

## New Specific HCPCS Modifiers for Distinct Procedural Services (Modifier 59)

Modifier 59, the distinct procedural service modifier, is reported with a Current Procedural Terminology (CPT®) code to identify procedures or services, other than Evaluation and Management (E/M) services that are not typically reported together, but are appropriate under the circumstances. As defined by the *CPT Manual*, “*Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances.*” Even if you already understand the proper use of Modifier 59, you should continue reading. The Centers for Medicare and Medicaid Services (CMS) recently announced in Change Request (CR) 8863, they are issuing four more specific Healthcare Common Procedure Coding System (HCPCS) modifiers that will supersede Modifier 59—with an effective date of January 1, 2015 and an implementation date of January 5, 2015.

Currently, providers can use modifier 59 to indicate that a code represents a service that is separate and distinct from another service with which it would normally be considered as bundled. It is used when another modifier will not explain the service to the payer, or when the code combination is correct but the payer has a payment edit in place. According to CPT, when reporting modifier 59, documentation must support:

- A different session
- A different site or organ system
- A separate lesion
- A different procedure or surgery
- A separate incision or excision
- A separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual

However, it is important to note that when another already established modifier is appropriate, it should be used in lieu of modifier 59. Modifier 59 should only be used when it best explains the scenario because there is no better modifier to describe the procedure or service provided.

### Examples of Proper Modifier 59 Usage

The National Correct Coding Initiative (NCCI) is a process in which CPT codes are reviewed and analyzed to determine when a given pair of services may or may not be reported together by the same physician for the same patient during a single encounter. The NCCI looks for instances of unbundling and for code combinations that would be mutually exclusive of each other.

***Reader’s Note: Unbundling occurs when multiple procedure codes are billed for a group of procedures that are covered by a single comprehensive code.***

## Timely Topics

### PAYMENT AND PRACTICE MANAGEMENT

It is important to note that the NCCI documentation requirements for separate reporting of a pain procedure in conjunction with an anesthesia service have changed and it is essential to understand these changes. If proper documentation requirements are not met, then the use of modifier 59 or one of the new HCPCS modifiers will not hold up if your claim is filed for review. The requirement changes from NCCI are noted below:

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Postoperative pain management services are generally provided by the surgeon who is reimbursed under a global payment policy related to the procedure and shall not be reported by the anesthesia practitioner unless separate, medically necessary services are required that cannot be rendered by the surgeon. The surgeon is responsible to document in the medical record the reason care is being referred to the anesthesia practitioner.

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Under certain circumstances an *anesthesia practitioner* may separately report an epidural or peripheral nerve block injection (bolus, intermittent bolus, or continuous infusion) for postoperative pain management when the surgeon requests assistance with postoperative pain management.

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Per CMS Global Surgery rules postoperative pain management is a component of the global surgical package and is the responsibility of the physician performing the global surgical procedure. If the physician performing the global surgical procedure does not have the skills and experience to manage the postoperative pain and requests that an anesthesia practitioner assume the postoperative pain management, the anesthesia practitioner may report the additional services performed once this responsibility is transferred to the anesthesia practitioner.

Per the ASA Statement "[Reporting Postoperative Pain Procedures in Conjunction with Anesthesia](#)" the block is separately reportable if:

- a. The anesthesia for the surgical procedure was not dependent upon the efficacy of the regional anesthetic
- b. The time spent on pre- or postoperative placement of the block is separated and not included in reported anesthetic time.
- c. Time for a post-surgical block that occurs after induction and prior to emergence does not need to be deducted from reported anesthesia time.

As long as all the criteria to separately report the block are met – including the most recent requirement as stated in the National Correct Coding Initiative– you would report both the anesthesia code and the post-op pain procedure.

