

Understanding Medicare, “Same or Similar” Denials

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Introduction

- **Description**
- **How to Avoid**
- **How to Appeal**
- **How to Approach**
- **How to Register with DME MAC Portals**

M3 Denial

Remark Codes:
M3 and M25

Equipment is the same or similar to equipment already being used.

The information furnished does not substantiate the need for this level of service. If you believe the service should have been fully covered as billed, or if you did not know and could not reasonably have been expected to know that we would not pay for this level of service, or if you notified the patient in writing in advance that we would not pay for this level of service and he/she agreed in writing to pay, ask us to review your claim within 120 days of the date of this notice. If you do not request an appeal, we will, upon application from the patient, reimburse him/her for the amount you have collected from him/her in excess of any deductible and coinsurance amounts. We will recover the reimbursement from you as an overpayment.

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0167-Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses within the Reasonable Useful Lifetime: Excessive Units

Issue Number - Name	0167-Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses within the Reasonable Useful Lifetime: Excessive Units
Review Type	Automated
Date Approved	2019-09-10

Description

Claims for Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses with dates of service within 1825 days of the date of service of a previously paid Ankle-Foot Orthoses and Knee-Ankle-Foot Orthoses, for the same anatomical site, will be denied as the reasonable useful lifetime requirement has not been met.

Affected Codes

L1900, L1902, L1904, L1906, L1907, L1910, L1920, L1930, L1932, L1940, L1945, L1950, L1951, L1960, L1970, L1971, L1980, L1990, L2000, L2005, L2010, L2020, L2030, L2034, L2035, L2036, L2037, L2038, L2106, L2108, L2112, L2114, L2116, L2126, L2128, L2132, L2134, L2136, L4350, L4360, L4361, L4370, L4386, L4387, L4396, L4397, L4631

Description

“Claims for AFOs with dates of service within 1825 days of the date of service of a previously paid for AFO, for the same anatomical side, will be denied as the reasonable lifetime requirement has not been met”

9/10/20019

Devices Affected

L1900, **L 1902**, L1904, **L1906**, **L1907**, L1910, L1920, **L1930**,
L1932, **L1940**, L1945, L1950, **L1951**, **L1960**, **L1970**, **L1971**,
L1980, L1990, L2000, L2005, L2010, L2020, L2030, L2034,
L2035, L2036, L2037, L2038, L2106, L2108, L2112, L2114,
L2116, L 2126, L2128, L2132, L2134, L2136, L4350, **L4360**,
L4361, L4370, **L4386**, **L4387**, **L4396**, **L4397**, L4398, **L4631**

References

Applicable Policy References

1. Social Security Act (SSA), Title XVIII- Health Insurance for the Aged and Disabled, Section 1833(e) - Payment of Benefits
2. Social Security Act, Section 1834(a) [42 U.S.C. 1395m], Payment for Durable Medical Equipment.
3. Title XVIII, §1862(a)(1)(A) of the Social Security Act- Exclusions from Coverage and Medicare as a Secondary Payer
4. 42 CFR §405.980- Reopening of Initial Determinations, Redeterminations, Reconsiderations, Decisions, and Reviews, (b)- Timeframes and Requirements for Reopening Initial Determinations and Redeterminations Initiated by a Contractor; and (c)- Timeframes and Requirements for Reopening Initial Determinations and Redeterminations Requested by a Party
5. 42 CFR §405.986- Good Cause for Reopening
6. 42 CFR §414.210- General Payment Rules
7. CMS Publication 100-02, Medicare Benefit Policy Manual, Chapter 15 – Covered Medical and Other Health Services, Section 110.2 – Repairs, Maintenance, Replacement, and Delivery (C) - Replacement
8. CGS Administrators, LLC, and Noridian Healthcare Solutions, LLC, Local Coverage Determination (LCD): Ankle-Foot/Knee-Ankle-Foot Orthosis L33686- Effective 10/01/2015; Revised 01/01/2019
9. CGS Administrators, LLC, and Noridian Healthcare Solutions, LLC, Local Coverage Article: Standard Documentation Requirements for All Claims Submitted to DME MACs A55426 - Effective 01/01/2017; Revised 01/01/2019

Devices, prefab



L1902



L1906



L4361

Devices, custom



L1970



L1940



L4631

Example

- *Patient received a non-pneumatic walker (L4387) in 2017 for treatment of a stress fracture on the left foot*
- *Would likely have payment denied for a custom fabricated hinged AFO (L1970) should the patient require it for treatment of posterior tibial tendinosis of the left foot in 2019.*

Not Provider-Specific

If a patient received an AFO from another provider or supplier within the past five years that was billed to Medicare, the claim for a “same or similar” device may be denied.

What to Do

Determine whether patients have received AFOs within the past five years by using DME MAC Provider Portal.

