COLLEGE of AMERICAN PATHOLOGISTS

Issue Brief

Issue: **Support H.R. 8500 the Timely Access to Coverage Decisions Act**

CAP Position: The College of American Pathologists (CAP) urges Congress to pass the **Timely Access to Coverage Decisions Act (H.R. 8500)**, introduced by Reps Dunn (R-FL), Tenney (R-NY), and Barragán (D-CA), which will reform the Medicare local coverage determination (LCD) process to ensure that coverage decisions are made by qualified health experts through a transparent process that is based on sound medical evidence. That requires ensuring appropriate stakeholder input, timely completion of requests for new and existing LCDs, holding open meetings, and creating a process for agency review of requests made to reconsider LCDs finalized by Medicare Administrative Contractors (MACs). By reforming the LCD process, Congress can ensure that appropriate coverage is available to Medicare beneficiaries. This will safeguard physicians' medical judgment and patients' access to medically necessary care.

Background:
Medicare coverage policy decisions are made nationally and locally. National coverage determinations are made by the Centers for Medicare and Medicaid Services (CMS) to describe the circumstances under which Medicare will cover an item or service on a nationwide basis. Local coverage policy decisions (LCDs) are developed by Medicare Administrative Contractors (MACs) on whether, and under what circumstances, to cover a particular item or service on a contractor-wide basis.

As a result of contractor reforms that have taken place over the years, MACs are responsible for much larger jurisdictions, often with fewer opportunities for stakeholders to interact with the contractor medical directors who make local medical policies. Additionally, while CMS in 2018 released revisions to Medicare's Program Integrity Manual, which outlines the LCD process, the process continues to lack transparency and sufficient stakeholder involvement to ensure that decisions are made in the best interests of patients.

Therefore, the following legislative reforms are necessary too:

1. **Ensure appropriate stakeholder input:** It is critical to the coverage development process that there is thoughtful discussion and timely feedback from stakeholders who have unique insight into the nature of local practice and the needs of local patient populations. In the past, this insight was provided by Contractor Advisory Committee (CAC) members, who are health care professionals and other stakeholders that serve in an advisory capacity as representatives of their constituency. However, CAC meetings are now optional and restricted to "experts" who only "review evidence that will inform policy development." While we understand the interest in evolving the role of the CAC, this restriction to solely "review evidence" results in a loss of the clinical knowledge that physician panel members uniquely bring to the local coverage process as experts who daily engage in patient care with various patient populations
2. **Require timely completion of requests for new and existing LCDs**: Timely completion of requests for new LCDs or revisions to existing LCDs is crucial for ensuring beneficiaries have access to necessary healthcare services and policies remain current with medical and technology advancements.
3. **Open Meetings:** Convene timely, on the record open public meeting (s) for new and revised LCDs, with minutes taken and posted to the MAC's website for public inspection. Requiring these increased levels of transparency is crucial for maintaining accurate records, promoting accountability, and ensuring effective local coverage decision-making.
4. **Establish a process for Agency review of reconsideration decisions:** To safeguard against errors or misinterpretation of evidence used to support a coverage policy, and to ensure adherence to coverage regulations.

5. **Logical Outgrowth of draft LCD**. A final LCD must be a logical outgrowth from the draft LCD. Any updates to an LCD that are not a logical outgrowth of the draft must be reissued as a draft LCD before finalization.

The CAP urges support of this legislation to ensure that LCDs receive the necessary input and oversight that produces sound, accurate policies and timely access to care for Medicare patients.

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