

History of the PTA Differential Rulemaking Process

CMS was required to adopt modifiers and define "in part" through a notice and comment rulemaking process described in the December 2019 Compliance Matters column. (See the Resources box on page 12.) In the 2019 Medicare fee schedule final rule, CMS adopted the CQ modifier.

CMS stated that the modifier must appear on the claim line of the service alongside the GP therapy modifier that identifies services furnished under a physical therapy plan of care.

The agency also finalized a de minimis standard for determining what constitutes "in whole or in part": When more than 10% of the service is furnished by a PTA the modifier must be added.

CMS promised to include additional guidance on the modifier in its 2020 fee schedule rule, and it did so with the proposed rule's release in July 2019. The agency offered an explanation as to how it intended to apply the de minimis standard when a PT and PTA furnished services together, versus furnishing the same service separately. APTA disagreed with CMS' proposals and recommended alternatives.

The 2020 fee schedule final rule, released in November 2019, reflected APTA's recommendations. CMS clarified that in determining whether to apply the CQ modifier, only the minutes that the PTA spends independent of the PT will count toward the de minimis standard. Moreover, the 10% standard will be assessed for each 15-minute unit of each procedure code, rather than for all minutes of a procedure code. CMS also described how a provider would determine whether the de minimis standard is exceeded.