MINUTES OF THE
CGA SPECIAL MEETING ON THE MEDICARE POLICY AMENDMENT
March 29, 2023

The virtual call of the Council on Government Affairs (CGA) special meeting on the Medicare policy amendment was called to order by Dr. Gesek at 8:02PM EST on March 29, 2023.

Council Members In Attendance: (District 1) Dr. Abe Abdul, 2024; (District 2) Dr. Ray Miller, 2023; (District 3) Dr. James Tauberg, 2025; (District 4) Dr. Elisa Velazquez, 2026; (District 5) Dr. Leigh Kent, vice chair, 2024; (District 8) Dr. Cheryl Watson-Lowry, 2024; (District 9) Dr. David Clemens, 2024; (District 10) Dr. Doug Erickson, 2025; (District 11) Dr. Heather Willis, 2024; (District 12) Dr. David Hildebrandt, 2026; (District 13) Dr. John Blake, 2023; (District 14) Dr. Darren Chamberlain, 2025; (District 15) Dr. Matthew Roberts, 2023; (District 16) Dr. Mark Crabtree, 2023; (District 17) Dr. Dan Gesek, chair, 2024.

Council Liaisons In Attendance: (Board of Trustees) Dr. Gary Oyster; (Council on Advocacy for Access and Prevention) Dr. Jim Mancini, chair; (Alliance of the American Dental Association) Ms. Sue Hadnot; (American Student Dental Association) Ms. Nicole Anderson.

ADA Staff In Attendance: Mr. Michael Graham, senior vice president, Government and Public Affairs; Ms. Roxanne Yaghoubi, director, Legislative and Regulatory Policy; Mr. Chris Tampio, director, Congressional Affairs; Ms. Margaret Tucker (MT) Fogarty, senior project assistant; Ms. Natalie Hales, lobbyist, Congressional Affairs; Ms. Megan Mortimer, lobbyist, Congressional Affairs; Mr. David Linn, manager, Legislative and Regulatory Policy; Mr. Michael Kendall, senior associate general counsel, Legal Affairs.

Discussion:

• The group discussed how an updated ADA Health Policy Institute (HPI) survey of ADA members on Medicare is needed.
• The group talked about taking Part B out of the second sentence of the first resolving clause.
• The group discussed changing the percentage in the third bullet point from 50 to 80.
• CGA also talked about the need to better define the term ‘chronic medical conditions’ in the policy.
• In addition, CGA said that, if a few of the bullet points from the 2020 policy on “Financing Oral Health Care for Adults Age 65 and Older” are included in the new policy’s second resolving clause, then the bullet point on means testing the benefit for beneficiaries under 300% of the Federal Poverty Level (FPL) should be included as well.
  o The Council also said that the 2020 policy’s bullet point on freedom of choice should be added to the new policy.

Actions:

• Upon vote, the Council agreed to remove the first bullet point.
  o Upon vote, the Council agreed to reconsider removing the first bullet point.
  o The Council agreed to not remove the first bullet point.
• Upon vote, the Council agreed to accept the policy with the edits made during the call (attached).

Next Steps:

• CGA members will send their comments to Ms. Yaghoubi. Based on those comments, Ms. Yaghoubi will draft a cover letter. The cover letter will be put up on ADA Connect for CGA to vote on before being sent to the Council on Dental Benefit Programs (CDBP) along with the edited policy.

Dr. Gesek adjourned the call at 9:36PM EST.
PROPOSED POLICY: PAYMENT FOR SERVICES FOR MEDICALLY COMPROMISED INDIVIDUALS IN PUBLICLY FUNDED PROGRAMS

**Background:** The Council on Dental Benefit Programs proposes rescinding the following policies and replacing them with a proposed new policy.

- Modifying the Existing Medicare Dental Coverage: Statutory Dental Exclusion (Trans.2020:347)
- Oral Health Care for the Elderly (Trans.2020:279)

The Council concluded that these policies were so similar in content that all three could be combined and that the intent of these policies could be retained with revisions for brevity and clarity.

