

MEMO

TO: Chief Executive Officers
Chief Financial Officers
Chief Operating Officers
Directors of Ambulatory Surgery Centers
Directors of Outpatient Services
Missouri Society of Healthcare Attorneys
Respiratory Therapists

FROM: Jim Mikes
Vice President of Rural Advocacy and Regulation

SUBJECT: WPS [LCD 36839](#): Polysomnography and Other Sleep Studies

Last Friday, February 24, the Missouri Hospital Association, along with the Iowa, Nebraska and Kansas Hospital Associations joined in a telephone conference with Wisconsin Physician Services to discuss and clarify certain aspects of the newly implemented LCD for sleep studies. The following is a summary of the call with WPS, including highlights of the issues that may impact your hospital's operations.

WPS has jurisdiction over Medicare Part A & B claims for Iowa, Kansas, Missouri and Nebraska. According to WPS, recent OIG activity investigating inappropriate billing of sleep studies prompted WPS to revise their local coverage determination for sleep studies to be more specific and consistent with the durable medical equipment and national coverage determination policies.

Local Coverage Determination L36839: Polysomnography and other sleep studies took effect February 16. In addition to specifying the requirements for physicians and technicians performing sleep studies, the new LCD has very specific accreditation standards for the location where sleep studies are performed.

- Any location, other than the patient's home, must be accredited by the American Academy of Sleep Medicine or the Accreditation Commission for Health Care.
- A third option listed is The Joint Commission sleep-specific credentials for ambulatory care. Functionally, **this option is not available to hospitals**. A hospital cannot hold TJC hospital

accreditation and TJC ambulatory care accreditation. (Some members have stated that TJC has communicated to them that their hospital accreditation is sufficient to comply with this LCD. WPS specifically stated that TJC hospital accreditation does not meet the requirements of this LCD.)

- WPS stated that this accreditation policy has been in effect since 2012. Previous LCDs did not limit accepted accreditation to only AASM or ACHC. We believe this new policy is a significant change to previous LCDs.
- Many hospitals contract with an independent diagnostic testing facility to perform sleep studies on the hospital premises under arrangement. This arrangement does not comply with the LCD unless the IDTF **and** the hospital meet the certification/accreditation requirements of the LCD.
- Providers are expected to comply with all requirements of this LCD as of February 16. Providers not meeting these requirements and billing for sleep studies may be subject to take-backs upon review.

MHA was concerned that many of our members were unaware of these changes that were first proposed in a draft issued in July 2016 and has previously communicated with its affected members about this proposed policy. The Medicare Program Integrity Manual states that contractors are to notify providers for LDCs that affect items or services submitted to intermediaries. Contractors can distribute draft LCDs for comment to medical providers and organizations through a hard copy mailing of the title and web address of the draft LCD, or an email that includes the title and web address of the draft LCD. WPS believes that it meets this obligation of notification by issuing a weekly eNews publication. However, **this eNews is only delivered to providers that have subscribed to the service.** Hospitals may want to ensure that someone in the organization is responsible for receiving and reviewing these weekly issues. Providers can subscribe to the eNews publications [here](#).

Finally, MHA is concerned about the effects of this LCD on our members and the beneficiaries they serve. We are concerned that this LCD was poorly communicated to providers before implementation and that given there is no flexibility in postponing the implementation date, many hospitals will cease providing services until accreditation can be obtained. This only will serve to further limit access to necessary services for Medicare beneficiaries.

MHA is closely working with our state hospital association partners to communicate to our Congressional delegation the effect of these policies on our members and the Medicare beneficiaries they serve. Hospitals also may want to contact WPS to voice their concerns with this new policy. MHA will continue to follow this issue as it affects our members. If you have questions or comments, please contact me at jmikes@mhanet.com or 573/893-3700, ext. 1393.

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