

**Protect Access to Home Oxygen
by Asking CMS to Streamline Medical Necessity Documentation**

Reps. Terri A. Sewell and Larry Bucshon

Dear Colleague:

We ask you to join us in a letter to the Centers for Medicare & Medicaid Services (CMS) requesting that the agency require contractors to apply its revised home oxygen coverage requirements consistently through the use of a clear, objective template that sets forth the information to support medical necessity review without having to review individual clinician medical records.

CMS data show that the majority of denials of claims for beneficiaries receiving home oxygen therapy result from a clinician's medical record not meeting the contractors' standards, rather than the beneficiary's condition not warranting the oxygen equipment and supplies. CMS has created a template that would tell prescribing clinicians what information they need to provide to support beneficiaries' accessing this important home therapy. This template could replace the use of medical record notes to streamline the audit review process.

CMS is revising how it covers home oxygen already as it implements a new National Coverage Determination policy. The attached letter asks CMS to use this opportunity to require its contractors to use the existing oxygen template (updated to account for the new policy rules) instead of individual medical record notes to establish medical necessity for beneficiaries.

As we learned during the pandemic, accessing oxygen in the home is a critical component of our health care system. It allows individuals who need this therapy to remain in their communities with their families and friends.

The major patient, pulmonary physician, respiratory therapist, supplier, and manufacturer organizations have written to CMS in support of adopting the template in lieu of using medical record notes: AAHomecare, Allergy & Asthma Network, Alpha 1 Foundation, American Association for Respiratory Care, American Lung Association, American Thoracic Society, CHEST/American College of Chest Physicians, COPD Foundation, Council for Quality Respiratory Care, Dorney-Koppel Foundation, Pulmonary Fibrosis Foundation, Respiratory Health Association, U.S. COPD Coalition, and VGM & Associates.

If you have any questions, please reach out to Earl Flood (earl.flood@mail.house.gov) in Rep. Sewell's office or Emily Mace (emily.mace@mail.house.gov) in Rep. Bucshon's office.

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, NW
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure,

We are writing to support the expansion of the home oxygen therapy benefit to Medicare beneficiaries with acute respiratory conditions that require home oxygen and to ask you to make sure that Medicare contractor documentation requirements do not create barriers to beneficiaries receiving these therapies. Specifically, we encourage CMS to require contractors to apply the revised coverage requirements consistently through the use of a clear, objective template that sets forth the required information to support the medical necessity review without having to review individual clinician medical records.

The flexibilities that the Centers for Medicare & Medicaid Services (CMS) have provided during the pandemic have been important to support Medicare beneficiaries with acute and chronic respiratory diseases who need home oxygen therapy. It has allowed many beneficiaries to remain safely at home and to avoid hospitalizations. These policies have been an essential tool to help communities manage their scarce resources during the pandemic.

During the pandemic, contractors have relied upon the Standard Written Order to support the claim. In the past, contractors have also required clinicians' medical record notes before paying a claim. The CERT auditors' annual reports have identified these records as the primary reason for home oxygen therapy claim denials. Based on a contractor's conclusion that a clinician's notes do not meet the contractor's standards, the contractors will not reimburse suppliers for providing the equipment, even though the same data show that very few patients (less than 1 percent of the claims denied since 2016) do not meet the objective medical necessity requirements. In brief, suppliers are not paid because contractors do not find that a clinician's notes meet the contractor's standards, but these suppliers are still required to provide the equipment because the patient meets the Medicare medical necessity requirements.

The high denial rate of 70-90 percent of supplier claims because of the clinician's medical record notes has been a problem for the last 10 years. We are concerned that if CMS does not address this problem at the national level now, suppliers will not be able to serve Medicare beneficiaries. We should not expect them to provide services if they are not reimbursed.

We ask that CMS use the opportunity of expanding the current National Coverage Determination for oxygen to establish a clear set of criteria to support medical necessity and instruct the contractors to rely solely on the Standard Written Order as they are doing during the pandemic or to include with that order a completed template to support medical necessity without having to review individual clinician's medical records. Based on the CERT data,

medical necessity is not an issue, but how clinicians write their medical records notes may be problematic. Rather than place suppliers and beneficiaries in the middle, CMS should create clear rules and forms that will facilitate beneficiary access while also protecting against fraud and abusive practices.

We look forward to working with you to support Medicare beneficiaries who rely upon home oxygen therapy and appreciate your attention to this important matter.

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