Provider portal can quickly provide information regarding the date, HCPCS code, and name of the supplier who provided the previous device.

Medicare Recommended Questions

- The beneficiary's correct Medicare ID;
- If the beneficiary has employer insurance or is enrolled in a Health Maintenance Organization (HMO);
- If the beneficiary currently has or had an identical or similar item in the past;
- When the beneficiary received the items and if the items have been returned;

Registering for Medicare Portals

Region A, Noridian

<https://med.noridianmedicare.com/web/jadme/topics/nmp>
866.419.9458

Region D, Noridian

<https://med.noridianmedicare.com/web/jddme/topics/nmp>
877.320.0390

Registering for Medicare Portals

Regions B, CGS

<https://www.cgsmedicare.com/jb/mycgs/index.html>

866.590.6727

Regions C, CGS

<https://www.cgsmedicare.com/jc/mycgs/index.html>

866.270.4909



Noridian Medicare Portal

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[Remittance
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[Financials](#)

[Same or
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PHI Information

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Same or
Similar
DME

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Same or Similar DME Inquiry

Provider/Supplier Details

* TIN or SSN: Clear

* NPI:

* PTAN:

Provider/Supplier:

* Program:

[View my Provider/Supplier Combinations](#)

Beneficiary Details

* Medicare Number: [i](#)

[Clear Beneficiary Details](#)

* First Name: [i](#)

* Last Name: [i](#)

* Date of Birth: [i](#)

Same or Similar Details

Select 1 of 2 Options

1 Same or Similar

Same or similar is only available for specific HCPCS codes listed on the [Same or Similar Reference Chart \(Jurisdiction A\)](#) and [Same or Similar Reference Chart \(Jurisdiction D\)](#).

- If you are checking for an A, B, E or K code, verify it is present on the Same or Similar chart
- Same or Similar is not available for HCPCS codes beginning with G, J, L, Q or V.

* Date of Service: [i](#)

* HCPCS: [i](#)

[Submit Inquiry](#)

[Clear Form](#)

OR

2 Code Range Search

Search for all paid date of services for a range of HCPCS codes. Shows in order of newest to oldest dates.

* From HCPCS: [i](#)

* To HCPCS: [i](#)

[Submit Inquiry](#)

[Clear Form](#)

Select “Code Range Search” L1900 through L4361

* First Name: 

* Last Name: 

* Date of Birth: 

Same or Similar Details

Select 1 of 2 Options

1 Same or Similar

Same or similar is only available for specific HCPCS codes listed on the [Same or Similar Reference Chart \(Jurisdiction A\)](#) and [Same or Similar Reference Chart \(Jurisdiction D\)](#).

- If you are checking for an A, B, E or K code, verify it is present on the Same or Similar chart
- Same or Similar is not available for HCPCS codes beginning with G, J, L, Q or V.

* Date of Service: 

* HCPCS: 

Submit Inquiry

Clear Form

OR

2 Code Range Search

Search for all paid date of services for a range of HCPCS codes. Shows in order of newest to oldest dates.

* From HCPCS: 

* To HCPCS: 

Submit Inquiry

Clear Form

Results



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Same or Similar DME Results

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Beneficiary: Jane Doe

Date of Birth: 10/10/1948

Medicare Number: XXXXXXXXXXXX

From HCPCS: L1900

To HCPCS: L4631

Program: DMED

Provider/Supplier: ROBERT SMITH DPM

NPI: 1912XXXXXX

PTAN: XXXXXXXXXXXX

TIN or SSN: XXXXXXXXXXXX

Filter by HCPCS/Modifier ☐ RT Modifier ☐ LT Modifier ☐ No LT or RT Modifier ☒ Show All

HCPCS/ Modifier	Date Of Service	Number of Units	Name of Supplier	Phone Number
L2820 RTKX	03/28/2016	1	ABC O&P, LLC	555-867- XXXX
L2330 RTKX	03/28/2016	1	ABC O&P, LLC	555-867-XXXX
L1940 RTKX	03/28/2016	1	ABC O&P, LLC	555-867-XXXX

[New Inquiry](#)

[Print Page](#)

Exception: Lost, Stolen, or Irreparably Damaged

- Irreparable damage refers to a specific accident or to a natural disaster, e.g., fire, flood, etc.
- A replacement AFO can be covered (due to a one-time event) and you bill using the “RA” modifier.



AFO prescribed within 5 years, same side, different condition



Stress Fracture



L4387

AFO prescribed within 5 years,
same side, different condition



Ankle Sprain



L1906

How to Appeal “Same or Similar” AFO Denials

Different diagnosis

- Change in anatomy
(e.g., amputation, significant weight loss or gain) resulting in the previous device being unusable by the patient;
- or different therapeutic need
(e.g., previous device was for a non-weight-bearing situation and the new device is for a weight-bearing situation)

How to Appeal “Same or Similar” AFO Denials

Different diagnosis

- Clearly document, include that you did portal look-up and know that the patient previously received a device and expect a denial. Appeal using the “Redetermination” process.

