

# Participating Providers Using Non-Participating Providers Protocol

**Policy Number:** ADMINISTRATIVE 243.7

**Effective Date:** November 1, 2023

[Instructions for Use](#)

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## Related Policy

- [In-Office Laboratory Testing and Procedures List](#)

## Applicable Lines of Business/Products

This protocol applies to the following providers/services:

- Air ambulance; fixed-wing non-emergency transport
- Assistant and/or Co-Surgeon
- Ambulatory Surgical Centers (ASC); free-standing and hospital outpatient non-emergent
- Gastroenterology procedures In-Office or at an Ambulatory Surgery Center
- Home health care
- Intraoperative neuro-monitoring (IONM)
- Laboratory services for specimens collected in the physician’s office then sent out to a non-participating laboratory
- Outpatient dialysis
- Specialty drug vendors

**Exceptions:** This protocol does not apply:

- In emergent situations
- When the Participating Provider or member has obtained an In-Network Exception to utilize a non-participating physician, facility or other healthcare provider
- When the Participating Provider does not involve or direct the member to any of the included non-Participating Provider types or services listed in the policy

## Definitions

**Ambulatory Surgery Center (ASC):** Refers to procedures performed in a free-standing Ambulatory Surgery Center that is not part of a physician’s office or hospital.

**Assistant Surgeon:** A Physician or other Health Care Professional who is assisting the Physician performing a surgical procedure.

**Co-Surgeons:** Several physicians (usually with different specialties) working together as primary Surgeons performing distinct part(s) of a procedure.

**In-Office (IO):** Refers to procedures performed in a provider's office or in a surgical or endoscopy suite which is adjacent to or part of the physician's office.

**In-Network Exception:** A determination made by Oxford to provide coverage for medical services rendered by an out-of-network (non-participating) provider at a level of coverage and cost share equivalent to that which would be applied to the same services if rendered by an in-network (participating).

**Non-Participating Provider Consent Form:** A required form a member must sign when a participating gastroenterologist seeks to use a non-participating Anesthesiologist for non-emergent procedures.

**Participating Provider (Physician, Surgeon, Specialist, Hospital, Ancillary):** A Provider who has a contract with Oxford to provide services to specific Oxford Members (i.e., Freedom, Liberty networks). UnitedHealth Choice Plus network providers located outside of the tri-state area (CT, NJ, and NY) may be considered in-network. Check the member specific benefit plan document for eligibility.

**Surgeon:** For the purposes of this policy, a Surgeon is any Surgeon that is performing a surgical procedure regardless of the provider specialty (general Surgeon, orthopedic Surgeon, etc.).

## Policy

In order to help our members make informed decisions regarding their healthcare and effectively control their out-of-pocket healthcare costs, it is imperative that, in non-emergent situations, prior to services being rendered, a member know when his or her Participating Provider includes a non-participating physician, facility or other healthcare provider in his/her care (for example, in situations where a participating gastroenterologist performs a procedure at a non-participating Ambulatory Surgery Center). The use of a non-Participating Provider in a member's care has the potential to carry additional out-of-pocket costs for the member. In fact, a member who does not have out-of-network benefits may be responsible for the entire cost of the services obtained from non-Participating Providers.

The Participating Provider must use an Oxford Participating Provider unless:

- The member explicitly agrees pre-service to receive services from a non-Participating Provider by signing the [Non-Participating Provider Consent Form](#) and understands that the use of this provider will be:
  - **Out-of-Network:** For members **with** out-of-network benefits, non-Participating Provider claims will be paid at the out-of-network benefit level. Out-of-network cost shares and deductibles will apply.
  - **Denied:** For members **without** out-of-network benefits, non-Participating Provider claims will be denied as not covered because the member has no coverage for services provided by non-Participating Providers. Members will therefore be responsible for the entire cost of the service.
- or
- An In-Network Exception has been approved.

