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Get Paid Separately for Bundled Codes
By Barbara J. Cobuzzi, MBA, CPC

Have you ever tried to use modifier 59 (Distinct procedural service)? From its description, it might seem like a magic bullet. You can split two procedures (bundled by the Correct Coding Initiative, or CCI) so each can be paid separately. Sounds great.

But be careful. If you don't properly justify its use, modifier 59 can turn poisonous, abusive, and possibly fraudulent — not what you want.

There are two legitimate reasons to unbundle codes that the CCI considers bundled: When they are performed during different encounters in the same day, and when the procedures were performed on separate anatomical sites.

The Department of Health and Human Services' Office of the Inspector General has targeted inappropriate use of modifier 59 for scrutiny because some providers appear to use the modifier as a "license to unbundle" without being able to justify the "separate site" or "separate encounter."

To use modifier 59 successfully, first understand why it exists and when to use it.

- **Separate encounters** — Say a physician performs a diagnostic nasal endoscopy (31231 — *Nasal endoscopy, diagnostic, unilateral or bilateral [separate procedure]*). Later that day, the patient shows up in the emergency room with a nose bleed. The same physician is called in and he performs a cautery of the nose bleed (30903 — *Control nasal hemorrhage, anterior, complex [extensive cautery and/or packing] any method*). These two codes are normally bundled together — control of bleeding is considered part of the endoscopy procedure — but since they were done in separate patient encounters, the use of modifier 59 is appropriate and the physician will be paid for both codes.

  Since 30903 is the Column II code (considered bundled into 31231), you append modifier 59 to it. You would code 31231 (with the diagnosis for the earlier encounter) and 30903-59, 784.7 (*Epistaxis*). Tricky part: You don't always append modifier 59 to the second procedure performed; you append it to the column II code in the pair.

- **Separate sites** — Another reason to use modifier 59 is to notify the payer that although two codes are normally bundled, they describe procedures that were done on different anatomical locations. Performing bundled codes on different locations does not qualify them for bundling, but payers' software will automatically bundle the codes and only pay for the column I code. Use modifier 59 to notify the payer of this special circumstance.

  For example, a patient is in the operating room for a biopsy of her left breast and a partial mastectomy of her right breast. The surgeon is performing the partial mastectomy of the patient's right breast since a prior biopsy has shown a lesion there to be malignant. A breast biopsy (19101 — *Biopsy of breast; open, incisional*) is bundled into a partial mastectomy (19302 — *Mastectomy, partial [e.g., lumpectomy, tylectomy, quadrantectomy, segmentectomy]; with axillary lymphadenectomy*). In order to get paid for both, you might think that just putting an LT modifier on 19101 and a RT modifier on 19302 would work, but it doesn't. Many payers, including Medicare MACs/Carriers, don't pay based on the LT and RT modifiers. In order to break the bundle, you must append modifier 59 to the column II code, 19101. The service, indicating separate sites in the same encounter, could be 19302, 174.9 and 19101-59, 239.3 (the diagnoses could differ, depending on the documentation).

For consistent success with using modifier 59, think like a bundler: Consider the mindset of the CCI editors when they created a bundle. If a different device is needed to perform the second procedure, it is likely the editors of CCI factored that into the bundle. Simply switching devices does not make it a separate service. If you scope two separate locations which are defined by two different codes, it is highly likely that those creating the CCI bundle expected that would happen, so modifier 59 is not justified just because you examined two locations; it's implicit in the bundle.

Err on the side of safety when considering modifier 59, and document well. Then if you do get called out on using it, make sure that when you take the stand in a fraud and abuse case or a refund request, you can fully defend your actions.

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