

Affordable Care Act Changes Affecting Outpatient Lymphedema Treatment

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Lymphedema Support Group
Providence Holy Cross

From Whence Spring Our Benefits?

- ❖ Medicare-- Title XVIII SSA
- ❖ Federal Government Employee-- FEHBA
- ❖ Self-funded Employee Health Plan-- ERISA
- ❖ National Healthcare Revision-- ACA, MCTRJCA
- ❖ Medicaid-- Title XIX SSA + State Law
- ❖ Private Insurance-- State Law
- ❖ Church Employer-- State Law
- ❖ Non Self-funded Employee Health Plan-- State Law
- ❖ State Government Employee-- State Laws

Changes in Healthcare Policy

❖ Access

- Patient Protection and Affordable Care Act of 2010 (**PPACA**)
- Health Care and Education Reconciliation Act of 2010 (**HCERA**)

❖ Cost

- Middle Class Tax Relief And Job Creation Act of 2012 (**MCTRJCA**)
- American Taxpayer Relief Act of 2012 (**ATRA**)

❖ Quality and Cost

- **CMS-1589-FC** Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment System; Ambulatory Surgical Center Payment System; Hospital Outpatient Quality Reporting Program; Electronic Health Record Incentive Program Electronic Reporting Pilot; Ambulatory Surgical Center Quality Reporting Program; Inpatient Rehabilitation Facility Quality Reporting Program; Revision to Quality Improvement Organization Regulations CY 2013
- **CMS-1590-FC** Revisions to Payment Policies Under the Physician Fee Schedule, DME Face to Face Encounters, Elimination of the Requirement for Termination of Non-Random Prepayment Complex Medical Review and Other Revisions to Part B for CY 2013 for CY 2013
- **CMS-1600-P** Proposed Rule, Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B for CY 2014

Affordable Care Act Change Summary

- ❖ Eliminates Annual & Lifetime Limits
- ❖ Prohibits Rescissions
- ❖ Improves Preventive Care
- ❖ Expands Children & Young Adult Coverage
- ❖ Improves Patient Appeal Rights
- ❖ Limits Medicare Advantage Excess Profits
- ❖ Shrinks Medicare Part-D Donut Hole
- ❖ Eliminates Denial Due To Pre-Existing Conditions
- ❖ Covers Medical Costs During Clinical Trials
- ❖ Individual Mandate
- ❖ Covered California (Insurance Exchanges)
 - Bronze, Silver, Gold, Platinum Plans
- ❖ MediCal Expansion

Application of ACA

- ❖ Applies to most Group and Individual Plans
 - Employer-Sponsored Group Health Plans
 - Private Plans
 - Some provisions apply to Self-funded Employee Plans
- ❖ Application not yet Defined
 - TRICARE Military Plans
 - Medicare Plans
 - MediCal Plans
 - Flexible Spending Accounts
 - Health Savings Accounts
 - Indian Tribal Governments
- ❖ Exempts “Grandfathered Plans”
 - Details currently under study

Appeal Rights Changes

- ❖ Notification of reason for denial
- ❖ Information about rights of appeal
- ❖ Required insurer response times
 - 72 hours urgent request
 - 30 days non-urgent request
 - 60 days denial of payment already received services
 - 60 days independent external medical review
 - Internal & external review requests together if urgent
- ❖ California has had these in place before ACA

Essential Benefit Categories

- ❖ DOL surveyed employer health benefit plan provisions 2008-9*
- ❖ Twelve selected medical benefits surveyed, including
 - *Physical Therapy* (covered by 70%, not mentioned by 30%)
 - *Durable Medical Equipment* (covered by 67%, not mentioned by 33%)
 - *Prosthetics* (incl. orthotics) (covered by 46%, not mentioned by 54%)
- ❖ *Physical Therapy* covers services to restore movement, relieve pain and prevent further injury
- ❖ *DME* includes rental or purchase of equipment or therapeutic supplies to treat medical conditions or improve physical mobility
- ❖ *Prosthetics* are defined as artificial limbs. *Orthotics, supplies and equipment* to support or correct the function of a limb or torso, are sometimes combined with coverage for prosthetics.

