

CMS Updates WCMSA Reference Guide

MAY 2023

On May 15, 2023, the Centers for Medicare and Medicaid Services (CMS) released an updated Workers' Compensation Medicare Set-Aside Arrangement (WCMSA) Reference Guide, found here: [WCMSA Reference Guide v3.9, May 15, 2023 \(off-release\)](#). The changes included in this version of the guide are as follows:

- Letters signed with CMS' Director of Financial Services Group name and signature image have been updated with current contact information.
- CMS Regional Offices are no longer responsible for approving initial determinations. MSAs are first reviewed for completeness through a computerized system—when and only when a full package of evidence is received by the agency will the file be forwarded to the WCRC for review.
- Clarification has been provided regarding intrathecal pump, SCS, and PNS replacement.
- The maximum time limit for eligibility has been removed from the Amended Review process.
- Zip code 94585 has been added to the major medical center appendix.
- The CDC Life Table link was updated.

Of note, CMS has lifted the six (6) year limit on Amended Review—meaning legacy claims with previous approvals too old formerly for reconsideration may now be eligible for reduction, assuming the other parameters of the program are met. This may allow for complete closure of open claims, with additional potential to reduce conditional payment obligations by facilitating final, legal closure of medical and thereby tolling the statute of limitations on conditional payments.

Additionally, CMS has clarified the replacement frequency for IT pumps, SCS, and PNS units. The new calculation will consider the unit's implantation date and will presume implantation within the year for units not yet implanted. The number of replacements is calculated by subtracting the number of years since implantation (using 1 if the unit has not been implanted) and dividing the remaining life expectancy by the implantation frequency. If the unit has not yet been implanted, the allocation would need to include an initial placement at year one and the number of replacements warranted by the new formula.

For instance, pain pumps have a replacement frequency of seven (7) years. Assuming a 22 year life expectancy, CMS would calculate the frequency of replacements as follows:

- If the unit has not been implanted, CMS will include the initial placement plus 3 replacements (e.g. Initial replacement + $((22-1)/7)$, for a total of four (4) units
- If the unit was implanted three years prior to submission, CMS will exclude an initial placement as it has already been done and calculate the number of replacements as follows: $((22-4)/7)$, or 2 replacements.

Where no unit has yet been placed, this can (but will not always) result in a greater funding obligation than previous.

- E.g. previously, the calculation for total number of units was the life expectancy divided by the funding frequency, which would have resulted in only three (3) pumps in the above scenario.

Of additional note, CMS has clarified that revisions for spinal cord stimulators involve only the lead implantation up to the number of leads related to the associated code; revision surgeries should be used only where a historical pattern of a need to relocate leads exists. By its plain language, this provision suggests that revision SCS should be less expensive than previous, though it remains to be seen whether or not CMS will continue to include revision laminectomy coding in its SCS revision pricing decisions.

CMS has retained the distinction between rechargeable and non-rechargeable SCS units, with additional distinction for the number of leads. If the nature of the SCS is unknown, CMS will default to a non-rechargeable, single-lead system, despite rechargeable units being the medical standard of care. CMS has also allowed for inpatient vs outpatient pricing on SCS units and has reiterated its long-standing policy of reviewing itemized pricing proposals when issuing its opinion of value. The Gordon and Rees Medicare group will continue to follow this issue closely and will update you as soon as additional information is available.