

April 28, 2017

Mary Pascucci, DO
Contractor Medical Director
Performant Recovery HealthCare Services-Region 5
2751 Southwest Boulevard
San Angelo, TX 76904

Dear Dr. Pascucci,

I am writing today to express concerns of the American Orthotic and Prosthetic Association (AOPA) regarding a recently published “approved issue” that will be subject to automatic review by the Region 5 National DMEPOS, Home Health, and Hospice Recovery Audit Contractor. AOPA specifically disagrees with issue 0049-L5845 with Incompatible Codes.

AOPA, founded in 1917, is the largest national orthotic and prosthetic trade association with a national membership that draws from all segments of the field of artificial limbs and customized bracing for the benefit of patients who have experienced limb loss, or limb impairment resulting from a chronic disease or health condition. These include patient care facilities, manufacturers and distributors of prostheses, orthoses and related products, and educational and research institutions.

AOPA believes the automated review of the billing of HCPCS code L5845—Addition, endoskeletal knee-shin system, stance flexion feature, adjustable; in conjunction with HCPCS codes L5610, L5613, L5810-L5812, L5814-L5816, L5818, L5822, and L5826 is not consistent with the Statement of Work (SOW) of the Region 5 RAC contractor and therefore should be rescinded immediately.

Page 21 of the Region 5 RAC Contractor SOW clearly defines the criteria for performing automated review. The SOW states the following:

“ i. Coverage/Coding Determinations Made Through Automated Review

The Recovery Auditor may use automated review when making coverage and coding determinations only where BOTH of the following conditions apply: there

is certainty that the service is not covered or is incorrectly coded, AND a written Medicare policy, Medicare article or Medicare-sanctioned coding guideline (e.g., CPT statement, Coding Clinic statement, etc.) exists.

When making coverage and coding determinations, if no certainty exists as to whether the service is covered or correctly coded, the Recovery Auditor shall not use automated review. When making coverage and coding determinations, if no written Medicare policy, Medicare article, or Medicare-sanctioned coding guideline exists, the Recovery Auditor shall not use automated review. Examples of Medicare-sanctioned coding guidelines include CPT statements and Coding Clinic statements.”

AOPA asserts neither of the above criteria required to initiate an automated RAC review have been met for the following reasons:

AOPA asserts there is a lack of certainty that L5845 is not compatible with the procedure codes listed in the Region 5 RAC announcement. This is based on several facts.

First, the National Correct Coding Initiative (NCCI), has not identified L5845 as being incompatible with any of the procedure codes identified in the RAC announcement. The NCCI is the government contractor responsible for establishing and maintaining procedure to procedure (PTP) edits specifically identifying procedure codes incompatible with each other.

Second, there have been no correct coding bulletins issued by either the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) or the Pricing, Data Analysis, and Coding Contractor (PDAC) indicating L5845 is incompatible with the procedure codes listed in the RAC announcement.

Finally, it appears that the RAC announcement which was initially posted on the Performant website on April 12, 2017 has already been revised to remove a reference to a possible predicate product, and to remove HCPCS codes L5611 and L5824 from the list of incompatible codes subject to the automated review. The fact the announcement required a significant revision within two weeks of its publication does not indicate any level of certainty that L5845 is incompatible with any of the HCPCS codes listed in the RAC announcement, and therefore should not be subject to automated review.

AOPA is not aware of the existence any written Medicare policy, Medicare article, or Medicare-sanctioned coding guideline specific to the proper coding of L5845. The Local Coverage Determination (LCD) and Policy Article that govern Medicare coverage of lower limb prostheses does not provide any statement regarding criteria that must be met in order to code and bill for L5845 when submitting a claim to Medicare. The SOW clearly indicates that automated review may not be used as an audit method when there is not written policy that establishes coding and coverage determinations.

Stance flexion is an important feature of prosthetic knees that result in increased stability during the stance phase of the gait cycle. The ability of a prosthetic knee to provide limited flexion during stance phase assists in providing additional safety to amputees which leads to better outcomes.

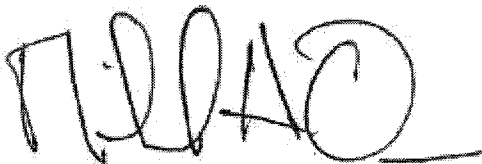
The blanket statement in the RAC announcement that this feature is simply not compatible with an entire series of base procedure codes is unfounded and fundamentally flawed. While AOPA understands that in order to code for stance flexion, there must be a separately identifiable feature that is not achieved solely through an adjustment to the resistance of the knee, the statement on the Performant website that an adjustable stance flexion feature cannot be provided in conjunction with prosthetic knees described by procedure codes included in the announcement is simply inaccurate.

Based on the fact that the announced automated review of the use of L5845 with certain "incompatible" procedure codes does not meet any of the SOW criteria required to perform an automated review, AOPA respectfully requests the immediate rescission of issue 0049 from the list of "issues under review" by the Region 5 RAC contractor in the absence of a final Administrative Procedures Act rulemaking determination meeting the established criteria stated above, constituting the required "written policy that establishes coding and coverage determinations.

AOPA remains committed to working with CMS and its contractors to ensure that Medicare beneficiaries have access to medically appropriate care that is reimbursed in compliance with all existing regulations and policies.

If you would like to discuss this issue further, please contact Joe McTernan, AOPA's Director of Reimbursement and Coding, Programming, and Education via e-mail at jmcternan@aopanet.org or via telephone at (571)431-0811

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Oros', with a long horizontal line extending to the right.

Michael H. Oros
AOPA President

Cc: George Mills, Jr.
John Spiegel
Melanie Combs-Dyer
Connie Leonard