## Procedures and Responsibilities

### In Advance of Any Services Being Rendered

If a Participating Provider intends to utilize a non-participating physician, facility or other healthcare provider in a member's care, the provider is required to:

- **Verbally discuss Provider options and financial impacts with the member:**
  - The Participating Provider must review this policy and the [Member Advance Notice Form](#) with the member.
    - The discussion must provide participating alternatives and explain the reason for the non-participating physician, facility or other healthcare provider.
    - The discussion must include a conversation explaining the financial impact of utilizing a non-participating physician, facility or other healthcare provider.
    - The discussion must occur no more than 90 days, and no less than 14 days before, the scheduled date of the procedure. A copy of the [Member Advance Notice Form](#) must be provided to the Member. If the member does not sign the form at the end of the discussion, explain that it needs to be completed and returned no less than 14 days before the scheduled date of the procedure.

- The discussion must then be noted in the member’s medical record.
  - If the member has out-of-network benefits, they may utilize those benefits to receive services from a Non-Participating physician, facility or other healthcare provider, however; they may have higher out-of-pocket costs when using a Non-Participating Provider.
  - Members that do not have out-of-network benefits may be responsible for the entire cost of the service(s) provided by the Non-Participating physician, facility or other healthcare provider.
- **Obtain a completed [Member Advance Notice Form](#)**
  - The member will need to agree or disagree to use a Non-Participating physician, facility or other healthcare provider. If the member:
    - **Does not agree to the use of a Non-Participating physician, facility or other healthcare provider: Following the discussion, if the Participating Provider:**
      - Is unable to locate a Participating physician, facility or other healthcare provider, they must contact the health plan for assistance in locating a Participating Provider.
      - Still wants to recommend the Non-Participating physician, facility or other healthcare provider, they must contact Oxford to request and initiate an In-Network Exception request.
    - **Does agree to the use of a Non-Participating physician, facility or other healthcare provider:** The Participating Provider must ensure that the Member understands the financial obligations of using a Non-Participating physician, facility or other healthcare provider. The member must then sign and date the form and return the form to the Participating Provider no less than 14 days before the scheduled date of the procedure.
      - **For Members with out-of-network benefits:** Non-Participating physician, facility or other healthcare providers will be paid at the out-of-network benefit level. Out-of-network cost shares and deductibles will apply. In addition, Members may be responsible to the Non-Participating Provider for any amount above the amount paid by the health plan, as determined by the Member’s out-of-network benefit; or
      - **For Members with only in-network benefits:** Non-Participating physician, facility or other healthcare providers claims will be denied because the Member has no coverage for services provided by Non-Participating Providers. Members will therefore be responsible for the entire cost of the service(s).
  - The Participating Provider must keep a copy of the signed form on file to present to Oxford upon request.
  - A separate [Member Advance Notice Form](#) is required for each Non-Participating Provider/service.

**This Protocol does not apply in emergent situations** or instances where the care provider or member has obtained an In-Network Exception to utilize a Non-Participating physician, facility or other healthcare provider.

This Protocol is not intended to deter members from using out-of-network benefits, if available. Members who have out-of-network benefits can exercise their right to use those benefits at any time.

### Non-Compliance with this Policy

Oxford will monitor the involvement of the Non-Participating Provider types and services outlined above in our member’s care. Oxford may request a copy of the completed [Non-Participating Provider Consent Form](#) from the Participating Provider (who is required to keep the form on file) in order to conduct standard business. When requested:

- The Participating Provider must provide a copy of the [Non-Participating Provider Consent Form](#) within 15 days of the request.

Compliance with this Protocol will be reviewed by Oxford. Failure to comply with the Protocol may result in appropriate action according to the participation agreement which may include, but is not limited to, ineligibility for performance-based compensation, or termination of your participation agreement.

### Additional Actions for the Following

Participating Provider Type	Non-Participating Providers/Services	Applicable State(s)
Surgeon	Assistant Surgeons/Co-Surgeons	New York
Gastroenterologist	Anesthesiologist performing gastroenterology procedures In-Office or at an Ambulatory Surgery Center	New York
Surgeon	IONM providers	Connecticut and New York
Any Provider	Laboratory and Pathology Providers	Connecticut and New York

- If a copy of the completed [Non-Participating Provider Consent Form](#) is **not** received within 15 days of the request, as proof that they discussed the member’s options for selecting a Participating or Non-Participating Provider, in advance of the service, the Participating Providers claim will be denied administratively for failure to comply with the protocol.
- In these instances, the Participating provider is prohibited from balance billing the member. Any payment previously made for the service will be subject to recovery. The Participating Provider cannot balance bill the member for claims denied for administrative reasons.

