ASSISTIVE TECHNOLOGY LAW CENTER

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August 21, 2020

Division of Practitioner Services
Mail Stop: C4-03-06
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

Attention: Telehealth Review Process

RE: Request to Add Services for Medicare Telehealth Delivery:

CPT: 62607: Speech-Language Pathologist Evaluation for Speech Generating Devices, 1st hour
CPT 62608: Speech-Language Pathologist Evaluation for Speech Generating Devices, additional 30 minutes;
CPT 62609 Speech-Language Pathologist Services for Speech Generating Devices

Dear Sir or Madam:

On behalf of Medicare beneficiaries with complex communication needs who require and who use speech generating devices (SGDs), we respectfully submit for your consideration this request to add to the list of procedures authorized for Medicare payment when delivered by telepractice. The procedures are for speech-language pathologist (SLP) evaluation of SGD need and SLP treatment services for SGDs. These procedures are coded as CPT codes 92607, 92608, and 92609. All have been Medicare benefits since 2001.

We submit this request pursuant to the instructions stated at https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Submitting. However, as we explain below, we ask that this submission be reviewed at once and that the authorization for telehealth delivery of the codes discussed here be assigned an effective date of March 1, 2020.

Statement of Need

Speech generating devices have been Medicare benefits for approximately 2 decades. Medicare SGD coverage resulted from a *Formal Request for National Coverage Decision for Augmentative and Alternative Communication Devices* submitted in December 1999 (CAG-00055). This document described in detail, *inter alia,* the characteristics of individuals who need, use and benefit from SGDs; the extraordinary harm they experience when they are unable to communicate effectively; and the elements of the SLP evaluation that is the foundation underlying the identification of SGD need and the recommendation of a specific SGD for the beneficiary's use.

The harm caused by the inability to speak effectively includes isolation, discrimination, illiteracy, institutionalization, unemployment, poverty and despair. Due to the lack of understandable speech, individuals too often have been and still are perceived to be unable to direct their own lives; a perception that often leads to an erosion or outright deprivation of their most basic civil rights and liberties. Access to medical care also is compromised. All too common have been reports of broken bones that were not discovered for days, infections that were not identified and treated until they had become extremely severe, and sources of pain that were not localized and timely addressed. Without an effective means of patient-provider communication, medical staff have described their efforts to deliver medical care to people with severe communication impairments as equivalent to veterinary care.

Medicare made four important decisions in response to the *Formal Request.* First, it acknowledged it had made an erroneous assumption about the importance of the ability to communicate and it reversed a prior conclusion that SGDs were "convenience items." In its place, Medicare announced "that AAC devices are a Medicare benefit in the category of durable medical equipment (DME)." The effective date for SGD coverage was stated to be January 1, 2001. (Medicare Decision Memorandum re: CAG-00055 (April 26, 2000)).

Next, Medicare recognized the essential and independent role of the SLP. It gave SLPs the primary responsibility to establish beneficiaries' medical need for a SGD and to recommend the most appropriate device (and as necessary mounts and access aids) to meet their daily communication needs. For SGDs, in contrast to perhaps all other Medicare benefits, beneficiaries' physicians serve only a secondary role.

Third, Medicare's DMERC medical directors developed nationwide guidance that stated the SLP evaluation, report, and certification of financial independence from SGD suppliers that will be required to support Medicare SGD payment. (Medicare Regional Medical Review Policy (released October 24, 2000) – now Local Coverage Decision (LCD) for SGDs, L 33739).

Fourth, Medicare adopted unique SLP procedure codes for SGD assessment and treatment. It recognized that these tasks require unique tools and professional preparation and experience as compared to other SLP assessment and services tasks and that SGD-related assessment and treatment will be performed by a distinct, small sub-set of SLPs who have pursued the additional knowledge and skills required to serve individuals with SGD needs. 65 Fed. Reg. 65426 (Nov. 1, 2000)(announcing adoption of G 0197; G 0198 and G 0199 describing

SLP SGD evaluation and re-evaluation and SLP SGD services to coincide with Medicare SGD coverage policy change, effective Jan. 1, 2001); 67 Fed. Reg. 80016 (Dec. 31, 2002)(announcing replacement of "G" codes with CPT 92607; 92608; and 92609, effective Jan. 1, 2003).

These Medicare decisions had an extraordinary impact on Medicare beneficiaries' SGD access as well as on SGD coverage and access across all sources of health benefits funding. By 2000, SGD coverage had been established among many of these sources, but after Medicare accepted SGDs, their coverage became almost universal. Also, most Medicaid programs, Tricare, and countless insurers and employer-sponsored health benefits plans have adopted the Medicare SGD evaluation and reporting procedures in whole or substantial part for their own use. And, the SLP codes for SGD assessment and treatment have achieved almost uniform acceptance and adoption.

In 2014-2015, Medicare re-examined its SGD coverage guidance. The outcome of that reconsideration was its acknowledgement that an individual's inability to communicate effectively – even for a short period – creates serious health and safety risks. For this reason, Medicare expanded allowed SGD functionality to reflect evolution of SGD hardware and software over the past decade and a half. *See* https://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=26. Medicare also acknowledged its continued trust in SLPs' professionalism and independent judgment: it made no changes to the SLP role in evaluation, recommendation or reporting. *See* LCD L33739 posted at https://med.noridianmedicare.com/documents/2230703/7218263/Speech+Generating+Devices+%28SGD%29%20LCD+and+PA/7973cdbc-c335-47bb-91ca-ad8385830086.