On November 1, 2022, Centers for Medicare & Medicaid Services (CMS) finalized the Calendar Year 2023 Physician Fee Schedule (PFS) rule, which codified payment for certain dental services that are considered “inextricably linked” integral to specific Medicare Covered Medical Services beginning January 1, 2023. Access the final rule:

- Reconstruction of a ridge when performed as a result of and at the same time as the surgical removal of a tumor.
- Stabilization or immobilization of teeth when done in connection with the reduction of a jaw fracture.
- Extraction of teeth to prepare the jaw for radiation treatment of neoplastic disease.
- Dental splints only when used in conjunction with medically necessary treatment of a medical condition.
- Dental services — including both examination and treatment — prior to cardiac valve replacement, valvuloplasty or organ transplant procedures.

Even though these changes to the PFS rule only currently impact a small number of Medicare recipients, the scope of dental services that are covered is broader. The final rule stated that Medicare payment would be provided if these procedures were done on an outpatient or an inpatient basis. Coverage would also be provided for ancillary services such as radiographs, anesthesia, or the use of an operating room for medically necessary procedures that fall under the rule.

In response, the Council in conducting its due diligence recommends that the above ADA policies be rescinded and replaced by a new comprehensive and updated policy on payment for services for...
medically compromised individuals in publicly funded programs. This new policy supplements and
supports existing policy titled Financing Oral Health Care for Adults Age 65 and Older (Trans.2020:285),
especially in light of the changes to the PFS that went into effect on January 1, 2023. This will also allow
for a more efficient and combined policy making it easier to find during a search.

The Council on Dental Benefit Programs recommends that the following resolution be adopted:

Resolution

Payment for Services for Medically Compromised Individuals in Publicly Funded Programs

xx. Resolved, that the American Dental Association support payment for dental services under
Part B of Medicare for medically compromised individuals requiring clearance of dental infection
before medical procedures, and be it further,

Resolved, that if legislators or regulators seek to support payment for regular dental care for
older adults with chronic medical conditions in any taxpayer funded public program, then the ADA
shall support a program that:

- Covers chronic medical conditions that have evidence supporting improved health outcomes
  with regular dental care.
- Covers the range of services necessary to achieve the desired improvement in health
  outcomes.
- Is adequately funded to support an annually reviewed reimbursement rate such that at least
  80% of dentists within each geographic area receive their full fee (or percentile) to support
  access to care.
- Includes minimal and reasonable administrative requirements including the use of the CDT
  Code for reporting dental procedures and use of the dental claim form (837D electronic
  standard or the ADA paper claim form).

and be it further

Resolved, that the following ADA policies Elimination of Disparities in Coverage for Dental
Procedures Provided Under Medicare (Trans.1993:705), Modifying the Existing Medicare Dental
Coverage: Statutory Dental Exclusion (Trans.2020:347) and Oral Health Care for the Elderly
(Trans.2020:279) be rescinded.

WORKSHEET ADDENDUM

POLICIES TO BE RESCINDED

Elimination of Disparities in Coverage for Dental Procedures Provided Under Medicare
(Trans.1993:705)

Resolved, that the Association seek legislation to provide fair and equitable treatment to all
Medicare recipients by eliminating disparities in coverage for dental procedures, and be it further

Resolved, that the Association seek legislation which would provide for payment of dental
services under Part B of Medicare in cases where the dental procedure is necessary and directly
associated with a medical procedure or diagnosis.

Modifying the Existing Medicare Dental Coverage: Statutory Dental Exclusion
(Trans.2020:347)

Modifying the Existing Medicare Dental Coverage: Statutory Dental Exclusion

Resolved, that the appropriate ADA agencies should consider conducting a review of the current
scientific evidence that would support expanding the oral health services provided to medically frail recipients prior to major medical or surgical treatments available through Medicare in order to
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determine next steps for modifying the Medicare statutory exclusion, with the recommendation that the review include but not be limited to the following:

1. head and neck radiation therapies
2. Osteoclast inhibitor therapy
3. organ transplants
4. cancer chemotherapy including hematopoietic cell transplantation
5. joint replacement
6. cardiac valve replacement

Oral Health Care for the Elderly (Trans.2020:279)

Resolved, that the American Dental Association supports the development of policy at the federal, state, and local levels that supports the fair, equitable, choice-driven provision of dental care to promote improved health and well-being in elderly patients.