

AAOS Advocacy Wins

CMS Federal Register, Published 11/1/2017

Removal of TKA From The IPO Effective January 1, 2018

January 2018 marks a **major win for AAOS' advocacy efforts**, when the Centers for Medicare & Medicaid Services (CMS) removed the Current Procedural Terminology (CPT®) code 27447, describing the total knee arthroplasty (TKA) procedure, from the Medicare Inpatient-Only (IPO) list. CMS also issued unprecedented guidance to help resolve confusion surrounding the removal of (TKA) from the Medicare IPO list.

The policy change, which was made in the **2018 Medicare Outpatient Prospective Payment System (OPPS) Final Rule (82 Fed. Reg. 52,523)** published November 13, 2017, allows for payment of the TKA procedure in **either the hospital inpatient or outpatient setting**. This guidance reiterates that the surgeon is the final arbiter of the setting of care and provides several clinical case studies to guide how CMS' Quality Improvement Organizations (QIOs) will review claims based on the two-midnight rule.

CMS Additional Guidance on TKA Removal From IPO

AAOS provided two written responses to CMS and requested an educational resource when the policy was finalized in 2018. The new CMS guidance published in the MLN Matters on January 24, 2019 was a direct result of our request.

The following excerpt is directly from [MLN Matters #SE 19002](#), published January 24, 2019, with an effective date of January 1, 2018:

"CMS allows Medicare payment to be made to the hospital for TKA procedures regardless of whether a beneficiary is admitted to the hospital as an inpatient or as an outpatient, assuming all other criteria are met. This does not have any impact on CMS' 2- midnight policy."

“CMS revised the 2-Midnight Rule, effective January 2016 in the CY 2016 Hospital Outpatient Prospective Payment System (OPPS) CMS-1633-F to add the Case-by-Case Exception. The case-by-case exception states that for hospital stays that are expected to span less than 2 midnights, an inpatient admission may be payable under Medicare Part A on a case-by-case or individualized basis if the medical record documentation supports the admitting physician/practitioner’s judgment that the beneficiary required hospital inpatient care despite lack of a 2-midnight expectation based on complex medical factors including but not limited to:

- *Patient’s history, co-morbidities, and current medical needs*
- *Severity of signs and/or symptoms*
- *Risk of Adverse Events”*

CMS did something unprecedented in this announcement about TKA, making specific reference to **co-morbid conditions, post-acute care, and family support as factors** to be considered.

In the [Federal Register, published November 13, 2017](#) (Vol. 82, No. 217), the following written statements were made by CMS:

- *“We expect **providers** to carefully develop evidence-based patient selection criteria to identify patients who are appropriate candidates for an outpatient TKA procedure as well as exclusionary criteria that would disqualify a patient from receiving an outpatient TKA procedure.”*
- *“We do not expect a significant volume of TKA cases currently being performed in the hospital inpatient setting to shift to the hospital outpatient setting as a result of removing this procedure from the IPO list,” the rule read. “At this time, we expect that a significant number of Medicare beneficiaries will continue to receive treatment as an inpatient for TKA procedures.”*
- *Furthermore, “...we continue to believe that the decision regarding the most appropriate care setting for a given surgical procedure is a complex medical judgment made by the physician based on the beneficiary’s individual clinical needs and preferences and on the general coverage rules requiring that any procedure be reasonable and necessary.*
- *“Therefore, we do not expect to create or endorse specific guidelines or content for the establishment of providers’ patient selection protocols.”*
- *“We also reiterate our previous statement that the removal of any procedure from the IPO list does not **require** the procedure to be performed only on an outpatient basis.”*