Redetermination, Appeal

- Obtain redetermination form from DME MAC website and/or provider portal.
- Once downloaded and completed, you may scan the form (or complete and save it online) and upload it.
- Include other pertinent information, including the Medicare denial response letter and your chart documentation.
- Clearly, objectively present qualifying, medical necessity
- Advantages of using provider portal, versus faxing

Redetermination, Appeal

- Using portals avoids fax transmission errors
- Assures that the information submitted has been received by the DME MAC.
- Portal allows you to follow the appeals process and read comments made by the nurse reviewer.
- DME MACs allowed 90 days to process redeterminations though typically takes 30 days when use the provider portal.

Responding to Same or Similar Denial

- Include copy of cover letter
- Number chart notes and label each page
- Highlight sections that objectively present medical necessity
- Address what first device was for
- Address what second device was for

Responding to Same or Similar Denial

- Describe why original device is not appropriate for new condition
- Clearly present supporting documentation for both devices:
 - Detailed Written Order (Rx)
 - Written Proof of Delivery (Patient Receipt)
 - Supporting Documentation (Biomechanical Evaluation)
 - Qualifying conditions for AFO and if appropriate, custom

LCD Requirement for AFOs

1. Require stabilization for medical reasons, and,
2. Have the potential to benefit functionally.

LCD Requirements for Custom AFOs

1. The beneficiary could not be fit with a prefabricated AFO; or,
2. The condition necessitating the orthosis is expected to be permanent or of longstanding duration (more than 6 months); or,
3. There is a need to control the knee, ankle or foot in more than one plane; or,
4. The beneficiary has a documented neurological, circulatory, or orthopedic status that requires custom fabricating over a model to prevent tissue injury; or,
5. The beneficiary has a healing fracture which lacks normal anatomical integrity or anthropometric proportions.

Sample Chart Anticipating Same or Similar Denial

“Patient received a pneumatic walker (L4361) from ABC O&P on 1/5/18 for a stress fracture of the second metatarsal. The patient now has a painful ankle joint right secondary to a chronic osteochondral dome fracture first diagnosed one year ago and confirmed by MRI. The joint requires stabilization. The patient now requires a custom fabricated AFO (L1960) to stabilize the joint > 6 months. Due to his atrophic skin and ischemia, the patient also requires a soft tissue interface (L2820).”

Issues with Portals

- Noridian and CGS do NOT cross-reference
- myCGS requires 90-day recertification renewal
- Passwords need frequent updating
- Must log on every 14 days or inactivates

APMA Health Policy and Practice healthpolicy.hpp@apma.org

5/10/2019

APMA News - March/April 2019 [38 - 39]

Reimbursement

By the APMA Health Policy and Practice Committee

New Enforcement of 'Same or Similar' DME MAC Policy: How to Protect Yourself and Ensure Your Patients Get the Care They Need

APMA has recently been made aware that DME MACs are now strictly enforcing a long-existing "same or similar" policy (<https://med.noridianmedicare.com/web/jadme/topics/same-or-similar/ss-and-abns>). This enforcement change means that suppliers are more frequently receiving denials for DME, indicated on explanations of benefits with reason code M3.

Medicare policy permits AFOs to be dispensed only once, per limb, every five years. The "same or similar" policy states that a beneficiary cannot get another AFO device for the same limb within this period unless the AFO is lost, stolen, or irreparably damaged, or the patient has a new diagnosis, resulting in the need for a new

What to Do

Providers can easily discover whether their patient has received a device within the past five years by enrolling in their respective DME MAC Jurisdiction's provider portal. Information on enrolling in the provider portals is available on each DME MAC home page.

APMA urges our members not to use the NMBI (National Medicare Beneficiary Identifier) and to continue to use the patient's Social Security-linked number as there are cases in which the provider portal either will not recognize the NMBI or cannot properly

The "same or similar" policy states

AFO Prescription Review

- Register for Medicare portals
 1. Check EHR
 2. Question patient
 3. Check via portal
 4. Document if "Same or Similar"
 5. RA modifier if "Replacement"
 6. Appeal ("Redetermination") via portal
 7. *REPEAT*

SafeStep representatives can help:

- Register for Medicare portals
- Instruct how to check patient eligibility prior to prescribing AFOs
- Submit claims for redetermination (appeal) either via Medicare portal or via fax

SUMMARY

- **Description**
- **How to Avoid**
- **How to Appeal**
- **How to Register with DME MAC Portals**



Thank-you