

The ins and outs of reimbursement for fellow moonlighting

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As part of their graduate medical education (GME) programs, teaching hospitals often train fellows—trainees in specialty and subspecialty programs who have already completed their initial residency periods. For an overview of Medicare GME rules pertaining to fellows, see our previous *GME @ Dentons* article, "[Beyond residency: How the Medicare program treats fellowship training.](#)"

Because most fellows are licensed clinicians, there are circumstances in which they may render and bill under the Medicare Physician Fee Schedule (MPFS) for services when they are performing services outside the scope of an approved GME program. This practice is often referred to as "moonlighting." To the extent that fellows training in a teaching hospital are moonlighting, it is important for the teaching hospital to understand the rules governing where fellows are permitted to provide moonlighting services, and how and when these services may be reimbursed.

An unsupervised fellow treating patients in the **inpatient** setting of the hospital in which he or she is enrolled in an **approved training program** may not bill for moonlighting services. The applicable regulation (42 C.F.R. § 415.208(b)(1)) provides that the "services of residents to inpatients of hospitals in which the residents have their approved GME program are not covered as physician services." Rather, these services are considered to be part of the training program, and the fellow's time must be reported on the Medicare hospital cost report and reimbursed through Medicare GME payments.

A fellow may, however, moonlight in the inpatient setting of *another* teaching hospital and bill for services provided at that hospital. The likely explanation for this difference in policy is that such billing would not result in double-payment for the fellow's services (by providing both GME payments and MPFS payments). A fellow may also moonlight in an outpatient or emergency department of the same hospital where the fellow is training, so long as the services can be "separately identified" from those required as part of the fellow's training program.

If a fellow is **not in an approved program** (i.e., a program that is not approved by the Accreditation Council for Graduate Medical Education, the American Osteopathic Association or one that leads to board certification by the American Board of Medical Specialties), the fellow may bill under the Medicare Physician Fee Schedule (MPFS) for moonlighting services as long as the fellow is **fully licensed** in the state where the services are performed.

Part B reasonable cost reimbursement (under 42 CFR § 415.202) is available for services provided by a fellow in an **unapproved program** who is fully licensed, but who is **not licensed** in the state where the fellow is training, provided that the fellow is enrolled and participating in a formally organized, standardized, structured course of study, and that the program is at least one year in duration. A fellow who is **not fully licensed** or is not authorized under the institution's bylaws to bill for services is not permitted to bill for moonlighting services under the MPFS.

Medicaid, TRICARE and private payers have different rules regarding the permissibility of billing by fellows in approved and unapproved programs. For example, TRICARE allows a **licensed** fellow in an **approved program** to bill for moonlighting services if the services provided are outside the scope and requirements of the training program.

Additionally, TRICARE rules appear to allow a **fully licensed** fellow in an **unapproved program** to bill for moonlighting services. Generally, Medicaid rules vary by state and commercial payers' rules vary by individual payer contract.

For more guidance on navigating the complex and often seemingly inconsistent rules regarding reimbursement for moonlighting services rendered by fellows, please contact the Dentons team listed above.