

## SLEEP CENTERS WAKE UP TO MEDICARE ACCREDITATION CHANGES

Wisconsin Physician Services, Inc. ("WPS"), the Medicare Administrative Contractor ("MAC") for J5 (Iowa, Kansas, Missouri and Nebraska) and J8 (Indiana and Michigan) recently issued a local coverage determination ("LCD"), LCD (L36839), revising accreditation requirements for polysomnography and other sleep studies. Historically, the LCD stated that a hospital could use The Joint Commission ("TJC") accreditation to meet the credentialing requirement. Under the new LCD, the LCD specifically states that hospital-based sleep centers must obtain TJC sleep-specific credentials for ambulatory care sleep centers or must obtain credentials through the American Academy of Sleep Medicine ("AASM") or the Accreditation Commission for Health Care ("ACHC"). By adding the "ambulatory sleep center" accreditation requirement, a hospital could no longer rely upon its TJC hospital accreditation status to satisfy the LCD's credentialing requirement. The LCD is effective for services performed on or after February 16, 2017. Further, CGS Medicare (the MAC for J15) has a similar policy requiring sleep accreditation currently in effect. Noridian Healthcare Solutions, LLC (the MAC for JE and JF) will have a similar policy in effect in June.

On May 4, representatives from the hospital associations of the six states subject to the WPS LCD had a call with representatives from CMS to discuss the new policy and its impact on hospital services. The primary concern shared by the hospital associations is the length of time it will take to receive the sleep-specific accreditation and the lack of access to care for Medicare beneficiaries during this time period.

### IMPACT ON SLEEP CENTERS

This WPS policy update has jeopardized Medicare coverage for services performed in TJC-accredited hospital sleep centers and has left hospitals scrambling to bring their sleep centers into compliance with the new accreditation requirements. Prior LCDs also required accreditation but did not specify a sleep-specific accreditation for hospitals with TJC accreditation for their facility.

Shortly after the release of the LCD, TJC issued a Sleep Fact Sheet regarding the credentialing requirements. Specifically, in its guidance, TJC states that "hospital-based sleep centers are no longer able to use their hospital accreditation award in meeting the criteria of these fiscal intermediaries. If the hospital did not already have its sleep center accredited by one of the other approved accreditors (AASM and ACHC), their claims for services rendered after February 16, 2017 (WPS) and March 6, 2017 (CGS Administrators) will be denied. If hospitals impacted by these LCDs wish to continue billing Medicare for sleep services, they will have to seek accreditation from one of the three approved accreditors for sleep services."

In light of this significant change, many impacted hospitals have requested, through their state hospital associations, that the MACs delay implementation citing to inadequate notice and lack of provider education provided prior to the release of the LCDs. Additionally, hospitals have argued that postponing enforcement would allow enough time for their sleep centers to obtain the proper accreditation under the new guidance.

Despite stakeholder concerns, WPS has taken the position that its LCD is a clarification of pre-existing policy and that providers received adequate notice and opportunity to comment. Hospital associations disagree and maintain that the LCD reflects a new policy and that WPS's method of communicating the change (via its eNews publication) excluded many providers as organizations only receive updates if they have subscribed to the service. Further, CGS originally responded to both hospital inquiries and TJC inquiries by stating that the hospital's TJC accreditation is sufficient for purposes of the LCD. When TJC asked CGS for clarification, the MAC responded that it is currently reviewing its policy and will issue clarifying guidance within the next 30 to 40 days. In light of CGS's position, TJC is in the process of updating its guidance to indicate that WPS will not accept TJC hospital accreditation and CGS may ultimately not accept it as well.

### CMS CALL WITH HOSPITAL ASSOCIATIONS REGARDING WPS LCD

On the May 4 call, the hospital associations were given the opportunity to share their concerns regarding the new LCD and asked CMS for assistance in delaying the effective date of the new LCD. CMS representatives from the Office of Clinical Standards and Quality were receptive to the shared concerns and asked for each hospital association to share data related to the number of hospitals that are unable to provide Medicare services due to the new LCD. The CMS representatives stated that they, in their individual roles, do not have authority over the MACs regarding LCDs but did offer to reach out to WPS to discuss potential solutions for hospitals to demonstrate compliance with the accreditation standards while awaiting the required accreditation. CMS will communicate their discussions with WPS through the hospital

associations.

Further, the CMS representatives tasked with updating and improving the LCD process asked the hospital associations to offer suggestions on how to improve the LCD process. Stakeholders should consider sharing feedback and suggestions with their hospital associations for communication to CMS.

## **PRACTICAL TAKEAWAYS**

In light of this new policy, both hospital and non-hospital sleep centers within the impacted jurisdictions should review their current credentials and confirm whether or not they meet the new accreditation guidelines. Lack of compliance could impact payment for future and past claims. Non-compliant facilities should quickly mobilize to seek TJC's sleep-specific credentials or accreditation through the AASM or ACHC.

If you have questions or would like additional information about this topic, please contact:

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