

# DEMONSTRATED NEED FOR SKILLED CARE FOR MEDICARE PATIENTS: SKILLED THERAPY SERVICES

ETHICS & COMPLIANCE DEPARTMENT

## **SCOPE:**

Applies to all Evolution Health colleagues. For purposes of this policy, all references to “colleague” or “colleagues” include temporary, part-time and full-time employees, independent contractors, clinicians, officers and directors.

## **PURPOSE:**

To provide guidance to all Evolution Health (the “Company”) colleagues on assessing whether a patient needs skilled therapy services.

## **POLICY:**

It is the policy of the Company that each patient whose services are covered by the Medicare program will be assessed to verify that a skilled need exists as part of the Initial Patient Assessment/Comprehensive Patient Assessment. While a patient may also qualify for home health services through the need for skilled nursing services, this policy addresses skilled therapy services.

## **PROCEDURE:**

### *General Principles*

- In order to qualify for home health services payable by the Medicare Program a patient must need one of the following types of services:
  1. Skilled nursing care;
  2. Physical therapy;
  3. Speech-language pathology; or
  4. A continuing need for occupational therapy.

This policy addresses assessment for therapy services. The Company’s Demonstrated Need for Skilled Care for Medicare Patients: Skilled Nursing Services, Policy No. 406, provides procedures for assessing Medicare patient eligibility for skilled nursing care.

### ***Documentation Requirements***

On admission and upon each recertification, the clinician must document the need for skilled therapy services.

- The clinical record of the patient must contain progress and clinical notes, and reflect the need for the skilled medical care provided. Important communications among all members of the home care team regarding the development, course, and outcomes of the skilled observations, assessments, treatment, and training performed should also be included in the clinical record.
- The clinical notes must document, as appropriate, the following:
  1. The history and physical exam pertinent to the day's visit (including the response or changes in behavior to previously administered skilled services) and the skilled services applied on the current visit;
  2. The skilled services applied on the current visit;
  3. The patient/caregiver's immediate response to the skilled services provided;
  4. The plan for the next visit based on the rationale of prior results
  5. A detailed rationale that explains the need for the skilled service in light of the patient's overall medical condition and experiences;
  6. The complexity of the service to be performed; and
  7. Any other pertinent characteristics of the beneficiary or home.

### ***Therapy Services***

- The service of a physical therapist, speech-language pathologist or occupational therapist is a skilled therapy service if the inherent complexity of the service is such that it can be performed safely and/or effectively only by or under the general supervision of a skilled therapist. To be covered, assuming all other eligibility and coverage criteria have been met, the skilled therapy services must also be reasonable and necessary to the treatment of the patient's illness or injury or to the restoration or maintenance of function affected by the patient's illness or injury.
- The development, implementation, management and evaluation of a patient care plan based on physician's orders constitute skilled therapy services when, because of the patient's clinical condition, those activities require the specialized skills, knowledge, and judgment of a qualified therapist to ensure the effectiveness of the treatment goals and ensure medical safety. Where the specialized skills, knowledge, and judgment of a therapist are needed to manage and periodically reevaluate the appropriateness of a maintenance program because of an identified danger to the patient, such services would be covered, even if the skills of a therapist were not needed to carry out the activities performed as part of the maintenance program.
- While a patient's particular medical condition is a valid factor in deciding if skilled therapy service are needed, a patient's diagnosis or prognosis should never be the sole factor in deciding that a service is or is not skilled. The key issue is whether the

skills of a therapist are needed to treat the illness or injury, or whether the services can be carried out by unskilled personnel.

