

Will “X” mark the spot for Modifier -59?

CPT defines modifier -59 as

““Distinct Procedural Service: Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used. “

Modifier 59 and others should **NOT** be used to bypass a NCCI edits unless the proper criteria for use of the modifier is met. To appropriately use modifier-59 documentation in the medical record **MUST** support its use.

CMS indicates that:

1. Modifier 59 is used appropriately for different anatomic sites during the same encounter only when procedures which are not ordinarily performed or encountered on the same day are performed on different organs, or different anatomic regions, or in limited situations on different, non-contiguous lesions in different anatomic regions of the same organ.

From an NCCI perspective, the definition of different anatomic sites includes different organs or, in certain instances, different lesions in the same organ. However, NCCI edits are typically created to prevent the inappropriate billing of lesions and sites that should not be considered to be separate and distinct. Therefore modifier 59 should only be used to identify clearly independent services that represent significant departures from the usual situations described by the NCCI edit. The treatment of contiguous structures in the same organ or anatomic region does not constitute treatment of different anatomic sites.

2. Modifier 59 is used appropriately when the procedures are performed in different encounters on the same day.

Modifier -59 is only appropriate when another more specific NCCI-associated modifiers – i.e., 24, 25, 27, 57, 58, 78, 79, or 91 cannot be used. As noted in the CPT definition, modifier 59 should

only be used if no other modifier more appropriately describes the relationship of the two procedure codes.

- 3.** Modifier 59 is used inappropriately if the basis for its use is that the narrative description of the two codes is different.

The code descriptors of the two codes of a code pair edit usually represent different procedures, even though they may be overlapping. The edit indicates that the two procedures should not be reported together if performed at the same anatomic site and same patient encounter as those procedures would not be considered to be “separate and distinct.” Modifier 59 should not be used for such an edit based on the two codes being “different procedures.” However, if the two procedures are performed at separate anatomic sites or at separate patient encounters on the same date of service, modifier 59 may be appended to indicate that they are different procedures on that date of service.

- 4.** Modifier 59 is used appropriately for two services described by timed codes provided during the same encounter only when they are performed sequentially.

This is applicable only to codes for which the unit of service is a measure of time. If two timed services are provided in time periods that are separate and distinct and not interspersed with each other, modifier 59 may be used to identify the services.

- 5.** Modifier 59 is used appropriately for a diagnostic procedure which precedes a therapeutic procedure only when the diagnostic procedure is the basis for performing the therapeutic procedure.

When a diagnostic procedure precedes a surgical procedure or non-surgical therapeutic procedure and is the basis on which the decision to perform the surgical procedure is made, that diagnostic test may be considered to be a separate and distinct procedure as long as (a) it occurs before the therapeutic procedure and is not interspersed with services that are required for the therapeutic intervention; (b) it clearly provides the information needed to decide whether to proceed with the therapeutic procedure; and (c) it does not constitute a service that would have otherwise been required during the therapeutic intervention.

- 6.** Modifier 59 is used appropriately for a diagnostic procedure which occurs subsequent to a completed therapeutic procedure only when the diagnostic procedure is not a common, expected, or necessary follow-up to the therapeutic procedure.

When a diagnostic procedure follows the surgical procedure or non-surgical therapeutic procedure, that diagnostic procedure may be considered to be a separate and distinct procedure as long as (a) it occurs after the completion of the therapeutic procedure and is not interspersed with or otherwise commingled with services that are only required for the therapeutic intervention, and (b) it does not constitute a service that would have otherwise been required during the therapeutic intervention.



Effective January 1, 2014: CMS decided to split the definition for modifier -59 use into four (4) new modifiers which were developed to provide greater reporting specificity in situations where modifier 59 was previously reported and may be utilized in lieu of modifier -59 whenever possible. These modifiers matching the definitions above include:

XE: *"Separate encounter, A service that is distinct because it occurred during a separate encounter" This modifier should only be used to describe separate encounters on the same date of service.*

XS: *"Separate Structure, A service that is distinct because it was performed on a separate organ/structure"*

XP: *"Separate Practitioner, A service that is distinct because it was performed by a different practitioner"*

XU: *"Unusual Non-Overlapping Service, The use of a service that is distinct because it does not overlap usual components of the main service"*

For more information refer to the CMS website or the AQ-IQ Modifier -59 update for 2015.
<http://www.cms.gov/Medicare/Coding/NationalCorrectCodInitEd/downloads/modifier59.pdf>