

Services that are performed by a non-physician practitioner “incident-to” a physician’s professional service may be billed under said physician’s Medicare billing number, if certain conditions apply. The following conditions are specific to Medicare billing. Commercial payers will have their own policies regarding incident to billing, and you should check your respective agreements for those policies. The types of services or supplies provided under “incident-to” billing are those that are not usually included in section 1861(s)(2)(A) of the Social Security Act and are not specifically listed as a separate benefit included in the Medicare program.

1. The non-physician practitioner can be any individual who is acting under the supervision of a physician regardless of whether the individual is an employee, leased employee, or independent contractor of the physician, or of the same entity that employs or contracts with the physician and meets any applicable requirements to provide the service, including licensure, imposed by the State in which the services are being furnished.
2. Services and supplies must be furnished in a **non-institutional** setting to non-institutional patients. A **non-institutional** setting is any setting other than a hospital or a skilled nursing facility.
3. Services must be an integral, though incidental, part of the diagnosis or treatment, commonly furnished without charge or included in the bill of a physician, and provided at an expense to the provider. *Incident to services must be part of the patient’s normal course of treatment, during which a physician personally performed an initial service and remains actively involved in the course of treatment.* The non-physician provider cannot perform services for new diagnoses and bill them as “incident-to” services unless a physician has first determined a course of treatment.
4. In general, services and supplies must be furnished under the **direct supervision** of the physician. **Direct supervision** means that the physician **must** be present in the office suite and immediately available to furnish assistance and direction throughout the performance of the procedure. The physician does not necessarily have to be in the room when the procedure is performed. The physician supervising the non-physician need not be the same physician upon whose professional service the incident to service is based.
 - a. Services and supplies furnished incident to *transitional care management* and *chronic care management* services can be furnished under general supervision of the physician when these services or supplies are provided by clinical staff. General supervision means the procedure is furnished under the physician’s overall direction and control, but the physician’s presence is not required during the performance of the procedure. Under general supervision, the training of the non-physician personnel who actually performs the diagnostic procedure and the maintenance of the necessary equipment and supplies are the continuing responsibility of the physician.
5. The services must be furnished by the physician or non-physician practitioner and in accordance with applicable state law.

There are more specific rules for drugs under “incident-to” billing that can be provided at request.

42 C.F.R. § 410.26(b); 42 C.F.R. § 410.32(b)(3)(ii).