



July 9, 2015

Submitted electronically to: CodingComments@cms.hhs.gov

Subject: Miscellaneous Code Comments

To Whom It May Concern:

The following comments are submitted on behalf of the National Coalition for Assistive and Rehab Technology (NCART) in regards to the notice CMS posted online entitled “Healthcare Common Procedure Coding System (HCPCS) Codes Used for Processing Medicare Claims for Miscellaneous Durable Medical Equipment (DME)”.

NCART is a national association of suppliers and manufacturers focused on ensuring individuals with significant disabilities and chronic medical conditions have appropriate access to Complex Rehab Technology (CRT) products and services. We collaborate with consumers, clinicians, and physicians along with federal, state and private policy makers to establish and protect appropriate coverage, coding, and payment policies for CRT. Our membership includes over 300 Medicare CRT supplier locations across the country and the country’s leading CRT equipment manufacturers.

CRT products include medically necessary and individually configured manual wheelchairs, power wheelchairs, seating systems, and other adaptive equipment such as standing devices and gait trainers. People with high-level disabilities such as ALS, Cerebral Palsy, Multiple Sclerosis, Muscular Dystrophy, Spinal Cord Injury, and Traumatic Brain Injury depend on CRT to address their medical needs, maximize their function and independence, and minimize health care costs. The provision process is service-intensive involving evaluation, configuration, fitting, adjustment, or programming and the equipment must then be supported with ongoing service and repair.

Flaws In This Process

At the outset, NCART agrees with the need to develop additional distinct HCPCS codes in order to appropriately capture items that are currently billed as “miscellaneous” items. However we have serious concerns with the process CMS is using.

We are very concerned that CMS continues to make coding, coverage and payment decisions which significantly impact access to important technology for people with disabilities in a manner that prevents stakeholder inclusion, and meaningful, upfront, open discussion to arrive at the best outcomes. This case is an illustration; minimal public notice and a limited time period for written comment with no opportunity for meaningful public exchange.

This notice was not broadly communicated to the affected community of stakeholders, and instead was merely included in a CMS “All Medicare” email weekly newsletter. Further, providing a short period of

time for the public to provide comments on a coding proposal with such broad implications to beneficiary access is insufficient.

When it comes to ensuring access to the specialized technology (i.e. Complex Rehab Technology) that people with high level disabilities depend on, the importance of an appropriate HCPCS coding system cannot be overstated. As we move forward we would appreciate the opportunity to collaborate with CMS to develop an enhanced process for discontinuing/revising existing HCPCS codes and for the development of new, distinct codes when the necessity for such codes is identified.

With this in mind we make the following comments and recommendations and ask that in the future sufficient time be allowed for greater stakeholder inclusion in order to produce the best outcomes for the Medicare program and its beneficiaries.

Comments and Recommendations on Proposed Miscellaneous Codes

There are many hundreds of items affected by this proposal, and in this particular case, our focus is on the development of revised miscellaneous HCPCS codes that impact wheeled mobility and seating accessories, components, and parts.

NCART agrees with the need for more HCPCS codes for miscellaneous DME and otherwise not classified wheelchair components and accessories. Our members have long held the position regarding the need for additional codes in general, and miscellaneous codes in particular, that would allow for more accurate tracking, and allow Medicare and other payers to identify new HCPCS coding needs.

However, NCART believes the coding and payment changes being proposed regarding miscellaneous codes will disproportionately negatively impact people with disabilities since miscellaneous wheelchair items are more prevalent on complex rehab wheelchairs. Due to the small population of people with disabilities that may need any one item, utilization is typically low for many important complex rehab technologies. As a result, CRT products are less likely to meet CMS's threshold for establishing a unique HCPCS code and therefore are billed under a miscellaneous HCPCS code.

Needed Changes to the Proposed Codes and Descriptors

The specific codes being proposed are problematic and inadequate. Under the proposed coding changes, CMS is planning on 6 new HCPCS codes:

- 1.) KXXX1- Durable Medical Equipment, Miscellaneous, the Purchase Price Does Not Exceed \$150
- 2.) KXXX2- Durable Medical Equipment, Miscellaneous, the Purchase Price Exceeds \$150
- 3.) KXXX3- Wheelchair Component or Accessory, Miscellaneous, the Purchase Price Does Not Exceed \$150
- 4.) KXXX4- Wheelchair Component or Accessory, Miscellaneous, the Purchase Price Exceeds \$150
- 5.) KXXX5- Repair Part For Use With Beneficiary Owned Durable Medical Equipment, Other Than Wheelchair, Not Covered Under Supplier Or Manufacturer Warranty, Not Otherwise Specified
- 6.) KXXX6- Repair Part For Use With Beneficiary Owned Wheelchair, Not Covered Under Supplier Or Manufacturer Warranty, Not Otherwise Specified

As already stated, NCART agrees that more HCPCS codes are needed. In the area of miscellaneous codes, NCART recommends that CMS establish codes using a different way of stratifying the technology.

