



HEALTHCARE BUSINESS MANAGEMENT ASSOCIATION

October 2, 2023

Hon. Brett Guthrie
Chair
House Energy and Commerce Committee
Subcommittee on Health
2434 Rayburn House Office Building
Washington, DC 20515

Hon. Anna Eshoo
Ranking Member
House Energy and Commerce Committee
Subcommittee on Health
272 Cannon House Office Building
Washington, DC 20515

The Healthcare Business Management Association ([HBMA](https://www.hbma.org)) is pleased to submit this letter expressing our views on legislation that was the subject of an Energy and Commerce Committee hearing on September 19, 2023.

HBMA is a non-profit professional trade association for the healthcare revenue cycle management (RCM) industry in the United States. HBMA members play an essential role in the operational and financial aspects of the healthcare system. Our work on behalf of medical practices allows physicians to focus their attention and resources on patient care - where it should be directed - instead of on the many administrative burdens they currently face. The RCM process involves everything from the lifecycle of a claim to credentialing, compliance, coding and managing participation in value-based payment programs.

Our physician clients rely on us to submit accurate claims to Medicare for the services they provide to Medicare beneficiaries. This allows the physicians to focus on patient care while their RCM company handles the administrative workload for claims submission and payment. Therefore, HBMA members closely follow NCDs and LCDs so that we can comply with all Medicare coverage requirements. In fact, on several occasions, HBMA has identified issues with LCD implementation that were corrected after we shared the issue with the Centers for Medicare and Medicaid Services (CMS).

HBMA is pleased to express our strong support for three important bills aimed at improving the National Coverage Determination (NCD) process and enhancing transparency within the healthcare industry. Furthermore, we wish to communicate our firm opposition to a bill that has the potential to exacerbate administrative burdens associated with Local Coverage Determinations (LCDs).

- **HBMA supports H.R., 5389, the National Coverage Determination Transparency Act introduced by Rep. Guthrie.** The bill will help bring needed improvements and transparency to the Medicare NCD process. Ensuring transparency, and timely determinations, along with supporting efforts to improve technical assistance will improve the NCD process, reduce administrative burdens, and enhance the overall efficiency of our healthcare system.

- **HBMA supports H.R. 5395, the Coverage Parity for Medicare Patients Act of 2023.** Medicare only reimburses claims for covered healthcare services that are medically necessary. HBMA members are therefore always concerned about the complexities and challenges associated with demonstrating medical necessity. This bill introduces a demonstration program that streamlines the medical necessity evaluation of certain items or services.

While we support streamlining Medicare's definition for medical necessity, it is important to understand that commercial payers, states and federal regulations use their own definition for medical necessity. Aligning these definitions will further achieve this legislation's goal of expediting coverage for new and innovative treatments.

- **HBMA supports H.R. 5396, the Coverage Determination Clarity Act of 2023.** The bill would mandate Medicare to conduct an annual review of each LCD to ascertain whether it denies, limits, or conditions the coverage or provision of items or services beyond what is provided by a NCD. This approach will provide much-needed clarity and consistency in coverage determinations across different areas of the country and reduce the administrative challenges healthcare providers face when interpreting varying LCDs.

We have long held that CMS should eliminate the use of LCDs. It does not make sense for a service to be covered based on what MAC jurisdiction in which it was furnished. Keeping up with the many and often conflicting LCDs is highly burdensome for RCM companies. Lastly, on several occasions we have shared information with CMS about how MACs are incorrectly implementing their own LCDs. This information has directly led to CMS requiring the MAC to correct these issues. We appreciate the measures that this legislation takes to address the administrative challenges associated with interpreting varying LCDs, which are often inconsistent with national determinations.

- **HBMA opposes H.R. 5392, the Timely Access to Coverage Decisions Act of 2023.** While we appreciate efforts to streamline the LCD request process, HBMA unequivocally prefers NCDs over LCDs. Allowing Medicare Administrative Contractors (MACs) latitude to make LCDs often leads to discrepancies in Local Coverage Articles (LCAs), resulting in confusion and inefficiencies. NCDs provide a standardized approach that offers greater clarity, consistency, and fairness in coverage. This reduces administrative burdens for practices and helps ensure Medicare beneficiaries receive covered services.

A 2014 HHS OIG report emphasizes the challenges and inconsistencies tied to Local Coverage Determinations (LCDs) and provides further support for our stance. According to the report, LCDs exhibited no significant correlation with the cost or utilization of Part B items and services, suggesting that simplifying these determinations may not yield substantial

cost savings in healthcare. Moreover, the report aligns with our assertion that LCD policies generate disparities in coverage policies among different states.¹

Included with this letter is an example of three LCDs for Cardiac Computed Tomography (CCT) and Coronary Computed Tomography Angiography (CCTA) (Appendix 1). This LCD was issued because CMS decided to rescind its NCD for this service and deferred to MACs to develop LCDs. It does not make sense to us why CMS would rescind a national coverage policy but allow MACs to cover the service through LCDs instead. We prefer the NCD because MACs implement LCDs in different ways. With this example, two of the MACs list CPT code 75571 as not covered while one of the MACs lists the code as covered. This causes significant confusion for RCM companies with clients in multiple states.

