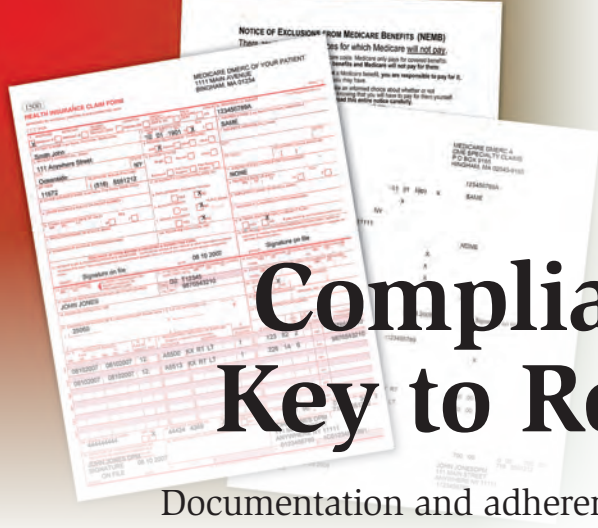

# Compliance Remains Key to Reimbursement

Documentation and adherence to overly complex LCDs is problematic.

BY PAUL KESSELMAN, DPM

In March 2024, the home care industry held its annual symposium "MedTrade" in Dallas. This meeting had numerous lecture and workshop tracks, including one dedicated primarily to compliance and documentation of all things DME. In attendance were the usual large number of DME vendors from across the spectrum of DME, including those providing everything from Ambulatory Assistive Devices to Z-Walkers. The huge exhibition hall rivaled and exceeded the size of any major orthopedic or podiatric annual conferences and had a 25% larger audience than it did in 2023.

There were many Medicare DME MAC medical directors, auditors, law enforcement officers (mostly attorneys), and the DME enrollment program directors. The most interesting discussions often took place with these individuals in the exhibition hall, or during or prior to or after their lectures.

One of the most interesting discussions came from former OIG prosecutors who now work to defend DME and medical providers. Many of these same former prosecuting attorneys have now become defense attorneys who work in the area of medical malpractice, medical audits, etc., representing a broad array of medical providers.

During the sessions on compliance, the presenting attorneys and compliance officers from large DME providers discussed the same issues presented in this column and other venues. Poor documentation from the prescriber, absent or poorly constructed Written Proof of Delivery, failure to comply with the LCD documentation, illegible signatures or those which fail to comply with CMS signature requirements, etc., and more were all cited as familiar reasons for audit failure. When it came to the poor documentation from the prescriber, it was clear that the audience was not too thrilled with the medical profession, and one could not blame them.

While podiatrists moan about the requirements of the Therapeutic Shoe Program for Patients with Diabetes (TSPD), the DME supplier community has the same complaints for just about everything they supply. Suppliers rely on outside providers such as physicians to neatly and correctly document those supplies they are going to provide.

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While podiatrists bemoan, and rightly so, the absurd requirements of the Therapeutic Shoe Program, imagine the need to obtain signatures and hunt down appropriate medical documentation, obtain corrected addendums to those charts in order to defend oneself in case of an audit.

Podiatrists as physicians are fortunate to control their own destiny when it comes to proper documentation (except for the aforementioned TSPD). Regardless of whether the audit covers wound care issues (cellular tissue products, surgical dressings, debridement, non-invasive vascular testing), orthopedic or prosthetic issues (AFO, lower limb prostheses), routine foot care, etc., documentation which is neat, legible, and conforms to the LCD is of paramount importance to the supplier community.

The ball is mostly in the court of the podiatrists and all physicians in that we don't have to rely on others for proper documentation. But that implies a greater responsibility on us than the DME supplier. Medical providers cannot transfer the responsibility to others when they fail audits due to documentation issues.

That is not to say that some of the LCDs are inherently complex and difficult to adhere to. Some of the most interesting discussions which took place during the MedTrade meeting were exactly on this point.

*Continued on page 40*

*Compliance (from page 39)*

As a physician it was easy to communicate the issues inherent with the TSPD LCD and communicate those problems sympathetically to the DME MAC carrier medical directors. As this column is being written, these medical directors are meeting over a two-week period to discuss the issues with all Medicare LCDs. The point successfully made to them was that when large numbers of ethical providers fail audits related to a particular LCD (e.g., TSPD), then the problem is not with the providers; it is with the LCD.

There is an alarming increase in the number of providers who have abandoned the TSPD program due to the inherent complexity of the LCD and the DME MAC. While CMS has failed to address this, there is sufficient concern from the DME MAC carrier medical directors that perhaps some future fix to the LCD is needed. The DME MAC medical directors are all aware of the reduced number of shoes provided and have been made aware of the increased incidence of DM and increased expenditures for other DFU related costs. While one must be careful in directly relating the decreased number of shoes provided to increased medical costs, it nevertheless cannot be ignored.

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Let's hope that the DME MAC medical directors can apply a regulatory fix to the TSPD LCD, or that they can convince CMS to push Congress to simplify and modernize the TSPD policy. The policy has been in desperate need of revamping. Hopefully having the carrier medical directors on the side of the suppliers will help! **PM**

**Dr. Kesselman** is board certified by ABFAS and ABMSP. He is a member of the Medicare Jurisdictional Council for the DME MACs' NSC and provider portal subcommittees. He is a noted expert on durable medical equipment (DME) and an expert for Codingline.com and many third-party payers. Dr. Kesselman is also a medical advisor and consultant to many medical manufacturers and compliance organizations.