## In-Network Exception Requests

If requesting an In-Network Exception to have a Non-Participating Provider covered as if they were participating with the Oxford network, the Participating Provider must make the exception request. The exception request will not be accepted from the Non-Participating Provider.

- The In-Network Exception request must be made no less than 14 days in advance of the scheduled procedure in order to avoid delays in care and alleviate potential complications with the patient’s required preparations for the procedure.
- If the Participating Provider requests an In-Network Exception less than 14 days in advance of the scheduled procedure, the In-Network Exception request will be processed per Oxford’s standard guidelines; however, the Participating Provider will receive an administrative denial for their claim for failure to follow protocol.

## Attachments/References Documents

### General Forms

[Member Advance Notice Form](#) (English)

[Member Advance Notice Form](#) (Spanish)

### Gastroenterology Forms

[Non-Participating Provider Consent Form](#) (Chinese)

[Non-Participating Provider Consent Form](#) (English)

[Non-Participating Provider Consent Form](#) (Spanish)

### Laboratory & Pathology Forms

[Laboratory & Pathology Services Consent Form](#) (Chinese)

[Laboratory & Pathology Services Consent Form](#) (English)

[Laboratory & Pathology Services Consent Form](#) (Spanish)

### IONM Form

[Non-Participating Provider Consent Form](#)

### Assistant/Co-Surgeons Form

[Non-Participating Provider Consent Form](#)

## Policy History/Revision Information

Date	Summary of Changes
11/01/2023	<p><b>Template Update</b></p> <ul style="list-style-type: none"> <li>• Combined content previously included in the Administrative Policies titled:               <ul style="list-style-type: none"> <li>○ <i>Participating Gastroenterologists Using Non-Participating Anesthesiologists: In-Office and Ambulatory Surgery Centers Protocol</i></li> <li>○ <i>Participating Providers Using Non-Participating Laboratory and Pathology Providers Protocol</i></li> </ul> </li> </ul>

