



News Flash – Physicians and non-physician practitioners in all States and Washington, D.C. can now use the Internet-based Provider Enrollment, Chain and Ownership System (PECOS) to enroll, make a change in their Medicare enrollment, view their Medicare enrollment information on file with Medicare, or check on the status of a Medicare enrollment application via the Internet. CMS will make Internet-based PECOS available next year to organizational providers and suppliers (except durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) suppliers). For information about Internet-based PECOS, including important information that physicians and non-physician practitioners should know before submitting a Medicare enrollment application via Internet-based PECOS, go to <http://www.cms.hhs.gov/MedicareProviderSupEnroll/> on the CMS website.

MLN Matters® Number: MM6419 Revised

Related Change Request (CR) #: 6419

Related CR Release Date: May 4, 2009

Effective Date: February 12, 2009

Related CR Transmittal #: R100 NCD and R1728CP Implementation Date: May 18 2009

Surgery for Diabetes National Coverage Determination (NCD)

Note: This article was revised on August 21, 2009, to show the correct Group Code of "CO" (Contractual Obligation) at the top of page 3 of the article. All other information remains the same.

Provider Types Affected

All hospitals and physicians who bill Medicare Carriers, Fiscal Intermediaries (FIs), or Medicare Administrative Contractors (MACs) for bariatric surgery procedures.

Provider Action Needed

Providers are advised that the Centers for Medicare & Medicaid Services (CMS) has developed the following NCD entitled Surgery for Diabetes:

- Effective for services performed on and after February 12, 2009, CMS determines that open and laparoscopic Roux-en-Y gastric bypass (RYGBP), laparoscopic adjustable gastric banding (LAGB), and open and laparoscopic biliopancreatic diversion with duodenal switch (BPD/DS) in Medicare beneficiaries who have type 2 diabetes mellitus (T2DM) and a body mass

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index (BMI) <35 are not reasonable and necessary under section 1862(a)(1)(A) of the Social Security Act, and therefore are not covered by Medicare.

- Effective for services performed on and after February 12, 2009, CMS determines that open and laparoscopic RYGBP, open and laparoscopic BPD/DS, and LAGB are covered for Medicare beneficiaries who have T2DM and a BMI ≥ 35 . Additionally, CMS determines that T2DM is a comorbidity related to obesity as defined in Publication 100-03, NCD Manual, section 100.1. In addition, the procedure must be performed at an approved facility. A list of approved facilities may be found at <http://www.cms.hhs.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage> on the CMS website.

Ensure that your billing staffs are informed of these changes for preparing claims for covered or non-covered bariatric surgery.

Background

CMS has a specific NCD at section 100.1 (attached to CR 6419), Bariatric Surgery for Treatment of Morbid Obesity, effective February 21, 2006. That NCD covers open and laparoscopic RYGBP, open and laparoscopic BPD/DS, and LAGB for persons with a BMI ≥ 35 having one or more comorbidities associated with obesity, and have been previously unsuccessful with medical treatments for obesity. The only change to this NCD is the clarification that effective February 12, 2009, T2DM is considered a comorbidity for purposes of bariatric surgery for the treatment of morbid obesity.

NOTE: This NCD does not change related NCDs in the NCD Manual at sections 40.5 (Obesity), 100.8 (Intestinal Bypass Surgery), or 100.11 (Gastric Balloon for Treatment of Obesity). In addition, treatments for obesity alone remain non-covered, as does use of the open or laparoscopic sleeve gastrectomy, open adjustable gastric banding, and open and laparoscopic vertical banded gastroplasty procedures, regardless of the patient's BMI or comorbidity status.

The covered ICD-9 procedure and HCPCS procedure codes are listed in Attachment 1 of the transmittal of CR 6419 containing the Medicare Claims Processing Manual revisions. The ICD-9 diagnosis codes reflecting the requisite BMI indexes are also part of that attachment. The ICD-9 diagnosis codes indicating T2DM are listed in Attachment 2 of that same transmittal.

The remittance advice for claims for bariatric surgery that are denied or rejected by Medicare because the patient's BMI was <35 will contain a Claim Adjustment Reason Code of 167 (This (these) diagnosis(es) is (are) not covered.), a

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Remittance Advice Remark Code of N372 (Only reasonable and necessary maintenance/service charges are covered.), and a Group Code of CO (Contractual Obligation).

Additional Information

The official instruction, CR 6419, issued to your carrier, FI, or MAC via two transmittals. The first modifies the Medicare Claims Processing Manual and it is at <http://www.cms.hhs.gov/Transmittals/downloads/R1728CP.pdf> on the CMS website. The second transmittal modifies the NCD Manual and it is available at <http://www.cms.hhs.gov/Transmittals/downloads/R100NCD.pdf> on the CMS website.

If you have any questions, please contact your carrier, FI, or MAC at their toll-free number, which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

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