



Administrator
Washington, DC 20201

AUG 08 2012

The Honorable Tom Price, M.D.
U.S. House of Representatives
Washington, DC 20515

Dear Representative Price:

Thank you for your letter regarding Medicare coding and payment for Vertos Medical's minimally invasive treatment for lumbar spinal stenosis. The Centers for Medicare & Medicaid Services (CMS) greatly appreciates your bringing these concerns to our attention.

Vertos Medical's *mild*® procedure currently may be covered and paid at local Medicare contractor discretion using a category III Current Procedural Terminology (CPT) code. Category III CPT codes are used temporarily to describe emerging technologies. The CPT Editorial Panel may create a permanent category I CPT code when it retires a category III code. CMS often receives requests to create Healthcare Common Procedure Codes (HCPCS) for items or services. However, our longstanding practice has been to create codes only when there is a statutory or regulatory program need for which a CPT code is unavailable, or the CPT code is incompatible with Medicare statute or regulations. At this time, there is no statutory or regulatory provision that would necessitate creation of a HCPCS code for Vertos Medical's *mild*® procedure. We suggest that Vertos Medical continue to work with the CPT Editorial Panel to create a category I CPT code.

Your letter indicates that relative values for surgical approaches to treat lumbar spinal stenosis have not been updated for 15 years. CMS has been engaged in a vigorous effort over the past several years to identify potentially misvalued codes and, when codes are found to be misvalued, to revise the payment accordingly. We thank you for bringing this family of codes to our attention and we will consider making these services part of the misvalued code initiative.

I appreciate your interest in this important issue as we work towards our mutual goal of strengthening the Medicare program for all beneficiaries. I will also provide this response to the co-signer of your letter.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn Tavenner".

Marilyn Tavenner
Acting Administrator

BILL CASSIDY, M.D.
6TH DISTRICT, LOUISIANA
COMMITTEE ON
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SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON
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June 20, 2012

Marilyn Tavenner
Acting Administrator and Chief Operating Officer
Centers for Medicare and Medicaid Services
200 Independence Ave., SW
Room 314G
Washington, DC 20201

Dear Administrator Tavenner:


We are writing to you concerning a Medicare coverage and access issue that has recently come to my attention regarding the availability of a minimally invasive, cost effective treatment option for Medicare beneficiaries who suffer from spinal conditions such as lumbar spinal stenosis (LSS).

We understand that Vertos Medical, a device company, has developed a safe and efficacious technique to treat Medicare beneficiaries and other patients with LSS by using the *minimally invasive lumbar decompression* procedure or *mild*®. We have spoken with providers unaffiliated with Vertos who treat LSS and they have confirmed that this is a significant therapy that we need to advance. However, due to a number of technical coding and payment policy hurdles, many beneficiaries do not have access to the technology and may be forced to undergo a more invasive and expensive treatment option, which requires hospitalization.

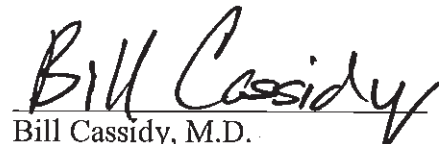
In order to resolve the coding and local coverage issues with this technology, Vertos Medical, at the suggestion of CMS, pursued the American Medical Association's (AMA) Current Procedural Terminology (CPT) coding process. However, the professional group representatives responsible for the spinal care specialty within the AMA's CPT Editorial Panel have made no change to the CPT coding for this technology. Although the Health Insurance Portability and Accountability Act of 1996 (HIPAA) legislatively mandates the use of the AMA's CPT codes for coding and billing, it also requires the use of the CMS' Healthcare Common Procedure Coding System (HCPCS). CMS has the authority to develop procedure codes within the HCPCS manual to serve the needs of the Medicare program and its beneficiaries when the AMA CPT coding process is inadequate.

Ensuring that Medicare participating providers and beneficiaries have access to choose amongst all available technologies allows for physicians and patients to determine the best appropriate treatment plan for them. We are concerned about the lack of access that beneficiaries would have to all available and appropriate treatment options for LSS, including those that are most cost effective for the Medicare program at a time when the solvency of the program is of such significant concern to all Americans. We request that CMS exercise its authority to utilize the HCPCS coding process in this case, or explain the reason for inaction in this area. Thank you for your attention to this matter.

Sincerely,



Tom Price, M.D.
Member of Congress



Bill Cassidy, M.D.
Member of Congress

Cc: Jonathan Blum