



AMERICAN ACADEMY OF
ORTHOPAEDIC SURGEONS

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February 2, 2022

Carol Blackford
Director, Hospital Ambulatory and Policy Group
U.S. Department of Health and Human Services
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244
Sent via Email

Dear Ms. Blackford:

On behalf of 39,000 orthopaedic surgeons, residents and allied health professionals represented by the American Association of Orthopaedic Surgeons (AAOS) along with the undersigned orthopaedic subspecialty societies, we would like to discuss several concerns regarding CMS' National Correct Coding Initiative (NCCI) Medically Unlikely Edit (MUE) and Procedure-to-Procedure Edit (PTP) programs.

I. NCCI Contractor

AAOS has participated in the review and comment process of proposed NCCI edits for several years. Prior to March 2019, we had a collegial and collaborative relationship with, Correct Coding Solutions, LLC. This relationship allowed for discussions to provide clarifying information on current or proposed edits with Dr. Niles Rosen participating in conference calls or committee meeting discussions. This is in stark contrast to the current NCCI contractor, Capitol Bridge, LLC. We have made several attempts for communication with little to no response. **It would be helpful and mutually beneficial to have open lines of communication regarding proposed and existing edits.**

II. Policy Development

The development of policies and/or proposed edits is not transparent. We have found that CMS and Capitol Bridge rarely, if ever, communicate with specialty society stakeholders prior to the implementation and publication of edits. This is particularly troubling given the nature of recent edits which do not appear to be based on anatomy or clinical practice.

For example, the proposed edit package sent in September 2021, contained proposed NCCI PTP edits based on 2022 CPT changes. CMS proposed a PTP edit for CPT codes 29871 (Arthroscopy, knee, surgical; for infection, lavage and drainage) and 29550 (Strapping; toes). There is no relationship between a knee arthroscopy procedure and a strapping of a toe.

The procedures are completely different and have no relationship to each other anatomically. Linking these codes with an NCCI PTP edit, even with an indicator of “1”, requires a modifier to bypass an edit that should not exist. **The development of edits is obviously a complex process. It would be advantageous for our society to be able to provide input during the development of edit policies, rather than having to react to them after they are proposed or implemented.**

III. Stakeholder Input

There is little opportunity for meaningful input from stakeholders prior to publication. This becomes particularly troubling when the proposed edits do not make anatomic or scientific sense.

For example, in May 2021, CMS proposed MUE changes for knee repair codes **27405**, *Repair, primary, torn ligament and/or capsule, knee; collateral*, and **27407**, *Repair primary torn ligament and/or capsule, knee; cruciate*. The edits would preclude performing these procedures together, although these procedures are commonly performed together and are medically necessary for treatment to achieve satisfactory outcomes for these injuries. The AAOS protested with a detailed rationale, but Capitol Bridge maintained the edit. **Some edits proposed by NCCI do not make sense based upon medical necessity or human anatomy. There needs to be some way to adjudicate conflicts which arise between NCCI edits and actual medical practice – perhaps by a neutral party.**

IV. Appeal Process

We have found there is not a meaningful process for appeal of edits. In one instance, a request sent in August 2020 for review of existing PTP edits of the shoulder went unanswered for over a year. Every attempt for a response resulted in an automated email message from Capitol Bridge that “CMS was taking our request into consideration. All inquiries go through an evaluation period by CMS and that they would respond once a decision has been reached.” It was not until October 28, 2021, that we were able to secure a meeting with CMS and Capitol Bridge to discuss our request in more detail. During that meeting, it was stated that the lack of a response from CMS indicated that the request was considered, and a determination was made. **The appeals process is not timely, transparent, or demonstrably fair. Perhaps it should be supervised by a neutral body.**

V. Conclusion

There are other examples of edits which are confounding and need not be detailed here. The intent of this letter is not to dispute specific edits or policies but is to raise questions about the processes of NCCI. We, the signatories, agree with the intent of NCCI, but find fault with the process that edits are created and implemented. **We propose to work with the agency in order to address the issues outlined above.**

We appreciate the opportunity to bring these issues to your attention. AAOS and the undersigned subspecialty societies remain committed to contributing to the NCCI PTP and MUE programs. Representatives are available to discuss these issues in more detail in a meeting at your convenience. Please contact Joanne Willer, AAOS' Director of Coding & Reimbursement Resources at willer@aaos.org to schedule a meeting.

Sincerely,



Daniel K. Guy, MD, FAAOS
President, American Association of Orthopaedic Surgeons

American Association for Hand Surgery
American Association of Hip and Knee Surgeons
Arthroscopy Association of North America
American Orthopaedic Foot and Ankle Society
American Orthopaedic Society for Sports Medicine
American Shoulder and Elbow Surgeons
American Spinal Injury Association
Cervical Spine Research Society
Limb Lengthening and Reconstruction Society
Musculoskeletal Tumor Society
Orthopaedic Rehabilitation Association
Orthopaedic Trauma Association
Pediatric Orthopaedic Society of North America
Ruth Jackson Orthopaedic Society



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