



AMERICAN SOCIETY OF HAND THERAPISTS

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We are writing in response to a pattern of recent denials by DME MACs for the custom-fabrication of orthoses. As the national association representing the interests of Hand Therapists across the country, the American Society of Hand Therapists (ASHT) wishes to convey its concern over the application of CMS' 'Same or Similar' policy against medically necessary DME items. The denials are being received with reference to "benefit maximum for this time period or occurrence has been reached (CO-119)."

Our members include physical and occupational therapists, assistants and students who share a common goal of providing evidence-based rehabilitation interventions for patients with diseases, injuries or conditions resulting in upper extremity dysfunction, including Medicare and Medicaid program beneficiaries. For over 40 years, the members of ASHT have incorporated custom fabricated orthoses as part of a comprehensive rehabilitation plan of care. The Certified Hand Therapist credential (CHT), developed in collaboration with ASHT and the Hand Therapy Certification Commission (HTCC), represents a rigorous process designed to promote care standards for upper extremity dysfunction. Certified Hand Therapists evaluate, design, fabricate and apply static and dynamic custom orthoses from a variety of materials including low temperature thermoplastics, hardening synthetic and polyester material. Many of these are used for fabrication of custom orthoses used in treatment of fractures, post-surgical care and other acute injuries.

As administered, the current "Same or Similar" policy has the effect of limiting Medicare beneficiary access to medically necessary items, which can lead to far more costly and serious health consequences for patients. Our members are receiving denials for codes that extend beyond those initially identified by the policy and without regard for changes in a beneficiary's condition or body part. In cases where the original orthosis or prosthesis is no longer appropriate, beneficiaries, with a written order affirming medical necessity, must have access to a new one.

In recent months, ASHT has heard increasingly from therapists who are receiving denials despite providing medically necessary services. The following vignettes offer common examples experienced by our membership:

*Patient Examples:*

- 1. Client is a 24 year old with a complete C5 spinal cord injury. In fall of 2018, a custom forearm-based orthosis that immobilizes the wrist and thumb and includes the hand (L3808-WHFO) was fabricated to protect the client's surgical site following a biceps tendon lengthening procedure and a procedure to increase thumb opposition (opponensplasty). In spring of 2019, a forearm resting hand orthotic that included the wrist, hand, and fingers*

*(L3808-WHFO) was fabricated to preserve wrist extension and metacarpophalangeal (MCP) flexion of the hand to prevent tissue shortening and muscle imbalance due to increased tone and muscle innervation. Despite the client, needing both orthoses; the first to protect his surgical site and the second to promote functional use of this hand, the second orthosis was denied as 'same or similar.'*

- 2. Client had a left thumb carpometacarpal (CMC) fusion and tendon transfers (Zancolli procedure for index through small fingers). In late 2014, a hand-based thumb orthosis (L3913-HFO) was custom-fabricated for thumb immobilization to protect the surgical repair. Four and half years later, in the summer of 2019, the client returned due a web-space contracture between their index and thumb, requiring the fabrication of a hand-based orthosis to increase the thumb web-space (L3913 - HFO) for functional grasp. Patient presented with a different medical condition each time and was provided medically necessary treatment, first to protect the surgery and second for contracture management; the second orthosis was denied as same or similar.*

ASHT believes that low temperature thermoplastics and hardening synthetic and polyester material are intended to protect and promote healing of delicate structures following a surgery or injury and/or to promote increase function for clients. Often within a five-year period a client's functional status can significantly change and would require the fabrication of a new orthosis due to a new injury, change in functional status, or significant change in body structure, etc. The denial of the fabrication of a new orthosis that is medically necessary has the potential to have a significant negative impact on Medicare and Medicaid beneficiaries, as orthoses are often fabricated to protect surgical integrity, prevent further injury, and promote functional participation. Therefore, ASHT requests that CMS reexamine the application of its 'Same or Similar' policy as it relates to custom-fabricated low temperature thermoplastic orthotics and those fabricated from hardening synthetic and polyester material for the upper extremity that are deemed medically necessary by the Medicare program.

Representatives of ASHT would like to request a face to face meeting or video conference call to explore options for resolving this problem, ensuring access to medically necessary orthoses for Medicare and Medicaid beneficiaries.

Sincerely,



Linda J. Klein, OTR, CHT  
2018-2019 President, American Society of Hand Therapists