



Surgery for Diabetes National Coverage Determination (NCD) – JA6419

Note: The related MLN Matters® article was changed to correct the remittance advice information, which is found on page 2 below (**in bold**). That should have read Contractual Obligation. All other information remains unchanged.

Related CR Release Date: May 4, 2009 **Revised**

Date Job Aid Revised: August 21, 2009

Effective Date: February 12, 2009

Implementation Date: May 18, 2009

Key Words	MM6419, CR6419, R100NCD, R1728CP, Diabetes, NCD, Coverage, Determination
Contractors Affected	<ul style="list-style-type: none"> • Medicare Carriers • Fiscal Intermediaries (FIs) • Part A/B Medicare Administrative Contractors (A/B MACs)
Provider Types Affected	All hospitals and physicians who bill Medicare Carriers, FIs, or A/B MACs for bariatric surgery procedures



Change Request (CR) 6419 advises that the Centers for Medicare & Medicaid Services (CMS) has developed the NCD entitled, "Surgery for Diabetes."

Provider Needs to Know...	<ul style="list-style-type: none"> • Effective for services performed on and after February 12, 2009, CMS has determined that the following procedures for Medicare beneficiaries who have type 2 diabetes mellitus (T2DM) and a body mass 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: <ul style="list-style-type: none"> • 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). • Effective for services performed on and after February 12, 2009, CMS had determined that open and laparoscopic RYGBP, open and laparoscopic BPD/DS, and LAGB are
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covered for Medicare beneficiaries who have T2DM and a BMI \geq 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.
- 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 Remittance Advice Remark Code of N372 ("Only reasonable and necessary maintenance/service charges are covered."), and
 - **A Group Code of CO (Contractual Obligation).**

Note: 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.

Background

- CMS has a specific NCD at Section 100.1 ("Bariatric Surgery for Treatment of Morbid Obesity"), effective February 21, 2006 (attached to CR6419).
- That NCD covers open and laparoscopic RYGBP, open and laparoscopic BPD/DS, and LAGB for persons with a BMI \geq 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.
- 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).

Operational Impact

Contractors will not search their files but will adjust claims brought to their attention between the interim period February 12, 2009, and the implementation date of CR6419.

**Reference
Materials**

The related MLN Matters® article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6419.pdf> on the CMS website.

The official instruction (CR6419) was issued in two transmittals. The first modifies the *Medicare Claims Processing Manual* and is available at <http://www.cms.hhs.gov/Transmittals/downloads/R1728CP.pdf> on the CMS website.

The second transmittal modifies the *NCD Manual* and is available at <http://www.cms.hhs.gov/Transmittals/downloads/R100NCD.pdf> on the CMS website.

The International Classification of Diseases, Ninth Revision (ICD-9) diagnosis codes reflecting the requisite BMI indexes and the covered ICD-9 procedure codes and HCPCS procedure codes are listed in Attachment 1 of the transmittal of CR6419 that contains the *Medicare Claims Processing Manual* revisions. The ICD-9 diagnosis codes indicating T2DM are listed in Attachment 2 of transmittal.
