



A CMS Contracted Agent

National Government Services, Inc.
www.NGSMedicare.com

Medicare

Comments and Responses Regarding Draft Local Coverage Determination: Bariatric Surgery

As an important part of Medicare Local Coverage Determination (LCD) development, National Government Services solicits comments from the provider community and from members of the public who may be affected by or interested in our LCDs. The purpose of the advice and comment process is to gain the expertise and experience of those commenting.

We would like to thank those who suggested changes to the draft Bariatric Surgery LCD. The official notice period for the final LCD begins on November 17, 2008, and the final determination will become effective on January 1, 2009.

Comment: Several commenters believe sleeve gastrectomy has progressed to the point where it should be considered as an acceptable procedure for a subset of obese patients.

Response: This is a National Coverage Determination (LCD) and not a Local Coverage Determination (LCD) issue. A reconsideration request should be submitted to The Centers for Medicare & Medicaid Services (CMS) to change the national coverage determination (NCD) for bariatric surgery to include coverage for sleeve gastrectomy.

Comment: A commenter questioned the reason CPT code 43848 was included in the local coverage determination (LCD) but CPT codes 43771, 43772, 43773, 43774, 43886, 43887 and 43888 as well as CPT code 43659 were not listed. It is stated in the LCD to use an unlisted CPT code for a revision port placement rather than the aforementioned CPT codes. Are these services covered under CPT code 43999?

Response: CPT codes 43771, 43772, 43773, 43774, 43886, 43887 and 43888 are not included in the LCD because these services are necessitated due to a complication of the device and are unrelated to the initial indications and limitations for the bariatric surgical procedure. They are reimbursable on their own merit.

These services should be billed with the appropriate CPT code rather than under CPT code 43999 and will be covered as long as medical necessity is documented.

CPT code 43659 will be added to the LCD and Supplemental Instructions Article (SIA). This CPT should be reported for a laparoscopic gastric restrictive procedure with partial gastrectomy, pylorus-



preserving duodenoileostomy and ileoilostomy (50 to 100 cm common channel) to limit absorption (biliopancreatic diversion with duodenal switch) which is covered service and also for other laparoscopic bariatric procedures which are not covered (e.g., laparoscopic vertical banded gastroplasty). A coding instruction for CPT code 43659 has been added to the SIA.

Comment: A commenter suggested we notify providers through our monthly publication of the following information:

- CPT codes 43771, 43772, 43773, 43774, 43886, 43887 and 43888 are eligible for coverage to providers who perform them on patients who have undergone laparoscopic adjustable gastric banding previously.
- CPT code 43999 for the adjustment of the gastric restrictive device is also eligible for coverage to providers who perform this adjustment procedure when it is performed after the global period.

Response: The suggestion has been noted and will be referred to our Provider Outreach and Education area.

Comment: A commenter recommended that ICD-9-CM code 278.00 (obesity unspecified) be removed from the LCD because it is inconsistent with the NCD. They suggested ICD-9-CM code 278.01 should be used to report a body mass index (BMI) greater than or equal to 35 kg/m².

Response: The term “morbid obesity” may not be consistently defined in the medical literature. Typically, a BMI of 30.0 – 34.9 = class I obesity, a BMI of 35.0 – 39.9 = class II obesity, and a BMI over 40 = class III obesity.

Class II obesity is further broken down as:

- Any BMI > 40 is severe obesity
- BMI 40 – 49.9 is morbid obesity
- BMI over 50 is super obese

Since Medicare covers a BMI of >35 with a co-morbid condition, we believe that the inclusion of ICD-9-CM 278.00 is consistent with the NCD.