

MLN Matters Number: MM5013

Related Change Request (CR) #: 5013

Related CR Release Date: April 28, 2006

Effective Date: February 21, 2006

Related CR Transmittal #: R931CP and R54NCD

Implementation Date: May 30, 2006 for physician claims billed to carriers, and October 2, 2006, for hospital claims billed to FIs

Bariatric Surgery for Morbid Obesity

Note: MM5013 was revised on January 25, 2013, to add a reference to MLN Matters® article MM8028 (<http://www.cms.gov/MLN MattersArticles/downloads/MM8028.pdf>) to alert providers that, beginning June 27, 2012, Medicare contractors may determine coverage of stand-alone Laparoscopy Sleeve Gastrectomy for the treatment of comorbid conditions related to obesity when certain conditions are satisfied.

Provider Types Affected

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

Provider Action Needed



STOP – Impact to You

This article is based on Change Request (CR) 5013, which modifies the *Medicare National Coverage Determination Manual* (NCDM, Sections 40.5 and 100.1) and adds section 150 to Chapter 32 of the *Medicare Claims Processing Manual* to be consistent with the new Centers for Medicare & Medicaid Services (CMS) policy for bariatric surgery.



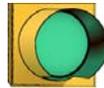
CAUTION – What You Need to Know

Effective for services on or after February 21, 2006, Medicare will cover 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) if certain criteria are met and the procedure is performed in an approved facility.

In addition, effective for services performed on or after February 21, 2006, Medicare has decided that open vertical banded gastroplasty, laparoscopic vertical banded gastroplasty, open sleeve gastrectomy, laparoscopic sleeve gastrectomy, and open adjustable gastric banding are nationally non-covered for Medicare.

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GO – What You Need to Do

See the *Background* section of this article for further details regarding these changes.

Background

Bariatrics is the branch of medicine dealing with obesity, and bariatric surgery can be an effective treatment for patients who have been unsuccessful with diet and exercise and have comorbid conditions such as:

- Coronary artery disease;
- Diabetes; and
- Sleep apnea.

Bariatric surgery procedures are performed to treat many comorbid conditions associated with obesity, and two types of surgical procedures are employed:

- Malabsorptive surgical procedures divert food from the stomach to a lower part of the digestive tract where the normal mixing of digestive fluids and adsorption of nutrients cannot occur; and
- Restrictive surgical procedures restrict the size of the stomach and decrease intake.

Some surgeries combine both of these types of procedures, and brief descriptions of bariatric surgery procedures are included in the *Additional Information* section of this article. Also, see the *Medicare National Coverage Determinations Manual* (Pub. 100-03, Chapter 1, Part 2, Section 100.1 (Bariatric Surgery for Morbid Obesity (Effective February 21, 2006), Subsection A (General)), attached to CR5013.

Note: Bariatric surgery is recommended only for individuals with health concerns related to their obesity

CMS has determined the evidence is adequate to conclude that:

- If a Medicare beneficiary has documented in their medical record that they:
 - Have a body-mass index (BMI) ≥ 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 (RYGBP);

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- Laparoscopic adjustable gastric banding (LAGB); and
- Open and laparoscopic biliopancreatic diversion (BPD) with duodenal switch (DS).

Approved Facilities

In addition, CMS has determined that covered bariatric surgery procedures are reasonable and necessary only when performed at facilities certified by:

- The American College of Surgeons ((ACS) <http://www.facs.org/cqi/bscn/>) as a Level 1 Bariatric Surgery Center (BSC; program standards and requirements in effect on February 15, 2006); or
- The American Society for Bariatric Surgery ((ASBS) <http://www.asbs.org/>) as a Bariatric Surgery Center of Excellence (BSCOE; program standards and requirements in effect on February 15, 2006).

A list of approved facilities and their approval dates will be listed and maintained on the CMS coverage website at <http://www.cms.gov/Medicare/Medicare-General-Information/MedicareApprovedFacilitie/index.html/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage>. 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 (ABN), and hospitals, including critical access hospitals, must have the beneficiary sign a Hospital Issued Notice of Non-coverage (HINN).

Non-Covered Procedures

The evidence is not adequate to conclude that the following bariatric surgery procedures are reasonable and necessary; therefore, the following procedures are non-covered for all Medicare beneficiaries:

- Open vertical banded gastroplasty
- Laparoscopic vertical banded gastroplasty
- Open sleeve gastrectomy
- Laparoscopic sleeve gastrectomy
- Open adjustable gastric banding.

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Changes in Manuals

The *Medicare Claims Processing Manual* (Pub.100-04, Chapter 32 (Billing Requirements for Special Services), Section 150 (Billing Requirements for Bariatric Surgery for Morbid Obesity)) is being added to reflect the new coverage for bariatric surgery.

In addition, the Medicare *National Coverage Determination Manual* (NCDM, Pub. 100-03, Chapter I, Sections 40.5 and 100.1) are being modified to be consistent with the new CMS policy for bariatric surgery. These revisions are attached to CR5013.

The revision of the NCDM will include a reference to the covered surgical procedures, and revise the obesity policy with the final bariatric surgery policy. The modified obesity policy will read as follows (changes bolded and italicized):

“Obesity may be caused by medical conditions such as hypothyroidism, Cushing's disease, and hypothalamic lesions or can aggravate a number of cardiac and respiratory diseases as well as diabetes and hypertension. Non-surgical services in connection with the treatment of obesity are covered when such services are an integral and necessary part of a course of treatment for one of these medical conditions. ***Certain designated surgical services for the treatment of obesity are covered for Medicare beneficiaries who have a BMI \geq 35, have at least one co-morbidity related to obesity and have been previously unsuccessful with the medical treatment of obesity.***”

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.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/ncd103c1_Part2.pdf) remain unchanged:

- Section 100.8 (Intestinal Bypass Surgery); and
- Section 100.11 (Gastric Balloon for Treatment of Obesity).

Additional Instructions

CR5013 further instructs your carrier and/or fiscal intermediary 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)

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- 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).

Important Note: There is not a distinction between laparoscopic and open biliopancreatic diversion (BPD) with duodenal switch (DS) for the inpatient setting. The codes would apply to the open approach as follows:

1. 43.89 Other partial gastrectomy;
2. 45.51 Isolation of segment of small intestine; and
3. 45.91 Small to small intestinal anastomosis.

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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 that 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) of 11X.

The type of facility and setting determines the basis of payment:

- For services performed in inpatient hospitals, TOB 11X, IPPS payment is based on the DRG.
- For services performed in CAH inpatient hospitals, TOB 11X, on 101% of facility specific per visit rate.
- For services performed in IHS inpatient hospitals TOB 11X under IPPS based DRG.

For services performed in IHS critical access hospitals, TOB 11X, under 101% facility specific per diem rate.

Additional Information

For complete details, please see the official instruction, CR5013, issued to your carrier/intermediary 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, is at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R54NCD.pdf> and the claims processing instruction may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R931CP.pdf> on the CMS website.

If you have any questions, please contact your carrier/intermediary at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

You may also want review Change Request (CR) 5477 (<http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R1233CP.pdf>), which clarifies the claims processing instructions contained in CR 5013. The related MLN Matters article may be found at <http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/mm5477.pdf> on the CMS website.

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