



Facing Hereditary Cancer EMPOWERED

CMS Public Meeting DIEP Reconstruction / S Code Comments June 1, 2023

Thank you for the opportunity to comment on this important topic. My name is Lisa Schlager, and I am the Vice President of Public Policy for Facing Our Risk of Cancer Empowered, also known as FORCE. We have no financial conflicts of interest.

FORCE is a national nonprofit that advocates for people facing hereditary cancers. Most of our constituents carry an inherited genetic mutation that significantly increases their risk of cancer, including breast, ovarian, prostate, pancreatic, and colorectal. Our organization and the community we serve have significant concerns regarding the discontinuation of the S codes associated with autologous breast reconstruction procedures.

FORCE engages in a broad range of efforts aimed at facilitating affordable access to quality healthcare. Historically, we have not engaged in initiatives related to payment codes, so we were unaware of the S code discussion and decision until it was too late. Had we known, we would have strongly advocated for maintaining the codes or finding another solution.

Hereditary cancers often occur at younger ages and can be more aggressive. Our constituents also face a greater risk of recurrence and additional primary cancers. As such, bilateral mastectomy is generally recommended when a member of our community is diagnosed with breast cancer. Given the high cancer risk, national medical guidelines also provide the option of risk-reducing mastectomy.

Surgery and the removal of one's breasts are difficult decisions. Many women mourn the loss of their breasts. The option of reconstruction, however, provides a glimmer of hope. It can significantly affect a person's body image, self-esteem, and quality of life. Reconstruction also provides a sense of control, allowing patients to work with their healthcare providers to choose the type of breast reconstruction best suited for them.

DIEP flap reconstruction has become the most utilized autologous breast reconstructive surgery in recent years. This advanced technique doesn't involve moving or cutting muscle. It has a faster recovery time, a lower risk of long-term complications, and higher patient satisfaction rates. Retirement of the S codes will impact the community by significantly limiting access to this reconstructive option.

While CMS is focused on Medicare, its decisions have far-reaching implications as private payers often follow its lead—and sometimes aim to influence its policies to their benefit. One would think Medicare beneficiaries are most impacted by this decision, but many commercial health insurers are following

suit. Although the coding changes don't go into effect until late next year, numerous health plans have started denying—or announced plans to discontinue—coverage of these breast reconstruction procedures. This is incredibly short-sighted.

Our constituents report that the DIEP flap is increasingly unavailable to them. Many surgeons are no longer offering this type of reconstruction due to reimbursement concerns. Individuals who are provided the option or who seek to have this type of reconstruction find that access depends on their ability to self-pay.

Ultimately, this exacerbates health disparities. Large practices and academic centers may be able to negotiate satisfactory reimbursement but smaller practices, where most patients receive their care, will not be able to provide DIEP flap surgeries at the rate available under CPT code 19364, which is appropriate for less advanced reconstructive procedures.

Many women are averse to older, more invasive autologous reconstructive techniques. As a result, they may turn to breast implants. While DIEP and GAP flap surgeries may initially be more costly than implant-based reconstruction, they are generally timeless. Implants, however, are not lifetime devices. The American Society of Plastic Surgeons notes that most breast implants last 10-20 years. For a 40-year-old woman, this means 2 or 3 additional surgeries will likely be needed in her lifetime.

The Women's Health and Cancer Rights Act requires most health plans that pay for mastectomy to cover all stages of breast reconstruction. However, the law doesn't specify the types of breast reconstruction surgeries that must be covered, leaving this coding change in a legal gray area. We are hopeful that future changes to the law will remedy this.

In the meantime, maintaining access to a variety of flap reconstructive options is critical. At a minimum, we ask that you retain the S codes until 2028 to allow the breast cancer community time to identify and institute a long-term solution. Preserving these codes is in the best interests of patients and aligns with CMS's person-centered care goals.

Thank you for your time and consideration.



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