



March 1, 2024

Joel Kaiser, Director
Division of DMEPOS Policy
Centers for Medicare & Medicaid Services
Department of Health and Human Services



To Mr. Joel Kaiser:

On behalf of SunMED Medical, a nationally accredited provider of specialized medical products with national and regional contracts with private insurance carriers as well as Medicare and over 20 Medicaid plans, we submit the following letter to CMS regarding the new benefit for lymphedema compression treatment items finalized in the [Durable Medical Equipment Prosthetics and Orthotics Supplies Final Rule \(CMS-1780-F\)](#). SunMED's Compression Therapy division serves the Lymphedema community as well as those with Vascular and Wound diagnoses on a national basis, providing garments, binders, bandaging, and sequential compression pumps. In support of lymphedema clinicians, lymphedema patients, and wound care experts, representing the entire spectrum of lymphedema care, SunMED believes that it is imperative CMS work toward modification of payment policy for measuring, fitting, and training services for standard and custom-fitted garments before the next rulemaking cycle to ensure the Agency promotes patient flexibility in the garment selection process. We seek to raise to CMS' attention to the finalized payment structure for measurement, fitting, and training services for lymphedema compression garments, the majority of which are currently provided by lymphedema therapists.

Notably, CMS's final policy does not assure payment for lymphedema therapists who perform the majority of measuring, fitting, and training services associated with patient garment selection and self-management of their edema. The finalized policy amounts to little more than notice that therapists may privately contract with DME suppliers, who have no legal obligation to enter into such an agreement or provide payment. Providing only an *opportunity* to privately contract with suppliers is a significant deviation from [the language CMS used in its proposed rule](#).

Specifically, in the proposed rule, where measuring and fitting services are provided independent of the supplier, CMS stated that "the supplier receiving payment for the garment **would be responsible for** paying the therapist for the fitting component that is an integral part of furnishing the item." [Through the final rule](#), however, CMS substantially reduced DME suppliers' responsibility, noting only that "the supplier receiving payment for the garment **may work out an arrangement** with the therapist for the fitting component that is an integral part of furnishing the item." As such, the current regulatory framework does not establish any meaningful requirements that direct payment to therapists.

We understand the complexities associated with separate payment to therapists for these services, but, as finalized, the policy disregards a substantially more basic request among this unified stakeholder group of clinical and patient advocates:

Ensure lymphedema therapists are compensated for measuring, fitting, and training services they provide, with legally-enforceable assurances. This will ensure that beneficiaries have flexibility to receive these critical services from either their therapist or their DME supplier, with the appropriate entity receiving payment for services that are actually rendered.

It is highly concerning that CMS was not willing to create a regulatory framework ensuring payment for therapists. Compensating DME suppliers and not clinicians for work that clinicians are performing is an inefficient and inequitable use of Medicare dollars, and disincentivizes the use of lymphedema therapists in garment selection, despite being best situated to provide these services. Further, we believe CMS has not considered the substantial share of DME suppliers that may rely on outside therapists for measuring and fitting/training services.

Given current anti-kickback statutes, a DME offering reimbursement to a therapist to measure patients and then have that referral go to that same DME seems to be the exact definition of why the anti-kickback statutes are in place. Without clear guidance from CMS and the OIG, SunMED certainly would not entertain privately contracting with therapists for these services, even though we believe these clinicians should most definitely be compensated for this aspect of the process, whether that comes through procedure codes or a modifier reducing DME reimbursement when a therapist has performed this function.

It is important that the agency understand that SunMED asks only that CMS ensure payment is provided to the individuals that render these critical services, and to provide patients with meaningful options in seeking measuring and fitting services from the lymphedema professional of their choosing.

Conclusion

We hope that this letter is instructive in assisting CMS with changes to the benefit in 2024 so that the benefit promotes the highest quality care and flexibility for Medicare beneficiaries. SunMED Medical would be happy to meet with the agency to discuss these issues further.

Should you have any questions regarding these requests, please contact me at the below address.

Sincerely,



Bill Lobosco, President

SunMED Medical