*Selected Medical Benefits: A Report from the DOL to the DHHS 4/15/11

ACA Essential Benefits Categories

- ❖ *Ambulatory patient services*
- ❖ Emergency services
- ❖ Hospitalization
- ❖ Maternity and newborn care
- ❖ Mental health and substance use disorder services, including behavioral health treatment
- ❖ Prescription drugs
- ❖ *Rehabilitative and habilitative services and devices*
- ❖ Laboratory services
- ❖ *Preventive and wellness services and chronic disease management*
- ❖ Pediatric services, including oral and vision care

Public Law 111-148 Patient Protection and Affordable Care Act
§1302(b)(1)(A)-(J)

Essential Health Benefits (EHBs)

- ❖ Affordable Care Act (ACA) identified 10 categories of services and items included in EHBs, including:
 - *Ambulatory patient services*
 - *Rehabilitative and habilitative services and devices*
 - *Preventive and wellness services and chronic disease management*
- ❖ All ten categories of services and items must be covered by insurance offered in the individual and small group markets by January 1, 2014

However!

- ❖ Insurance firms can still pick and choose to some degree which specific therapies they'll cover within some categories of benefit. And the way insurers interpret the rules could turn out to be significant for people with disabilities who need ongoing therapy to improve their day-to-day lives or prevent degradation.
- ❖ For instance, insurers could choose to cover physical therapy for someone with a broken bone, but not cover long-term support services for chronic conditions, such as lymphedema.
- ❖ The level of benefits insurers have to provide in each category is based on a model policy in each state, and some of those model policies are a lot more generous than others.
- ❖ And it is not clear yet how the *Jimmo VS Sebelius* settlement will affect the state contracts.

Kaiser Health News, "Obamacare Presents Complex Choices For People With Disabilities", Eric Whitney, CPR, August 13, 2013

<http://www.kaiserhealthnews.org/Stories/2013/August/13/Disabilities-And-Essential-Health-Benefits.aspx>

California Defines Essential Health Benefits

- ❖ Title 28 California Code of Regulations
 - Emergency Regulation 2013-4186 Essential Health Benefits became effective 07/05/2013
 - Open for public comment 10/25 - 12/09/2013
 - Section 1300.67.005 Essential Health Benefits (in addition to those services and devices required to be covered under the Knox-Keene Act)
 - (d)(9)(B)(iii) Compression burn garments and lymphedema wraps and garments
 - See <http://wpso.dmhc.ca.gov/regulations/#1> for details

ACA Nondiscrimination Section §2706

- ❖ *“A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law.”*

ACA § 2706 and LE Therapy Practice

- ❖ Goes into effect January 1, 2014.
- ❖ Applies to any insurance plan and to self-insured plans (ERISA).
- ❖ Provided service must be medically reasonable and necessary, covered in the insurance plan and within the scope of the provider's state license.
- ❖ Covers any state-licensed or state-certified healthcare provider including chiropractors, MDs naturopathic physicians, acupuncturists, massage therapists, osteopaths, nurse practitioners and podiatrists.
- ❖ For example: When a massage therapist treats any health condition covered in an insurance plan (e.g., back pain, neck pain, lymphedema, etc), *the massage therapist is eligible for reimbursement*, so long as that provider is licensed by his or her state and can treat the condition within his or her scope of practice.
- ❖ H.R. 2817 Harris [MD-1], if passed, would remove this provision.

Caveat

The foregoing material is the opinion of the undersigned and may not reflect the positions of any organization or governmental agency. The statements made herein are based on personal experience and research, and the speaker's interpretation of relevant statutes. The foregoing material should not be taken as medical or legal advice, nor should it be used to guide Medicare billing.

I would be happy to discuss any of the issues raised in a positive and constructive manner.

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