Date	Summary of Changes
	<ul style="list-style-type: none"> <li>○ <i>Participating Providers Using Non-Participating Providers Protocol</i></li> <li>○ <i>Participating Surgeons Using Non-Participating Assistant Surgeons and Co-Surgeons Protocol</i></li> <li>○ <i>Participating Surgeons Using Non-Participating Providers for Intraoperative Neuro-Monitoring (IONM) Protocol</i></li> </ul> <p><b>Related Policies</b></p> <ul style="list-style-type: none"> <li>● Added reference link to the Administrative Policy titled <i>In-Office Laboratory Testing and Procedures List</i></li> </ul> <p><b>Definitions (new to policy)</b></p> <ul style="list-style-type: none"> <li>● Added definition of: <ul style="list-style-type: none"> <li>○ Ambulatory Surgery Center (ASC)</li> <li>○ Assistant Surgeon</li> <li>○ Co-Surgeons</li> <li>○ In-Office (IO)</li> <li>○ In-Network Exception</li> <li>○ Non-Participating Provider Consent Form</li> <li>○ Participating Provider (Physician, Surgeon, Specialist, Hospital, Ancillary)</li> <li>○ Surgeon</li> </ul> </li> </ul> <p><b>Policy</b></p> <ul style="list-style-type: none"> <li>● Added language to indicate the participating provider must use an Oxford participating provider unless: <ul style="list-style-type: none"> <li>○ The member explicitly agrees pre-service to receive services from a non-Participating Provider by signing the <i>Non-Participating Provider Consent Form</i> and understands that the use of this provider will be: <ul style="list-style-type: none"> <li>▪ Out-of-Network: For members with out-of-network benefits, non-Participating Provider claims will be paid at the out-of-network benefit level; out-of-network cost shares and deductibles will apply</li> <li>▪ Denied: For members without out-of-network benefits, non-Participating Provider claims will be denied as not covered because the member has no coverage for services provided by non-Participating Providers; members will therefore be responsible for the entire cost of the service</li> </ul> </li> <li>or</li> <li>○ An In-Network Exception has been approved</li> </ul> </li> </ul> <p><b>Procedures and Responsibilities</b></p> <p><b><i>In Advance of Any Services Being Rendered</i></b></p> <ul style="list-style-type: none"> <li>● Added language to indicate: <ul style="list-style-type: none"> <li>○ The provider must verbally discuss provider options and financial impacts with the member no more than 90 days, and no less than 14 days before, the scheduled date of the procedure</li> <li>○ If the member does not sign the <i>Member Advance Notice Form</i> at the end of the discussion, the provider must explain that it needs to be completed and returned no less than 14 days before the scheduled date of the procedure</li> <li>○ The <i>Member Advance Notice Form</i> discussion must then be noted in the member’s medical record</li> <li>○ The member must then sign and date the <i>Member Advance Notice Form</i> and return the form to the Participating Provider no less than 14 days before the scheduled date of the procedure</li> </ul> </li> </ul> <p><b><i>Non-Compliance with this Policy</i></b></p> <ul style="list-style-type: none"> <li>● Replaced language indicating “Oxford may request a copy of the completed <i>Member Advance Notice Form at any time</i> from providers <i>with a pattern of non-participating provider utilization</i>” with “Oxford may request a copy of the completed <i>Non-Participating Provider Consent Form from the Participating Provider (who is required to keep the form on file) in order to conduct standard business</i>”</li> <li>● Added language to indicate:</li> </ul>

Date	Summary of Changes
	<ul style="list-style-type: none"> <li>○ If a copy of the completed <i>Non-Participating Provider Consent Form</i> is not received within 15 days of the request, as proof that they discussed the member's options for selecting a Participating or non-Participating provider, in advance of the service, the Participating Provider's claim will be denied administratively for failure to comply with the protocol</li> <li>○ In these instances, the Participating Provider is prohibited from balance billing the member; any payment previously made for the service will be subject to recovery</li> <li>○ The Participating Provider cannot balance bill the member for claims denied for administrative reasons</li> </ul> <p><b><i>In-Network Exception Requests</i></b></p> <ul style="list-style-type: none"> <li>● Added language to indicate: <ul style="list-style-type: none"> <li>○ If requesting an In-Network Exception to have a non-Participating Provider covered as if they were participating with the Oxford network, the Participating Provider must make the exception request; the exception request will not be accepted from the non-Participating Provider</li> <li>○ The In-Network Exception request must be made no less than 14 days in advance of the scheduled procedure in order to avoid delays in care and alleviate potential complications with the patient's required preparations for the procedure</li> <li>○ If the Participating Provider requests an In-Network Exception less than 14 days in advance of the scheduled procedure, the In-Network Exception request will be processed per Oxford's standard guidelines; however, the Participating Provider will receive an administrative denial for their claim for failure to follow protocol</li> </ul> </li> </ul> <p><b>Supporting Information</b></p> <ul style="list-style-type: none"> <li>● Archived previous policy version ADMINISTRATIVE 243.6 T0</li> </ul>

## Instructions for Use

The services described in Oxford policies are subject to the terms, conditions and limitations of the member's contract or certificate. Oxford reserves the right, in its sole discretion, to modify policies as necessary without prior written notice unless otherwise required by Oxford's administrative procedures or applicable state law. The term Oxford includes Oxford Health Plans, LLC and all of its subsidiaries as appropriate for these policies.

Certain policies may not be applicable to Self-Funded members and certain insured products. Refer to the member specific benefit plan document or Certificate of Coverage to determine whether coverage is provided or if there are any exclusions or benefit limitations applicable to any of these policies. If there is a difference between any policy and the member specific benefit plan document or Certificate of Coverage, the member specific benefit plan document or Certificate of Coverage will govern.