



Related MLN Matters Article #: MM5013

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Bariatric Surgery for Morbid Obesity

Key Words

MM5013, CR5013, R931CP, R54NCD, Bariatric, Surgery, Morbid, Obesity

Provider Types Affected

Physicians, suppliers, and providers billing Medicare carriers and/or Fiscal Intermediaries (FIs) for services related to bariatric surgery

Key Points

- The implementation date is May 30, 2006, for physician claims billed to Medicare carriers and October 2, 2006, for hospital claims billed to FIs.
- The effective date is February 21, 2006.
- Bariatric surgery is recommended only for individuals with health concerns related to their obesity.
- If a Medicare beneficiary has documented in their medical record that they:
 - Have a Body Mass Index ≥ 35 , with at least one co-morbidity related to obesity; and
 - Have been previously unsuccessful with medical treatment for obesity;
- Then the following procedures (performed on or after February 21, 2006) are considered reasonable and necessary:
 - Open and laparoscopic Roux-en-Y gastric bypass;
 - Laparoscopic adjustable gastric banding; and
 - Open and laparoscopic biliopancreatic diversion with duodenal switch (DS).

Approved Facilities

- Covered bariatric surgery procedures are reasonable and necessary only when performed at facilities certified by:

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- The American College of Surgeons (<http://www.facs.org/cqi/bscn/>) as a Level 1 Bariatric Surgery Center (program standards and requirements in effect on February 15, 2006); or
- The American Society for Bariatric Surgery (<http://www.asbs.org/>) as a Bariatric Surgery Center of Excellence (program standards and requirements in effect on February 15, 2006).
- A list of approved facilities and their approval dates will be listed and maintained at <http://www.cms.hhs.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage> on the Centers for Medicare & Medicaid Services (CMS) coverage website. This information will also be published in the Federal Register.
- When services are performed in an unapproved facility, Medicare will deny the claim with a claim reason adjustment code of 58. (Payment adjusted because treatment was deemed by the payer to have been rendered in an inappropriate or invalid place of service.)
- For providers to avoid liability for charges when services are performed in an unapproved facility, physicians must have the beneficiary sign an Advanced Beneficiary Notice, and hospitals, including critical access hospitals (CAHs), must have the beneficiary sign a Hospital Issued Notice of Non-coverage.

Non Covered Procedures

- The following procedures have not been determined to be reasonable and necessary and are non-covered for all Medicare beneficiaries:
 - Open vertical banded gastroplasty;
 - Laparoscopic vertical banded gastroplasty;
 - Open sleeve gastrectomy;
 - Laparoscopic sleeve gastrectomy; and
 - Open adjustable gastric banding.
- Treatments for obesity alone remain non-covered, and the following non-coverage determinations in the *National Coverage Determination Manual* (NCDM, Chapter 1, Part 2; http://www.cms.hhs.gov/manuals/downloads/ncd103c1_Part2.pdf) remain unchanged:
 - Section 100.8 (Intestinal Bypass Surgery); and
 - Section 100.11 (Gastric Balloon for Treatment of Obesity).

Changes in Manuals

The following manuals are being revised to reflect the new CMS policy for bariatric surgery:

- *Medicare Claims Processing Manual* (Pub.100-04, Chapter 32 (Billing Requirements for Special Services), Section 150 (Billing Requirements for Bariatric Surgery for Morbid Obesity)); and
- *Medicare National Coverage Determination Manual* (NCDM, Pub. 100-03, Chapter I, Sections 40.5 and 100.1).

