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Peter J. Gurk, MD
Noridian, LLC
Jurisdiction D DME Medical Review
PO Box 6742
Fargo, ND 58108-6742
Sent via email: peter.gurk@noridian.com

Dear Dr. Gurk,

I am contacting you on behalf of the American Academy of Sleep Medicine (AASM), a professional medical society that represents over 10,000 sleep medicine clinicians and sleep centers and is dedicated to advancing sleep care and enhancing sleep health to improve lives. Several AASM members have reached out expressing concern about inconsistencies with interpretation of when diagnostic testing is medically necessary for patients with obstructive sleep apnea (OSA) who fail to meet the adherence criteria for the initial 12-week trial of therapy with positive airway pressure (PAP) and are attempting to requalify for a PAP device so they can continue working with their provider to improve adherence and comfort to therapy. [Local Coverage Determination L33718, Positive Airway Pressure \(PAP\) Devices for the Treatment of Obstructive Sleep Apnea \(OSA\)](#) clearly states the following:

Beneficiaries who fail the initial 12-week trial are eligible to re-qualify for a PAP device but must have both:

- 1. In-person clinical re-evaluation by the treating practitioner to determine the etiology of the failure to respond to PAP therapy; and,*
- 2. Repeat sleep test in a facility-based setting (Type I study). This may be a repeat diagnostic, titration or split-night study.*

However, in instances where this information has been documented in great detail in patient charts, several AASM members are currently faced with extremely high “failure rates” and subsequently no reimbursement, for these

diagnostic tests, as they have been deemed “medically unnecessary” during the audit process, particularly in DME Jurisdiction D.

If repeat diagnostic testing is not completed to requalify for a PAP device, as required by the LCD, many patients with OSA would then be left untreated, which can lead to a variety of poor health outcomes, including cardiovascular disease, stroke, metabolic disease, excessive daytime sleepiness, work-place errors, traffic accidents and death.

Additionally, many accredited sleep facilities rely heavily on Medicare reimbursement to continue providing care for patients and will, ultimately, not be able to continue providing diagnostic testing and care for these patients if reimbursement is not being received for the repeat sleep tests that are required to requalify for treatment. In fact, several accredited sleep facilities within this Jurisdiction report that they will have to close their doors, if they are unable to receive payments for these medically necessary diagnostic tests.

As the LCD and physician documentation are quite clear, the AASM believes that there may be some confusion about the requirement for repeat sleep tests amongst auditors within DME Jurisdiction D, which is causing negative results for audits and is in turn negatively impacting patient care and potentially forcing sleep facilities to consider closing their doors. Given the ongoing concern with access to care, the AASM hopes this issue can be resolved, so the number of sleep facilities is not reduced, due to misinterpretation of a coverage determination. Therefore, we would like to request a call with you and others, as appropriate, to discuss aligning the audit criteria with the LCD language and avoid any current and future negative large-scale impact this may have on patient care and sleep facilities in your jurisdiction.

We appreciate your consideration of this request. Please contact AASM Director of Health Policy, Diedra Gray, at (630) 737-9700 or dgray@aasm.org to schedule a call and with any preliminary questions you may have regarding this matter.

Sincerely,

Raman Malhotra, MD
AASM President