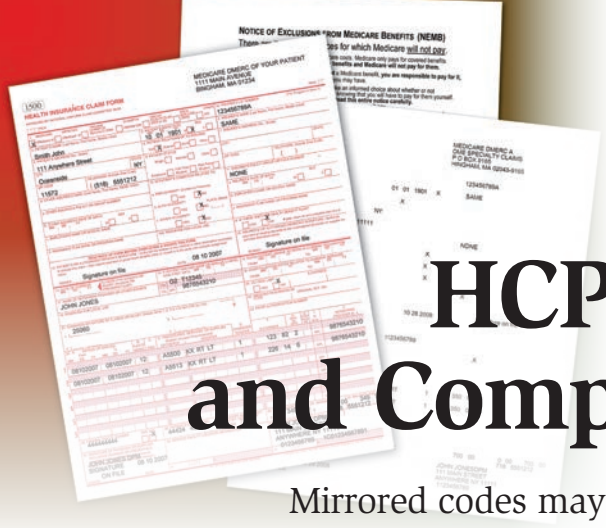

# HCPCS Codes and Competitive Bidding

Mirrored codes may mean more auditing of providers.

BY PAUL KESSELMAN, DPM

It has been at least four years since many new HCPCS codes were introduced to mirror codes of existing HCPCS codes. These new codes took on the definitions of existing codes with an additional denotation 'off-the-shelf'. Similarly, the old pre-existing codes took on a new definition. This continues to baffle logic: why didn't the new codes simply have the new definition, and why didn't they just leave the old codes alone with a simple addendum of "off-the-shelf"? (Of course, who said anything about CMS being logical?)Since the payments were the same for each set of mirrored or paired codes, suppliers took a never-mind approach to these paired/or mirrored code sets.

Not so for Medicare auditors. Since late 2016, the old lower-numbered paired codes are now being heavily audited (e.g., L4360, L4386 and L4396) and being denied in almost every case. Similarly, claims subject to post-payment recoupment audits by Medicare will be subject to recovery by Medicare when the low-



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ered HCPCS code describing "custom fitted" are billed.

Recently, CMS announced that in the fall of 2017 there will be a huge adjustment in the DMEPOS fee schedule. Speaking with several present and former CMS agency officials, it is apparent that CMS may be ready to implement a large scale Competitive Bidding ("CB") fee schedule. This will affect all DMEPOS, except those subject to an exception list. Those products which most likely remain subject to the current fee-for-service rates will be those which require customization to fit the patient by someone with the expertise to perform that customization. Those who are subject to a reduced competitive bid formula with rates perhaps slashed somewhere between 30% to 50% or more will be those DMEPOS that are off-the-shelf versions of the mirrored (or paired) codes.

*Continued on page 60*

TABLE 1:

## Frequent Mirrored/Paired Codes for Podiatrists

| HCPCS Code | Current Ceiling/Floor FFS Schedule | | Impact of Competitive Bidding* | |
|---|---|---|---|---|
| L4360 | 331.40 | 248.55 | N/A | |
| L4361 | 331.40 | 248.55 | 165.70 | 124.28 |
| L4386 | 181.30 | 135.97 | N/A | |
| L4387 | 181.30 | 135.97 | 90.65 | 67.99 |
| L4396 | 191.55 | 143.66 | N/A | |
| L4397 | 191.55 | 143.66 | 95.78 | 71.83 |

**Assumption of 50% reduction of the Ceiling Schedule (Highest Paid FFS $ Paid)*

*HCPCS Codes* *(from page 59)*

Presently, those products subject to competitive bidding are, for the most part, required to be dispensed by a contracted competitive bid contractor. Furthermore, podiatrists and physicians are exempt from the competitive bid contracting process when supplying their own patients.

**Physicians must be able to demonstrate the medical necessity for the custom-fitting of a device for a specific patient.**

Without an exclusion modifier designating the suppliers as excluded from the requirement for being a "Contracted Competitive Bid Contractor", it is possible these off-the-shelf products would no longer be reimbursable to physicians providing DMEPOS to their own patients. The likelihood of that happening, however, is quite slim as Medicare already has an established process in place whereby a physician may be reimbursed for DMEPOS currently subject to competitive bidding (e.g., walkers). The use of the "KV" modifier will likely be expanded to include the off-the-shelf mirrored codes and be billed to your regional MAC as you currently bill these products.

To illustrate how implementation of a competitive bid fee schedule may impact your practice, you must review your documentation for the most common mirrored codes you supply and review (see Table 1).

Check your own state Fee-for-Service (FFS) schedule and reduce that fee by 50% for your CB estimate. The assumption is that only off-the-shelf codes will be subject to CB; therefore N/A is indicative that it is currently postulated that no fee schedule change will take place for these custom-fitted DMEPOS.

Once these fee schedule changes are implemented, one can be assured that the auditing of those products on the exclusion list will be revved up, especially where there can be a significant fee swing between an off-the-shelf vs. a custom-fit device, with no significant change in the supplier's costs.

It is imperative to remember several important issues when it comes to the audits on these mirrored codes:

1) PDAC certification is currently not required for many of these "mirrored codes". Even the possession of a "custom-fitted" verification letter from the manufacturer is no guarantee that the device was custom-fitted. Rather, this validation from the PDAC only refers to the potential for custom-fitting. This does not automatically qualify any device with such a qualification as custom-fitted.

2) Physicians must be able to demonstrate the medical necessity for the custom-fitting of a device for a specific patient (e.g., anatomical and/or physiological needs). Furthermore, one must document how the device was appropriately modified (e.g., bent, molded, trimmed, heated, etc.) so as to demonstrate that the device was custom-fitted for use by one specific patient.

3) It is important to note that trimming, cutting or adding straps or pads does not qualify as "custom fitting". Physician suppliers will continue to use the higher-numbered mirrored HCPCS code of the pair indicating that the DMEPOS product dispensed was an "off-the-shelf" product. However, they will take a significant financial hit if these mirrored/paired codes are implemented into competitive bidding.

It is vitally important to understand that this article is being written as the decisions about which codes and pricing will be subject to the Competitive Bidding process are being formulated. It is possible that by the time the reader views this article, much of what has been postulated will either be proven or disproven. Once again, it is imperative that all suppliers pay close attention to their DME MAC and *PM News* for further information. **PM**

**Dr. Kesselman** is in private practice in NY. He is certified by the ABPS and is a founder of the Academy of Physicians in Wound Healing. He is also a member of the Medicare Provider Communications Advisory Committee for several Regional DME MACs (DMERCs). He is a noted expert on durable medical equipment (DME) for the podiatric profession, and an expert panelist for Codingline.com. He is a medical advisor and consultant to many medical manufacturers.