## Timely Topics

### PAYMENT AND PRACTICE MANAGEMENT

#### New Issues and Updates

Because modifier 59 is a powerful modifier that can be broadly applied, it is associated with a high frequency of fraud and abuse by some providers who incorrectly consider it to be the “modifier to use to bypass National Correct Coding Initiative (NCCI) edits.” As a widely used modifier, it is both commonly used and commonly *abused*. Given these circumstances, the NCCI has Procedure to Procedure (PTP) edits to prevent unbundling and mispayment to providers and outpatient facilities.

Even with the NCCI PTP edits in place, according to the 2013 CERT Report Data, approximately \$2.4 Billion in Medicare payments was associated with modifier 59 payments with a \$320 Million in error rates. Although the projected error rate is not entirely due to potential misuse of modifier 59, the report noted that incorrect modifier usage was a major contributing factor.

#### The New Policy

In order to payment errors associated with modifier 59 usage, the newly created four HCPCS modifiers more granularly identify subsets of modifier 59. Referred to as -X {EPSU} modifiers, they are listed below:

- **XE** Separate Encounter, A Service That Is Distinct Because It Occurred During A Separate Encounter
- **XS** Separate Structure, A Service That Is Distinct Because It Was Performed On A Separate Organ/Structure
- **XP** Separate Practitioner, A Service That Is Distinct Because It Was Performed By A Different Practitioner
- **XU** Unusual Non-Overlapping Service, The Use Of A Service That Is Distinct Because It Does Not Overlap Usual Components Of The Main Service

Although CMS will not stop recognizing modifier 59, the new HCPCS modifiers define specific subsets of modifier 59, which is important since CPT instructs that modifier 59 not be used when a more descriptive modifier is available. These new modifiers will officially be in effect January 1, 2015. Thus, contractors may require use of the HCPCS modifiers in place on modifier 59 when applicable.

## Timely Topics

### PAYMENT AND PRACTICE MANAGEMENT

As more information becomes available, we will continue to keep our members up-to-date. If you have any questions, please contact your MAC:

Contractor	Jurisdictions	States	Website
Cahaba Government Benefit Administrators, LLC	J10	AL, GA, TN	<a href="http://www.cahabagba.com/">http://www.cahabagba.com/</a>
CGS Administrators, LLC	J15	KY, OH	<a href="https://www.cgsmedicare.com/">https://www.cgsmedicare.com/</a>
First Coast Service Options, Inc.	J9	FL, PR, VI	<a href="http://www.fcso.com/">http://www.fcso.com/</a>
National Government Services, Inc.	J6, JK	MN, WI, IL, NY, CT, MA, RI, VT, ME, NH	<a href="http://www.ngsmedicare.com/ngs/portal/ngsmedicare/home">http://www.ngsmedicare.com/ngs/portal/ngsmedicare/home</a>
Noridian Healthcare Solutions, LLC	JF, JE	CA, HI, NV, AK, AZ, ID, MT, ND, OR, SD, UT, WA, WY	<a href="https://www.noridianmedicare.com/">https://www.noridianmedicare.com/</a>
Novitas Solutions, Inc.	JL, JH	AR, CO, LA, MS, NM, OK, TX, DE, MD, PA, NJ, DC	<a href="http://www.novitas-solutions.com/">www.novitas-solutions.com/</a>
Palmetto GBA	J1, J11	NC, SC, VA, WV	<a href="http://www.palmettogba.com/palmetto/palmetto.nsf/SiteHome?ReadForm">http://www.palmettogba.com/palmetto/palmetto.nsf/SiteHome?ReadForm</a>
Wisconsin Physicians Service Insurance Corporation	J5, J8, T18	IA, KS, MO, NE, IN, MI	<a href="http://www.wpsmedicare.com/index.shtml">http://www.wpsmedicare.com/index.shtml</a>

For More Information on Modifier 59 and the new provisions, please visit the CMS articles below:

[MLN Matters: MM8863](#)

[CMS: Modifier 59 Article](#)

[CMS Manual System Pub 100-20 One-Time Notification Transmittal 1422](#)