on active duty, the timeframe can be extended. There is no maximum time limit in this circumstance. According to Section 116 of the Medicare, Medicaid and SCHIP Extension Act of 2007, the continuous period of covered services begins with the first day of the substitute or provides services until the last day of services during the regular physician's absence. Note that the Q6 modifier cannot be assigned if the substitute is already a part of the practice the regular physician belongs to.

### **Do commercial health plans use the Q6 Modifier?**

Some commercial health plans follow CMS policies and use the Q6 modifier. Therefore, check to see if assigning the modifier is acceptable in the coding and billing policies for the plans you work with. Some commercial plans accept Q6 billed under the regular physician's NPI. There are commercial plans that use the Q6 modifier for non-physician providers, including nurse practitioners. These plans require that they are credentialed prior to billing for services. Some plans do not allow the Q6 modifier for newly employed physicians.

### **Do the services provided by the substitute have to be rendered on consecutive days?**

The Q6 modifier can be assigned to codes for services provided on any day during the continuous period of the regular physician's absence. For example, a physician is on leave from July 15<sup>th</sup> through August 10<sup>th</sup>. The substitute provides services on July 15, July 22, and August 2. The Q6 modifier is valid for these services because they were provided during the regular physician's period of absence.

### **Can CRNAs use the Q6 modifier or is it limited only to physicians?**

Under the Medicare statute and CMS' implementing guidelines<sup>[iii]</sup> locum tenens arrangements apply to *only services provided by physicians*, including specialists and physical therapists. The term "physician" as defined includes doctors of medicine or osteopathy, dentists, podiatrists, chiropractors, and doctors of optometry in limited circumstances.<sup>[iii]</sup> "Physicians services" are "professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls (but not including services [of an intern or resident-in-training])."<sup>[iv]</sup>

The term "services of a certified registered nurse anesthetist" is defined separately from "physicians services," which is the specific term used in the locum tenens provision, therefore, CRNAs are not allowed to use the Q6 modifier at this time.<sup>[iv]</sup>

### **Can CMS or its Medicare Administrative Contractors (MACs) allow use of Medicare's Q6 Modifier by CRNAs or other practitioners who are not physicians?**

No, CMS or MACs do not have the authority to apply the Medicare statute's locum tenens provision to practitioners other than physicians. The Administrative Procedure Act, which applies to all executive branch agencies, directs a court reviewing the validity of an agency's action to "hold unlawful and set aside agency action, findings, and conclusions found to be...in excess of statutory jurisdiction, authority, or limitations."<sup>[vi]</sup> The *statute is unambiguous that the locum tenens provision applies to physician and physician services* – it does not mention any other kinds of health care professionals or include an ambiguous reference to "other medical services." If a statute makes the intent of Congress clear, then an agency must give effect to the unambiguously expressed intent of Congress.<sup>[vii]</sup> Thus, CMS currently does not have the discretion to promulgate a regulation that would allow the locum tenens provision to apply to CRNAs, based on the plain text of the statute.

### **In what circumstance would Medicare's Q6 Modifier be applicable to CRNAs?**

Applying the *locum tenens* provision to CRNAs would require new federal legislation signed into law by the President. Currently, the Medicare program only allows for reimbursement of claims submitted pursuant to a physician's locum tenens arrangement in certain circumstances.<sup>[i]</sup> These circumstances include when a physician must be absent from his or her practice for reasons such as extended illness, maternity leave, vacation, or continuing medical education, the physician may arrange to pay a locum tenens physician a per diem amount as an independent contractor to perform services and see patients.

### **Are there any upcoming plans to address the use of the Q6 modifier by APRNs?**

It is possible that the use of the Q6 modifier by CRNAs and APRNs will be addressed in the upcoming "Increasing Access to APRNs Act."

#### **References:**

[i] 42 U.S.C. § 1395u(b)(6)(D).

[ii] See Medicare Claims Processing Manual Chapter 1 - General Billing Requirements, Section 30.2.11 available at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c01.pdf>.

(iii) 42 U.S.C. § 1395x(r).

(iv) 42 U.S.C. § 1395x(q).

[v] 42 U.S.C. § 1395x(bb).

(vi) 5 U.S.C. § 706(2)(C).

[vii] *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-843(1984).

#### **For more information:**

Centers for Medicare & Medicaid. (2021, June 11). *Medicare Claims Processing Manual*. Retrieved from cms.gov: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c01.pdf>

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