In sum, Medicare coverage policy decisions made two decades ago have enabled a small number of Medicare beneficiaries (approximately 2,500 per year (as reported by CMS)) to access a vitally important tool to enable them to meet their daily communication needs. Medicare also created an instrument that has become the nationwide professional standard for SGD evaluation and reporting. Medicare's coverage, evaluation and reporting policies offer a cornucopia of opportunity for Medicare beneficiaries with SGD needs. But at present, almost none can partake of this bounty.

Because of the stay-at-home and work-at-home orders and closures of SLP offices, clinics and other facilities in response to the Covid-19 pandemic, it has become almost impossible for Medicare beneficiaries to receive in-person SGD evaluation or treatment services. For this reason, Medicare beneficiaries' access to SGDs has been reduced significantly as has their access to the SLP treatment services that they need to gain the most benefit from these devices. Although some easing of these restrictions is occurring, barriers to in-person SLP services will likely continue for the foreseeable future.

To overcome these barriers and the significant yet preventable harm to Medicare beneficiaries who need and use SGDs, we make three requests:

Request # 1: Authorize the Codes

Medicare has made no decision to change its SGD policy but the disruptions caused by the Covid-19 pandemic have created an existential threat to Medicare SGD coverage. To counter this threat, we request that Medicare authorize the following procedures to be covered for Medicare payment when delivered through telepractice:

SGD Assessment:

92607	Evaluation for prescription for speech-generating augmentative and alternative communication device, face-to-face with the patient, first hour
92608	Evaluation for prescription for speech-generating augmentative and alternative communication device, face-to-face with the patient, each additional 30 minutes

SGD Treatment (Services):

92609	Therapeutic services for the use of speech-generating device, including programming and modification

Other sources of health benefits funding, notably state Medicaid programs and insurers and health plans, have authorized delivery of these services by telepractice. That experience illustrates that telepractice delivery of these SLP tasks requires only a few procedural accommodations. Substantive changes are not required and the outcomes achieved are of the same quality as when these SLP tasks are performed in-person. These conclusions are supported by professional standards and professional literature.

Although programmatic differences can distinguish Medicare from these other health benefits funding sources, these differences are beside the point here. As noted, SLPs serving beneficiaries of those funding sources are applying Medicare guidance. Also notable is that even in the absence of these CPT codes on the telehealth coverage list, the American Medical Association reports these services have been approved for telepractice delivery by some Medicare Advantage contractors.

In sum, Medicare beneficiaries with complex communication needs, who need and will use and benefit from SGDs, request that CMS approve this request to add CPT codes 92607, 92608, and 92609 to the list of authorized Medicare telepractice procedure codes.

Request # 2: Authorize the Practitioners

As just explained, authorizing these three CPT codes for telepractice delivery is a necessary step. However, that decision, by itself, will not be sufficient to ensure ongoing access to SGDs and to necessary treatment. CMS also must authorize speech-language pathologists (SLPs) to perform these evaluation and treatment tasks. SLPs are the only practitioners who perform these tasks for Medicare beneficiaries and more generally, for all beneficiaries,

participants or recipients of other sources of health benefits. The Medicare SGD guidance *requires* SLPs to perform an evaluation and produce a report to support Medicare funding for the device. Medicare has specifically authorized SLPs to provide other forms of SLP evaluation and treatment. We ask that it do so again, to make a decision to authorize telehealth delivery of the SGD evaluation and treatment codes meaningful.

Request # 3: Act *Now*

As a final request, we ask CMS to alter its procedure for review of this request and for implementation of a favorable outcome. Medicare beneficiaries at present and for the foreseeable future have no pathway or a greatly restricted pathway to access Medicare's existing SGD benefits. They are being denied access to a DME item recognized as "vital" and to the treatment needed to use these devices effectively and efficiently.

This barrier arises from an extraordinary event: the Covid-19 pandemic, and it creates a need for an extraordinary procedural response. The Medicare beneficiaries who need and use SGDs simply cannot wait to regain access to in-person evaluation and treatment services. They include individuals with ALS and other progressive impairments. For these Medicare beneficiaries in particular, and for all others who Medicare acknowledges cannot safely be left alone at home without an effective means of expression, time is of the essence.

For this reason, we ask that CMS review this request immediately, and if approved, that authorization for telehealth delivery of SGD evaluation and treatment be made effective on March 1, 2020. This is same effective date as Medicare set for other SLP evaluation and treatment codes for which telepractice authorization was approved. (85 Fed. Reg. 19230 (2020) at 19240).

Conclusion

As in 1999 when authorization for SGD *coverage* was the subject of the *Formal Request,* the Medicare beneficiaries who are today seeking authorization for telepractice as an available *service delivery* method literally cannot speak for themselves. Therefore, a coalition of organizations and SLPs submit this request on their behalf. The organizations represent all parties interested in ensuring Medicare beneficiaries have access to and can benefit from SGDs They represent Medicare beneficiaries and their families; speech-language pathologists and other AAC clinicians, educators, and researchers; SGD manufacturers; and advocates. The SLPS listed individually are among the nation's leading clinicians, educators and researchers.

Please contact me if you have any questions about this request or require additional information. Thank you.

Respectfully submitted,

Lewis Golinker

Lewis Golinker, Esq.

On behalf of:

Organizations:

American Academy of Physical Medicine and Rehabilitation
ALS of Michigan
Assistive Technology Law Center
Association of Assistive Technology Act Programs
Brain Injury Association of America
Center for Medicare Advocacy
CommunicationFirst
Eye Gaze, Inc.
Forbes AAC
Lingraphica
Monroe Speech Designs
National Disability Rights Network
PRC-Saltillo
Rehabilitation Engineering & Assistive Technology Society of North America
SmartBox
Talk To Me Technologies
TASH
Tobii Dynavox
United States Society for Augmentative & Alternative Communication
Wisconsin Speech-Language Pathology & Audiology Association

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