



MEDICARE ENROLLMENT & APPEALS GROUP

DATE: June 28, 2022

TO: All Medicare Advantage Organizations

FROM: Jerry Mulcahy
Director, Medicare Enrollment and Appeals Group

SUBJECT: **Notice of CMS Ruling (CMS-1738-R) Related to Medicare Parts B & C Coverage for Continuous Glucose Monitors.**

This memorandum is to notify Medicare Advantage Organizations (“MAOs”) of the recently published CMS Ruling (CMS-1738-R) and highlight some key guidance issued therein.

On May 13, 2022, the Centers for Medicare and Medicaid Services (“CMS”) issued Ruling CMS-1738-R, *Medicare Part B and Part C Reimbursement Claims for Continuous Glucose Monitors (“CGMs”)* updating the classification, coverage, and payment criteria for CGMs as Durable Medical Equipment (“DME”) under Medicare Part B and C in accordance with the December 28, 2021 final rule (86 FR 73860, 73860-73911) (“December 2021 Final Rule”). CMS Ruling (CMS-1738-R) may be found at: <https://www.cms.gov/files/document/cms-1738-r.pdf>. The December 2021 Final Rule is available at: <https://www.federalregister.gov/documents/2021/12/28/2021-27763/medicare-program-durable-medical-equipment-prosthetics-orthotics-and-supplies-dmepos-policy-issues>.

CMS Rulings are decisions of the Administrator binding on all CMS components, including MAOs and other entities that adjudicate matters under the jurisdiction of CMS. MAOs shall note, in accordance with this ruling:

- The January 12, 2017 CMS Ruling (CMS-1682-R), *Classification of Therapeutic Continuous Glucose Monitors as “Durable Medical Equipment” Under Part B*, is rescinded and shall not be applied to any additional CGM claims under Part C or to any further administrative appeals of CGM claims.
- MAOs shall apply all classification, coverage, and payment terms of the December 2021 Final Rule and CMS Ruling (CMS 1738-R) to all claims for payment for CGMs and/or related accessories and supplies, as applicable, furnished on or after February 28, 2022.
- MAOs shall apply all classification, coverage, and payment terms of the December 2021 Final Rule and CMS Ruling (CMS 1738-R) to all pre-service organization determination requests for coverage of CGMs and/or related accessories and supplies, as applicable, received by the MAO on or after February 28, 2022.

- MAOs shall apply all classification, coverage, and payment terms of the December 2021 Final Rule and CMS Ruling (CMS 1738-R) to claims for payment for CGMs and/or related accessories and supplies, as applicable, furnished before February 28, 2022, where either: (1) a valid CGM claim or valid CGM appeal was pending as of February 28, 2022; or (2) the right to submit a valid CGM claim or valid CGM appeal had not expired as of February 28, 2022.
- MAOs shall apply all classification, coverage, and payment terms of the December 2021 Final Rule and CMS Ruling (CMS 1738-R) to pre-service organization determination requests for coverage of CGMs and/or related accessories and supplies, as applicable, received by the MAO before February 28, 2022, where either: (1) a valid CGM pre-service organization determination request or valid pre-service CGM appeal was pending as of February 28, 2022; or (2) the right to submit a valid pre-service CGM appeal had not expired as of February 28, 2022.
- MAOs shall identify, reopen, and apply all classification, coverage, and payment terms of the December 2021 Final Rule and CMS Ruling (CMS 1738-R) to non-favorable claim payment decisions for CGMs and/or related accessories and supplies, as applicable, where the item(s) were furnished before February 28, 2022 but the time to appeal the non-favorable CGM claim determination had not yet expired as of February 28, 2022. Any reopening must be performed consistent with the policies of 42 C.F.R. § 422.616.
- MAOs shall not reopen claim payment decisions for CGMs and/or related accessories and supplies, as applicable, where the item(s) were furnished before February 28, 2022 and there was a final and binding determination or decision for such CGM claim and the time to file a valid CGM appeal had expired by February 28, 2022.

This memorandum is not meant to provide independent direction nor be a comprehensive summary of CMS Ruling (CMS-1738-R) or the December 2021 Final Rule. MAOs are responsible for independently reviewing the CMS Ruling and final rule and implementing the applicable policies as directed therein. Any questions on this subject may be directed to the Part C Appeals Mailbox at: <https://appeals.lmi.org/DAPMailbox>.