Additional Instructions

- Carriers and/or FIs are further instructed to accept the following Healthcare Common Procedure Coding System (HCPCS) as of February 21, 2006:
 - 43770 - Laparoscopy, surgical, gastric restrictive procedure; placement of adjustable gastric band (gastric band and subcutaneous port components)
 - 43644 - Laparoscopy, surgical, gastric restrictive procedure; with gastric bypass and Roux-en-Y gastroenterostomy (roux limb 150 cm or less)
 - 43645 - Laparoscopy with gastric bypass and small intestine reconstruction to limit absorption. (Do not report 43645 in conjunction with 49320, 43847.)
 - 43845 - Gastric restrictive procedure with partial gastrectomy, pylorus-preserving duodenoileostomy and ileoileostomy (50 to 100 cm common channel) to limit absorption (biliopancreatic diversion with duodenal switch)
 - 43846 - Gastric restrictive procedure, with gastric bypass for morbid obesity; with short limb (150 cm or less Roux-en-Y gastroenterostomy).
 - For greater than 150 cm, use 43847
 - For laparoscopic procedure, use 43644
 - 43847 - With small intestine reconstruction to limit absorption;
- Accept HCPCS codes 43770, 43644, 43645, 43845, 43846 and 43847 submitted with at least one of the following diagnosis codes: V85.35; V85.36; V85.37; V85.38; V85.39; V85.4; or 278.01. (Claims will be denied without an appropriate diagnosis code.);
- Accept International Classification of Diseases, Ninth Revision (ICD-9) procedure codes 44.38, 44.39, 44.95, 43.89, 45.51, and 45.91, when the following diagnosis codes are reported: V85.35; V85.36; V85.37; V85.38; V85.39; V85.4; and 278.01. (Claims will be denied without an appropriate diagnosis code and none of the V diagnosis codes for BMI \geq 35 or 278.01 for morbid obesity can be the principal diagnosis on an inpatient Medicare claim); and
- Accept the following ICD-9 Procedure Codes as of February 21, 2006:
 - 44.38 - Laparoscopic gastroenterostomy (laparoscopic Roux-en-Y);
 - 44.39 - Other Gastroenterostomy (open Roux-en-Y); and
 - 44.95 - Laparoscopic gastric restrictive procedure (laparoscopic adjustable gastric band and port insertion).

- There is not a distinction between laparoscopic and open biliopancreatic diversion with DS for the inpatient setting. The codes would apply to the open approach as follows:
 - 43.89 Other partial gastrectomy;
 - 45.51 Isolation of segment of small intestine; and
 - 45.91 Small to small intestinal anastomosis.
- Should claims be denied for failure to have the appropriate diagnosis code, the carrier/FI will use claim adjustment reason code #167 to denote "This/these diagnosis(es) is (are) not covered."

Note: 44.68 (Laparoscopic gastroplasty (vertical banded gastroplasty)) is non-covered for Medicare effective February 21, 2006.

Additional Fiscal Intermediary Billing Requirements

- The FI will pay for Bariatric Surgery only when the services are submitted on type of bill (TOB) 11X.
- The type of facility and setting determines the basis of payment:
 - For services performed in inpatient hospitals, TOB 11X, Inpatient Prospective Payment System (IPPS) payment is based on the Diagnosis Related Group (DRG).
 - For services performed in CAHs (inpatient), TOB 11X, on 101% of facility specific per visit rate.
 - For services performed in Indian Health Service (IHS) inpatient hospitals TOB 11X under the IPPS-based DRG.
 - For services performed in IHS CAHs (TOB 11X), under 101% facility specific per diem rate.

Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/mm5013.pdf> on the CMS website.

For complete details, providers may review Change Request (CR) 5013 issued regarding this change.

There will be two parts to this CR, one for the NCD and one for the claims processing instruction. The NCD, which includes descriptions of the Bariatric Surgery procedures, can be found at

<http://www.cms.hhs.gov/Transmittals/downloads/R54NCD.pdf> and the claims processing instruction may be viewed at <http://www.cms.hhs.gov/Transmittals/downloads/R931CP.pdf> on the CMS website.

Note: CR5477 (<http://www.cms.hhs.gov/Transmittals/downloads/R1233CP.pdf>) clarifies the claim processing instructions contained in CR5013. The related MLN Matters article may be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5477.pdf> on the CMS website.

If affected providers have any questions, they may contact their carrier/intermediary at their toll-free number, which may be found at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.