We also oppose LCDs because MACs do not accurately implement LCDs or implement LCDs that contradict with Medicare policy. In another example (Appendix 2), we notified two MACs that their LCDs conflicted with the Medicare Manual for that policy. We then notified the CMS Medicare Contractor Management Group after the MACs refused to take action. The CMS Contractor Oversight Management Group is always incredibly receptive to our feedback and directed the MACs to make the necessary policy corrections.

Lastly, Appendix 3 shows examples of MAC websites displaying outdated information for Evaluation and Management coverage policies.

Rather than supporting this legislation, we urge the Committee to prioritize the adoption of a more standardized approach to coverage determinations, such as the utilization of National Coverage Determinations (NCDs). This approach aligns with the OIG's recommendations and offers enhanced clarity for both healthcare providers and patients.

In conclusion, we encourage the Committee to utilize HBMA as a resource for this and other policies that impact the healthcare claim submission process. We are happy to provide additional information to help the Committee develop and refine policies to avoid adding operational and financial burdens on physician practices.

Thank you for considering our recommendations. Please do not hesitate to contact Matt Reiter (reiterm@capitolassociates.com) or Brad Lund (brad@hbma.org) if you wish to discuss our recommendations further.

Sincerely,

Landon Tooke

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President
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¹ <https://oig.hhs.gov/oei/reports/oei-01-11-00500.pdf>

APPENDIX 1: LCD CONTRADICTORY POLICIES

CGS LCA A56451 ON CMS WEBSITE (VERIFIED 5/15/2023)

Group 1 (4 Codes)

Group 1 Paragraph

CPT CODES 0144T-0151T ARE DELETED EFFECTIVE 12/31/2009 AND REPLACED BY CPT CODES 75571-75574 (BELOW)

CPT code 0144T is not a covered service (for dates of service prior to 01/01/2010.)

For dates of service on or after 01/01/2010, CPT code 75571 is not a covered service.

Group 1 Codes

Code	Description
75571	COMPUTED TOMOGRAPHY, HEART, WITHOUT CONTRAST MATERIAL, WITH QUANTITATIVE EVALUATION OF CORONARY CALCIUM

WPS LCA A57552 ON CMS WEBSITE (VERIFIED 5/15/2023)

Group 2 (1 Code)

Group 2 Paragraph

Non-covered codes.

Group 2 Codes

Code	Description
75571	COMPUTED TOMOGRAPHY, HEART, WITHOUT CONTRAST MATERIAL, WITH QUANTITATIVE EVALUATION OF CORONARY CALCIUM

PALMETTO LCA A56691 (VERIFIED 5/15/2023)

Group 1 (261 Codes)

Group 1 Paragraph

Use of these codes does not guarantee reimbursement. The patient's medical record must document that the coverage criteria in this policy have been met.

Covered ICD-10 Codes for CPT codes 75571, 75572, and 75574.

Group 1 Codes

APPENDIX 2: MAC WEBSITE ACCURACY AND/OR OUT OF DATE ISSUES

Below are two examples of MACs disagreeing with the Medicare Policy Manual (IOM) 100-04, Chapter 12, section 30.6.18 Explicit Documentation Requirements. CMS directed the MACs to correct their websites after receiving notification from HBMA about the issue.

- [Evaluation and Management - NGSMEDICARE](#)
- [Split/Shared Services \(cgsmedicare.com\)](#)

APPENDIX 3: MAC WEBSITE ACCURACY AND/OR OUT OF DATE ISSUES

WPS E/M FAQ (VERIFIED 5/29/2023)

Evaluation & Management Visits

This page contains guidance regarding documentation and payment under the Medicare Physician Fee Schedule for evaluation and management (E/M) visits.

- [Physician Fee Schedule \(PFS\) Payment for Office/Outpatient Evaluation and Management \(E/M\) Visits – Fact Sheet \(PDF\)](#) - Updated 01/14/2021
- [Evaluation and Management \(E/M\) Visit Frequently Asked Questions \(FAQs\) \(PDF\)](#)
- [Evaluation and Management Services MLN Publication](#)
- [FAQs: Split \(or Shared\) Visits and Critical Care Services \(PDF\)](#): Posted 4/7/2022

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Document is dated November 26, 2018 and has no updated information [Evaluation and Management \(E/M\) Visit Frequently Asked Questions \(FAQs\) \(cms.gov\)](#)