Rather than using payment categories to differentiate codes, NCART recommends that CMS use the following descriptors/differentiators to properly segregate the products under the following codes:

- 1) KXXX1- Durable Medical Equipment, Miscellaneous
- 2) KXXX2- Durable Medical Equipment, Component or Accessory, Not Otherwise Specified
- 3) KXXX3- Durable Medical Equipment, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified
- 4) KXXX4- Standard Wheelchair, Component or Accessory, Not Otherwise Specified
- 5) KXXX5- Standard Wheelchair, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified
- 6) KXXX6- Complex Rehabilitative Wheelchair, Component or Accessory, Not Otherwise Specified
- 7) KXXX7- Complex Rehabilitative Wheelchair, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified

Needed Changes to the Fee Schedule Methodology and Payment Category Assignment

CMS indicates that fee schedules will be developed for KXXX1-KXXX4. NCART strongly disagrees with the notion of developing a fee schedule for miscellaneous HCPCS codes. Not only are these codes used to bill a wide range of products, as new codes are created and new technology brought to market, the products that are being billed under these codes will change. To develop a fee schedule is inappropriate, arbitrary and will create a barrier to innovation and access to existing technology.

Items billed under miscellaneous codes do not necessarily have anything in common other than they are “not otherwise classified”. CMS indicates they used billed amounts from July 1, 1986 through June 30, 1987 to establish fee schedule amounts for certain proposed new codes. It is unclear what code was used for miscellaneous wheelchair accessories or options during this timeframe, as K0108 was not implemented until 1993. Further, NCART believes that there is no evidence that the items billed under miscellaneous codes from 20 to 30 years ago are the same ones being billed today. The only guarantee from the method CMS has applied to establish fee schedules is that it will result in over-payment for many items and deny access to others.

Under this CMS proposal, many items would be paid at levels that are significantly less than their acquisition cost. The maximum that a provider can recoup if they bill a KXXX4 through the term of the capped rental is \$560.83, even though acquisition costs may exceed this by a substantial amount. Suppliers will not be able to provide items at a loss and, as such, beneficiaries will be forced to suffer financial hardship to obtain the items privately or be denied access to the item.

The proposal would increase program integrity risk by establishing reimbursement ceilings and six point plan logic (routinely purchased or capped rental) on miscellaneous codes. CMS would virtually eliminate any billing less than the allowable amount. In light of the harm that would occur to beneficiaries and the risks that would result to the system, there is no reasonable basis for implementing a fixed allowable for items billed under any miscellaneous code.

In light of the harm that would result, there is no reasonable basis for developing fee schedules for these codes. NCART believes all of the miscellaneous codes should be priced based on contractor individual consideration to ensure that an appropriate amount is paid for the item being provided and that access can be preserved.

Regarding the proposal to assign miscellaneous codes to six point plan payment categories under Section 1834(a)(1)(B) of the Social Security Act (routinely purchased and capped rental), NCART must express its concern and strong opposition. We assert that making classification decision for miscellaneous codes solely on MSRP is unfounded. To classify items as capped rental purely based on the MSRP of that item is not compliant with CMS' own rules regarding payment category assignment. Regardless of the code used to bill items in 1986 and 1987, these items have been routinely purchased by Medicare more than 75% of the time. Further, to classify any accessory as capped rental when it is being provided with a base item that is classified as purchase adds a significant burden and cost to suppliers. CMS allows capped rental items billed with certain power wheelchairs, when the beneficiary has elected to purchase at initial issue, to be billed as a purchase.

NCART recommends that CMS allow this same provision for any option or accessory being provided with DME or wheelchair base item that is purchased. CMS should allow the beneficiary to choose rental or purchase depending on their individual situation, or length of need for the item being billed for all options, accessories. We also agree that all repair parts should be purchased when provided on beneficiary owned bases.

Summary

In closing, NCART believes that adequate and appropriate HCPCS codes are the foundation for coverage and payment policies that ensure appropriate access and the best health outcomes for Medicare beneficiaries. CMS has a responsibility to make coding decisions that do not impede appropriate access and unfortunately this proposed miscellaneous code set will result in serious access issues to a vulnerable population. We believe that many of the current policies fail to meet the needs of people with disabilities.

It is very important for HCPCS codes to recognize technological differences between products which address different clinical needs. We recognize the challenge that can occur in trying to properly administer the program as it relates to the primary Medicare beneficiary population. However NCART also believes that CMS must take the needs of the smaller, but equally important, population of Medicare beneficiaries who are eligible for the program based on disability.

In order to preserve access, provide better tracking, and improve the efficiency of the Medicare program we recommend the following modifications to CMS' coding proposal:

- 1.) Modify the proposed Codes and Descriptors to read as follows:
 - a. KXXX1- Durable Medical Equipment, Miscellaneous
 - b. KXXX2- Durable Medical Equipment, Component or Accessory, Not Otherwise Specified
 - c. KXXX3- Durable Medical Equipment, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified
 - d. KXXX4- Standard Wheelchair, Component or Accessory, Not Otherwise Specified
 - e. KXXX5- Standard Wheelchair, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified
 - f. KXXX6- Complex Rehabilitative Wheelchair, Component or Accessory, Not Otherwise Specified
 - g. KXXX7- Complex Rehabilitative Wheelchair, Repair Part for Use with Beneficiary Owned, Not Covered Under Supplier or Manufacturer Warranty, Not Otherwise Specified

2.) Continue the current policy of determining payment amounts for miscellaneous codes based on contractor individual consideration.

3.) Provide that the payment methodology allows the option for payment to be made as a purchase.

As stated above, NCART has a sincere desire to join other impacted stakeholders in collaborating with CMS to address issues within the HCPCS coding area in order to produce the best outcomes for the Medicare program and Medicare beneficiaries. Please let us know how we can be of further assistance.

Sincerely,



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