- Therapy services must be “reasonable and necessary” for the treatment of the patient’s illness or injury:
  1. The services must be consistent with the nature and severity of the illness or injury and the patient’s particular medical needs, including the requirement that the amount, frequency and duration of the services be reasonable.
  2. The services must be considered, under accepted standards of medical practice, to be specific, safe and effective treatment for the patient’s condition. The home health record must specify the purpose of the skilled therapy service provided.
  3. Services involving activities for the general welfare of any patient, *e.g.*, general exercises to promote overall fitness or flexibility and activities to provide diversion or general motivation do not constitute skilled therapy services. Unskilled individuals without the supervision of a therapist can perform these services.
  4. Assuming all other eligibility and coverage requirements have been met, in order for skilled therapy services to be covered, one of the following three (3) conditions must be met:
    - The skills of a qualified therapist are needed to restore patient function;
    - The patient’s clinical condition requires the specialized skills, knowledge, and judgment of a qualified therapist to establish or design a maintenance program, related to the patient’s illness or injury, in order to ensure the safety of the patient and the effectiveness of the program; or
    - The skills of a qualified therapist (not an assistant) are needed to perform maintenance therapy.
  5. The amount, frequency, and duration of the services must be reasonable.

### *Common Skilled Physical Therapy Services*

While not exhaustive, below are common skilled physical therapy services and the circumstances under which they would be reasonable and necessary and thus covered by the Medicare Program.

- Assessment. Assuming all other eligibility and coverage requirements have been met, the services of a physical therapist to assess and periodically reassess a patient's rehabilitation needs and potential or to develop and/or implement a physical therapy program are covered when they are reasonable and necessary for the patient's condition. Skilled rehabilitation services concurrent with the management of a patient's care plan include objective tests and measurements such as, but not limited to, range of motion, strength, balance, coordination, endurance or functional ability.
- Therapeutic Exercises. Therapeutic exercises, which must be performed by or under the supervision of a qualified physical therapist to ensure the safety of the beneficiary and the effectiveness of the treatment, due either to the type of exercise employed or to the condition of the patient, constitute skilled physical therapy services.
- Gait Training. Gait evaluation and training furnished to a patient whose ability to walk has been impaired by a neurological, muscular or skeletal abnormality require the skills of a qualified physical therapist and constitute skilled physical therapy and are considered reasonable and necessary if the services can be expected to materially improve or maintain the patient's ability to walk or prevent or slow further deterioration of the patient's ability to walk. Services for gait impaired by a condition other than a neurological, muscular or skeletal abnormality would nevertheless be covered where physical therapy is reasonable and necessary to restore or maintain function or to prevent or slow further deterioration.

**Example.** A physician has ordered gait evaluation and training for a patient whose gait has been materially impaired by scar tissue resulting from burns. Physical therapy services to evaluate the beneficiary's gait, establish a gait training program and provide the skilled therapy services necessary to implement the program would be covered. The patient's response to therapy must be documented. At appropriate intervals, the qualified therapist must assess the patient with objective measurements of function.

- Range of Motion. Only a qualified physical therapist may perform range of motion tests and, therefore, such tests are skilled physical therapy services. Range of motion exercises constitute skilled physical therapy only if they are part of an active treatment for a specific disease state, illness, or injury that has resulted in a loss or restriction of mobility.
- Maintenance Therapy. Where the services required to maintain the patient's current function or to prevent or slow further deterioration of the patient's function are of such complexity and sophistication that the skills of a qualified therapist are required to perform the procedure safely and effectively, the services would be covered physical therapy

services. Where the particular patient's special medical complications require the skills of a qualified therapist to safely and effectively perform a therapy service that would otherwise be considered unskilled, such services would be covered physical therapy services.

**Example.** Where there is an unhealed, unstable fracture that requires regular exercise to maintain function until the fracture heals, the skills of a physical therapist would be needed to ensure that the fractured extremity is maintained in proper position and alignment during maintenance range of motion exercises.

