Same or Similar L Code Denials

Disclaimer: The American Society of Hand Therapists assumes no responsibility for the practice or recommendations of any member or other practitioner, or for the policies and procedures of any practice setting. The therapist functions within the limitations of licensure, state practice act and/or institutional policy. This endorsement should be utilized with respect to current federal and state legislation on the licensing and regulation of both occupational therapy and physical therapy professions. Therapists should check with their local Medicare Administrative Contractor (MAC) and/or insurance payors to determine if an L code is covered and what is required for coverage (e.g., specific prescription, signed plan of care, etc.).

What is the problem? For many therapy practices, Medicare has denied payment for an orthosis due to it being "same or similar" to another orthosis. The rule applies to all "same or similar" orthoses in a five-year time span, which Medicare defines as the Reasonable Useful Lifetime (RUL) of an orthosis. DME claims are processed via Medicare Administrative Contractors (MACs) in four regional areas across the United States. These denials may occur when billing codes that include a similar body part (e.g., L3933 for a finger orthosis and L3808 for a wrist hand finger orthosis) even though these orthoses serve a different purpose, are for different injuries, etc. This also may occur when the clinic bills for a prefabricated orthosis (e.g., for pre-op or conservative management) and then the client needs a custom orthosis after surgery or if the client's needs change.

Is this a new problem or what has changed? This is not a new rule for CMS, however recently the MACs began denying "similar" codes. Previously only the exact same code would cause a denial within the 5-year span. Now we are seeing denials for any upper extremity code as they are considering all upper extremity codes as "similar" to each other. This significantly impacts hand and upper extremity therapists.

What are my options if a claim is denied?

- <u>If the orthosis is lost, stolen, or damaged:</u> Use the RA modifier and make sure you document accordingly. The reason for replacement must be documented in the supplier's records and may include a beneficiary statement, police report, fire, or

insurance report. You can append the RA modifier with the original claim to potentially avoid the denial.

- If the original orthosis is no longer useful or does not serve the correct purpose for the client: Make sure to clearly document the change in the client's needs for this new orthosis. Please be sure to indicate why the other orthosis would not work in this situation. Your documentation should also include: the beneficiary's diagnosis, prognosis, duration of condition, functional limitations, clinical course, and past experience with related items. When submitting the redetermination form, the supplier should also submit a standard written order (SWO), proof of delivery, and medical record documentation that indicates a change in medical or physiological condition.

Advance Beneficiary Notice of Noncoverage (ABN): If you believe the claim will be denied regardless of the above solutions, another option would be for the client to sign an ABN. This will mean the client will be responsible for the price of the orthosis. The ABN must be completed prior to providing the orthosis. The ABN must be reviewed with the beneficiary or his/her representative and any questions raised during that review must be answered before it is signed. The ABN must be delivered far enough in advance so that the beneficiary or representative has time to consider the options and make an informed choice. Once all blanks are completed and the form is signed, a copy is given to the beneficiary or representative. In all cases, the notifier must retain a copy of the ABN delivered to the beneficiary on file.

Other helpful tips:

- You can check the MAC website or portal in advance of issuing an orthosis to determine if your patient has received prior L codes in cases where it is unclear or the patient does not remember. **NOTE**: you can only view claims sent to the MAC you are checking

- You must request a redetermination within 120 days from the date you received the Electronic Remittance Advice (ERA) or Standard Paper Remittance (SPR) Advice that lists the initial determination

- MACs generally issue a decision within 60 days of the redetermination request receipt date. The MAC will inform you of the decision via a Medicare Redetermination Notice (MRN), or if they reverse the initial decision and pay the claim in full, you get a revised ERA or SPR.

- If you disagree with the MAC redetermination decision, you may request a Qualified Independent Contractor (QIC) reconsideration which is considered a second level appeal. You must file a reconsideration request within 180 days of the MRN receipt date. You

must make a QIC review request of a MAC dismissal within 60 days of the dismissal notice receipt.

- There are up to five levels in the appeals process

What else can be done on a policy level? What is ASHT doing to help? ASHT, AOTA, and APTA, along with our respective legislative consultants, have been working for years to change the way Medicare views and denies our orthoses. We have had numerus calls and meetings and have collaborated with other impacted groups. CMS is unwilling to try alternatives and has not yet been sympathetic to our efforts. We continue to work together to find a better solution for OT and PT providers as well as Medicare beneficiaries to receive critical access to required medical care in cases of our L code orthotics. For now, we are trying to share the information we do have on appealing denials to ASHT members and in some cases avoiding denials. Please continue to check the Legislative Action Center (LAC) regularly for updates/calls to action, ASHT will continue to advocate for our members and the patients we serve.

Additional Resources

Common Denial Codes and How to Resolve Them: https://med.noridianmedicare.com/web/jddme/topics/ra/denial-resolution

Same or Similar Denials for Orthoses and the Appeals Process: https://med.noridianmedicare.com/web/jddme/policies/dmd-articles/2020/same-or-similar-denials-for-orthoses-and-the-appeals-process

ABN Form Instructions: https://www.cms.gov/Medicare/Medicare-General-Information/BNI/Downloads/ABN-Form-Instructions.pdf

Medicare Redetermination Request Form: https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/downloads/cms20027.pdf

Created: July 2022
Updated: August 2025