



## Issue: Medicare Local Coverage Determination Reform Proposal

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**CAP Position:** The College's goal is to ensure that coverage decisions are made by qualified health experts through a transparent process that is based on sound medical evidence. In order to reach this goal, improve transparency, and boost accountability in the Local Coverage Determination (LCD) process, changes are necessary. By changing the LCD process, Congress can ensure that medical and scientific evidence is not used selectively to deny appropriate coverage to seniors. Furthermore, reforms are necessary to ensure that LCDs do not impede a pathologist's medical judgment and deny patients access to medically necessary care.

**Legislative Ask:** Introduce CAP proposed legislation to increase transparency and boost accountability in the LCD process.

The CAP is calling on Congress to improve the LCD process with common sense steps that including the following principles:

1. **Open Meetings:** The CAP is asking that a Medicare Administrative Contractor's (MAC) carrier advisory committee meetings be open, public, and on the record. Minutes should be taken and posted to the MAC's website for public inspection. The gravity of limiting or precluding coverage for both beneficiaries and practitioners heightens the need for transparency where meetings are currently closed. Requiring these increased levels of transparency will facilitate an improved forum for information exchange between MACs and interested parties and ultimately, will strengthen accountability.
2. **Upfront Disclosure:** The CAP is asking that MACs include – at the outset of the process - a description of the evidence the MAC considered when drafting an LCD as well as the rationale they are relying on to deny coverage. If this information is not provided until the final LCD, as proposed under the Cures draft, it hinders meaningful stakeholder exchange and can make a MAC's decision to deny coverage a *fait accompli*.
3. **Meaningful Reconsideration and Options for Appeal:** Under current Centers for Medicare & Medicaid (CMS) rules, MAC LCDs are essentially unreviewable once they become final. In order to have an LCD reconsidered, you have to present new evidence to the MAC that issued the LCD. The CAP recommends the new evidence requirement be removed and also recommends that reconsideration requests include the option of making an appeal to an uninterested body such as a CMS regional office, or the CMS Administrator.
4. **Stopping the Abuse of LCDs as a backdoor to NCDs:** Congress should prohibit CMS from appointing a single MAC, either expressly or in practice, from making determinations to be used on a nationwide basis in a given specialty. The CAP has witnessed the proposed adoption of another MAC's draft LCDs that significantly limits or precludes coverage that is of such geographic magnitude that in practical terms it approaches becoming a national coverage policy without having followed the more rigorous national coverage determination requirements.

**Background:** The 2003 Medicare Prescription Drug Improvement and Modernization Act (MMA) reformed the Medicare contracting process. In addition to other reforms, MMA requires the Secretary to replace private health insurers, previously known as Part A Fiscal Intermediaries (FI) and Part B carriers into a single organization called Medicare Administrative Contractors (MACs). MACs are multi-state, regional contractors responsible for adjudicating both Part A and Part B Medicare claims.



In addition to processing Medicare claims, MACs serve as the primary contact between Medicare's Fee-for-Service program and the healthcare providers enrolled in the program. MACs enroll providers, educates them on the program's billing requirements, and answers provider and beneficiary inquiries. According to CMS, MACs process nearly 5 million Medicare claims each business day and distribute more than \$365 billion in program payments each year.

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