- Ultrasound, Shortwave and Microwave Diathermy Treatments. These treatments must always be performed by or under the supervision of a qualified physical therapist and are skilled therapy services.
- Hot Packs, Infra-Red Treatments, Paraffin Baths and Whirlpool Baths. Heat treatments and baths of this type ordinarily do not require the skills of a qualified physical therapist. However, the skills, knowledge and judgment of a qualified physical therapist might be required in the giving of such treatments or baths in a particular case, *e.g.*, where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications. The home health record must include clear documentation of the special medical complications that describes the need for skilled services provided by the therapist.
- Wound Care Provided Within Scope of State Practices Act. If wound care falls within the auspices of the physical therapist's state practice act, then the physical therapist may provide the specific type of wound care services defined in the state practice act. The patient's response to therapy must be documented.
- Common Speech-Language Pathology Services. While not exhaustive, below are common skilled speech-language pathology services and the circumstances under which they would be reasonable and necessary and thus covered by the Medicare Program.
  1. The skills of a speech-language pathologist are required for the assessment of the patient's rehabilitation needs and rehabilitation potential if they are needed as a result of an illness or injury and are directed towards specific speech/voice production.
  2. Speech-language pathology would be covered where a skilled service can only be provided by a speech-language pathologist and where it is reasonably expected that the skilled service will improve, maintain, or prevent or slow further deterioration in the patient's ability to independently carry out communication or feeding activities.

3. The services of a speech-language pathologist to establish a hierarchy of speech-voice-language communication tasks and cueing that directs a patient toward speech-language communication goals in the plan of care would be covered speech-language pathology services.
4. The services of a speech-language pathologist to train the patient, family or other caregivers to augment the speech-language communication, treatment, to establish an effective maintenance program, or carry out a safe and effective maintenance program when the particular patient's special medical complications require the skills of a qualified therapist (not an assistant) to perform a therapy service that would otherwise be considered unskilled or the needed therapy procedures are of such complexity that the skills of a qualified therapist are required to perform the procedures, would be covered speech-language pathology services.
5. The services of a speech-language pathologist to assist patients with aphasia in rehabilitation of speech and language skills are covered when needed by the patient.
6. The services of a speech-language pathologist to assist patients with voice disorders to develop proper control of the vocal and respiratory systems for correct voice production are covered when needed by the patient.
7. Reevaluation would be considered reasonable and necessary only if the patient exhibited a change in functional speech or motivation, clearing of confusion, or the remission of some other medical condition that previously contraindicated speech-language pathology services.

### ***Common Occupational Therapy Services***

While not exhaustive, below are common skilled occupational therapy services and the circumstances under which they would be reasonable and necessary and thus covered by the Medicare Program.

- Assuming all other eligibility and coverage requirements have been met, the services of an occupational therapist to assess and reassess a patient's rehabilitation needs and potential or to develop and/or implement an occupational therapy program are covered when the services are reasonable and necessary because of the patient's condition.
- Selecting and teaching task oriented therapeutic activities designed to restore physical function. ***Example.*** Use of woodworking activities on an inclined table to restore shoulder, elbow and wrist range of motion lost as a result of burns.
- Planning, implementing and supervising therapeutic tasks and activities designed to restore sensory-integrative function. ***Example.*** Providing motor and tactile activities to increase

sensory output and improve response for a stroke patient with functional loss resulting in a distorted body image.

- Planning, implementing and supervising individualized therapeutic activity programs as part of an overall “active treatment” program for a patient with a diagnosed psychiatric illness. ***Example.*** Use of sewing activities that require following a pattern to reduce confusion and restore reality orientation in a schizophrenic patient.
- Teaching compensatory techniques to improve the level of independence in the activities of daily living. ***Examples.*** (1) Teaching a patient who has lost use of an arm how to pare potatoes and chop vegetables with one hand. (2) Teaching a stroke patient new techniques to enable them to perform feeding, dressing and other activities of daily living as independently as possible.
- Designing, fabricating and fitting of orthotic and self-help devices. ***Examples.*** (1) Construction of a device which would enable a patient to hold a utensil and feed themselves independently. (2) Construction of a hand splint for a patient with rheumatoid arthritis to maintain the hand in a functional position.
- Vocational and prevocational assessment and training.

## **POLICY REVIEW**

The Ethics & Compliance Department will review and update this Policy and all HIPAA policies when necessary in the normal course of its review of the Corporate Ethics & Compliance Program.