September 26, 2019

Joel Kaiser     Cynthia Hake
Director     Deputy Director
Division of DMEPOS Policy   Division of DMEPOS Policy
Chronic Care Policy Group   Chronic Care Policy Group
Center for Medicare   Center for Medicare
CMS     CMS
7500 Security Boulevard     7500 Security Boulevard
Baltimore, MD 21244     Baltimore, MD 21244

Re: REASONABLE USEABLE LIFETIME OF DURABLE MEDICAL EQUIPMENT: LOW TEMPERATURE THERMOPLASTIC ORTHOSES

Dear Director Kaiser and Deputy Director Hake:

The American Physical Therapy Association (APTA), representing more than 100,000 member physical therapists, physical therapist assistants, and students of physical therapy, and the Academy of Hand and Upper Extremity Physical Therapy of APTA (AHUEPT), representing physical therapists who specialize in the management and prevention of injuries and conditions limiting functional use of the upper extremities, respectfully request a meeting with you and your colleagues to discuss the establishment of a separate policy addressing the Durable Medical Equipment (DME) Reasonable Useful Lifetime Standard for medically necessary, custom-fabricated, low temperature thermoplastic orthoses provided to Medicare beneficiaries.

Physical therapists play a unique role in society in prevention, wellness, fitness, health promotion, and management of disease and disability by serving as a dynamic bridge between health and health services delivery for individuals across the age span. While physical therapists are experts in rehabilitation and habilitation, they also have the expertise and the opportunity to help individuals improve overall health and prevent the need for avoidable health care services. Physical therapists’ roles may include education, direct intervention, research, advocacy, and collaborative consultation. These roles are essential to the profession’s vision of transforming society by optimizing movement to improve the human experience.

Physical therapists prescribe, apply, and, as appropriate, fabricate devices and equipment, including orthoses, when the examination findings, diagnosis, and prognosis indicate the use of devices and equipment to decrease edema and swelling; enhance health, wellness, and fitness; enhance performance and independence in activities of daily living; enhance or maintain physical performance; increase alignment, mobility, or stability; prevent or remediate
impairments, functional limitations, or disabilities to improve physical function; protect body parts; or reduce risk factors and complications.

The use of custom-fabricated, low temperature thermoplastic orthoses is integral to the successful management of upper and lower extremity injuries and ailments through the prevention of faulty movement, maintenance of structural alignment, immobilization or protection of repaired, injured or diseased structures, support of weak or impaired structures, redirection of multi-joint forces, or gradual modification of shortened musculotendinous or connective tissues. Removable orthoses facilitate skin and wound care, allowing early protected motion. Compliance with orthosis use is critical, especially for individuals who have difficulty tolerating a cast due to climate, skin conditions, cast weight, or claustrophobia. Custom-fabricated orthoses offer many advantages over prefabricated and off-the-shelf supports, especially with respect to accommodating the variations in limb size and shape, fracture alignment, and accommodation of percutaneous fixation and the modification potential.

Orthoses are described through the HCPCS II codes based on the body segments and joints included in the orthosis or the presence or absence of moveable joints, springs or hinges. However, unlike other DME, such as hospital beds or walkers, the expectation of a five-year lifespan for many of these custom-fabricated orthoses is unreasonable, as it is wholly dependent on the orthosis and how it is used. Although some orthoses to prevent faulty movement secondary to hypermobility or osteoarthritis can become long-term supports, the majority of orthoses are intended to serve as shorter-term supports, with 6 months being most typical.

The 5-year reasonable useful lifetime for upper and lower extremity thermoplastic orthoses presents billing and reimbursement challenges, as orthoses spanning the same joints and therefore coded identically may be required for different episodes of care to achieve a variety of goals. Due to the 5-year reasonable useful lifetime policy for orthoses, providers are required to obtain an Advance Beneficiary Notice for the orthosis in order to bill the beneficiary and obtain payment, should the claim for the orthosis be denied and the appeal unsuccessful, leading to greater out-of-pocket costs for the beneficiary.

For example, L3808, wrist hand finger orthosis, rigid without joints, may include soft interface material; straps, custom fabricated, includes fitting and adjustment, may be required following flexor tendon or nerve repair of the digits. This orthosis is typically based on the dorsum of the affected hand to block movement at specific joints and in specific directions until the repairs are strong. 12 months later, this same patient could develop carpometacarpal arthritis or a scaphoid fracture, unrelated to the tendon injury, and require an orthosis that immobilizes the wrist and thumb, which also would be coded as L3808. The wrist and thumb must be immobilized to ensure fracture healing. Per Medicare coverage and reimbursement rules, however, a claim for this second orthosis would be denied, forcing the provider to navigate the appeals process in order to receive payment. This not only takes time away from direct patient care, but it also leads to greater personnel costs for the provider, in addition to the uncertainty of payment for services already provided.

The 5-year reasonable useful lifetime for custom-fabricated low temperature thermoplastic orthoses is ostensibly mismatched with the purpose of these orthoses. Therefore, pursuant to
Social Security Act Section 1834(a)(7)(c), APTA and AHUEPT recommend that CMS establish an alternative reasonable lifetime for low temperature thermoplastic custom-fabricated orthoses. A more appropriate reasonable useful lifetime will protect access to these services and improve care efficiency.

APTA and AHUEPT would welcome the opportunity to discuss with you the options for establishing a reasonable useful lifetime more appropriate for low temperature thermoplastic orthoses. Please feel free to have your staff contact Kara Gainer, Director of Regulatory Affairs, at karagainer@apta.org or 703/706-8547, with some time and dates that would be amenable to your schedule.

Thank you for your consideration.

Sincerely,

Sharon L. Dunn PT, PhD
Board-Certified Orthopaedic Clinical Specialist
President

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1 See also Medicare Benefit Policy Manual Chapter 15 Section 110.2.