

AMERICAN ASSOCIATION OF
NEUROLOGICAL SURGEONS

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American
Association of
Neurological
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Congress of
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CONGRESS OF
NEUROLOGICAL SURGEONS

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August 19, 2021

Ms. Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
ATTN: CMS-1752-F
P.O. Box 8013 Baltimore, MD 21244-1850

SUBJECT: Reassignment of MS-DRGs for Laser Interstitial Thermal Therapy (LITT) Brain Procedures in FY 2022 Medicare Hospital Inpatient Prospective Payment System (IPPS) Final Rule

Dear Administrator Brooks-LaSure:

On behalf of the American Association of Neurological Surgeons (AANS) and the Congress of Neurological Surgeons (CNS), we are writing to express our strong opposition to MS-DRG reassignment for two Laser Interstitial Thermal Therapy (LITT) procedures used to treat brain tumors and epilepsy, given the agency's failure to provide stakeholders with the appropriate notice and comment opportunity. The two procedures are:

- ICD-10-PCS code D0Y0KZZ *Laser Interstitial Thermal Therapy of Brain*; and
- ICD-10-PCS code D0Y1KZZ *Laser Interstitial Thermal Therapy of Brain Stem*.

In the FY 2022 Hospital IPPS final rule, CMS reassigned these procedures from MS-DRGs 023, 024, 025, 026 and 027 to MS-DRGs 040, 041 and 042. The reasoning outlined in the final rule was that the agency's medical advisors recommended these assignments because LITT procedures are minimally invasive, and MS-DRGs 023, 024, 025, 026, 027 are for open cranial procedures. As stated in the rule's preamble:

We examined procedure codes D0Y0KZZ and D0Y1KZZ describing LITT of brain and brain stem, respectively, that are currently assigned to the "craniotomy" MS-DRGs 23, 24, 25 26, and 27 in MDC 01 (Diseases and Disorders of the Central Nervous System). The technique to perform the LITT procedure on these structures is considered minimally invasive and does not involve a craniotomy, therefore, continued assignment to the craniotomy MS-DRGs is not clinically appropriate. While we agree that these procedures are appropriately assigned to MDC 01, similar to our review for procedure code D0Y6KZZ describing LITT of spinal cord, we believe it is more appropriate for the procedures described by codes D0Y0KZZ and D0Y1KZZ to be reassigned to MS-DRGs 40, 41, and 42. As these codes also describe laser interstitial thermal therapy (LITT) of various body parts, we conducted further review of the MDC and MS-DRG assignments of these 14 procedure codes consistent with our initial review of the 17 procedure codes and determined that clinically inappropriate assignments also exist or that the current MS-DRG assignment is not in alignment with the resources that are utilized in the performance of the LITT procedure. For example, we examined procedure codes D0Y0KZZ and D0Y1KZZ describing LITT of brain and brain stem, respectively, that are currently assigned to the "craniotomy" MS-DRGs 23, 24, 25 26, and 27 in MDC 01 (Diseases and Disorders of the Central Nervous System). The technique to perform the LITT procedure on these structures is

considered minimally invasive and does not involve a craniotomy, therefore, continued assignment to the craniotomy MS-DRGs is not clinically appropriate. While we agree that these procedures are appropriately assigned to MDC 01, similar to our review for procedure code D0Y6KZZ describing LITT of spinal cord, we believe it is more appropriate for the procedures described by codes D0Y0KZZ and D0Y1KZZ to be reassigned to MS-DRGs 40, 41, and 42.

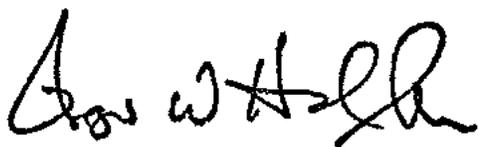
CMS did not include a proposal to reassign these codes in the FY 2022 Medicare Hospital IPPS proposed rule. The agency nevertheless reassigned the MS-DRGs in the final rule, which takes effect on October 1, 2021. While we are not commenting on the specific rationale described in the final rule, given that the public has not had an opportunity to comment — as required by the Administrative Procedures Act — the AANS and the CNS strongly oppose implementing these reassignments for FY 2022. We also believe that it is in the best interests of Medicare patients and providers for CMS to conduct a thorough analysis of the impact of such an MS-DRG reassignment following a robust public comment period. Indeed, we would have commented on the above-specified rationale had the agency outlined this proposal.

Neurosurgeons perform LITT procedures to treat epilepsy and brain tumors. We, therefore, have a strong interest in making sure that Medicare adequately reimburses hospitals for these services to safeguard timely access to these vital treatments. This is particularly true for patients with drug-resistant epilepsy, where LITT may be their best hope when medication cannot adequately control their seizures. Additionally, certain patients may be more suited to have their brain tumors treated with LITT than other surgical techniques, and inadequate payment rates could be a barrier to this technology.

Because of the lack of notice and comment, the AANS and the CNS request that CMS rescind the plan to implement the above-referenced MS-DRG reassignments for these LITT codes for FY 2022. If the agency believes that changes in MS-DRG classification are warranted, CMS should include such a proposal in the FY 2023 IPPS proposed rule. This would allow all interested parties a full opportunity to review, evaluate and comment on the MS-DRG assignments for these LITT procedures.

Thank you for the opportunity to express our views.

Sincerely,



Regis W. Haid, Jr., MD, President
American Association of Neurological Surgeons



Brian L. Hoh, MD, President
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