



## **REQUEST FOR COMMENTS: PROPOSED REVISED NATIONAL COVERAGE DETERMINATION FOR SGDs**

On April 29, The Centers for Medicare & Medicaid Services (CMS) released for review and comment a proposed revised National Coverage Determination (NCD) for Speech Generating Devices (SGDs). A copy of the proposal can be reviewed [here](#).

This document is just ***a draft***. Three steps are still required for a final NCD to be issued:

- CMS will accept comments about the draft **until Friday, May 29, 2015**.
- CMS will then review the comments and possibly revise the draft.
- The final revised NCD will then be issued.

CMS stated last November that it intended to complete the reconsideration process, i.e., to have a revised NCD issued as a final guideline, by the end of July 2015.

There is a memo reviewing the draft available for review at [www.patientprovidercommunication.org](http://www.patientprovidercommunication.org).

As you will see, the draft NCD provides strong support for Medicare SGD coverage:

- It did **not** make substantial changes to Medicare SGD coverage, consistent with what many members of the AAC community had requested in their initial comments last December.
- Instead, CMS restored the scope of SGD coverage that had existed from 2001-2013, both in regard to the types of devices that can be used as SGDs, both computers and purpose-built devices; and in regard to the capabilities or features of SGDs.
- In addition, the revised NCD will make it procedurally easier for beneficiaries to access SGD features related to distance communication. Medicare will allow SGDs to support communication by texting, e-mail and telephone as standard features, available to all beneficiaries who may wish to use them, without specific requests, “unlocking,” “upgrades,” device modifications, or additional charges.
- The revised NCD also will make it clear that SGDs’ non-communication capabilities, including environmental control and internet access, also will be available to Medicare beneficiaries who need these features. The NCD states Medicare will require SGD manufacturers to provide specific written notice that Medicare will not pay for these features (called an ABN – Advanced Beneficiary Notice) but they can then be provided for beneficiary use and benefit.
- Both the expanded range of communication features and SGDs’ non-communication features will now be available to all devices within the 13-month capped rental period.
- These are all extremely positive developments and will lay a solid foundation for Medicare SGD coverage for years to come, and for Medicare’s SGD coverage guidelines to continue to serve as a model that will be copied and used by other health benefits and funding programs.

Unfortunately, the proposed does not address two issues:

- “Capped rental.” This payment practice will continue under the proposed NCD, but the greatest adverse effect of capped rental – the restriction on SGD features – will be eliminated. People who begin to receive nursing facility or hospice care will continue to be at risk of device loss, although this will affect an exceedingly small number of people. With careful planning, it may even be possible to find alternative funding for devices and thereby reduce this risk to zero.
- “Eye tracking accessories.” There is no mention of SGD accessories in the proposed revised NCD, which is consistent with the 2001 NCD: coverage of SGD mounts and accessories was established in another Medicare guideline. To date, eye tracking accessories have been provided to all Medicare beneficiaries who require them, but Medicare has continued to reject payment claims for these accessories.

NOTE: Both these issues are specifically addressed in pending federal legislation known as the Steve Gleason Act of 2015. The Act passed the Senate unanimously and is currently under consideration in the House of Representatives.

**Terminology:** This is not a big issue. However, the proposed NCD uses terminology inconsistently and this could lead to unnecessary confusion. Specifically, the proposed NCD refers to *functional speaking needs* and *functional speaking communication needs* of the patient in the same paragraph.

The term commonly used by speech-language pathologists and other allied-health professionals is “functional communication needs,” which includes speech as well as other communication methods. The proposed NCD specifically states it will cover features that include the capability to not only “speak” but also “generate email, text, or phone messages to allow the patient to ‘speak’ or communicate remotely, as well as the capability to download updates to the covered features of the device from the manufacturer or supplier of the device.” Also, the only people who qualify for SGDs have a “severe speech impairment and ... a medical condition that warrants the use of a device so they can continue to communicate.” Using the term *functional communication* includes speech and other methods, specifically noted.

## **NEXT STEPS**

We – the AAC community – ***MUST SUBMIT COMMENTS!!!!*** We already have shown Medicare that we care very much about how it covers SGDs. The draft notes that almost 2,300 comments were submitted when the NCD reconsideration was announced. We must tell Medicare that we want the draft to be made a final guideline and we want it done as soon as possible. The changes that were made to Medicare SGD coverage in 2014 are causing harm and will continue to do so until a new NCD is effective.

We need to provide comments once again – as many as possible – to tell CMS:

- The draft NCD is **very** good and we want to thank Medicare staff for addressing the most important concerns that had arisen in 2014 regarding Medicare SGD coverage;
- The expansion of the definition of "speech" to include communication by texting, e-mail and phone is a very positive development;
- The recognition that SGDs' non-communication capabilities and features can be made available, even though non-covered by Medicare, is a very positive development, and the procedure to - access these capabilities and features – use of an ABN form – will be easily adopted and easy to follow;
- It is essential that Medicare adopt a final revised NCD for SGDs as soon as possible. Until that occurs, the positive changes stated in the draft will not be implemented and there will continue to be confusion and harm to beneficiaries and their families from the policy changes made in 2014.

Although Medicare did not address “capped rental” or “eye tracking accessories” in the draft revised NCD, it is essential that both topics be resolved as soon as possible.

You also may wish to ask for clarification of terminology.

The proposed revised NCD is a terrific document. But it is only a draft. To help it become a final guideline, members of the AAC community are urged as strongly as possible to submit comments to CMS that address these 5 or 6 points. If you have personal knowledge of harm experienced by a Medicare beneficiary or his or her family, please include that in the comment related to the urgency of issuing this revised NCD as a final guideline as soon as possible.

Medicare provides a way to submit comments electronically. They can be prepared in a word-processing format then copied onto the CMS comments template found [here](#).

**COMMENTS MUST BE SUBMITTED BY THE END OF FRIDAY, MAY 29<sup>th</sup>**

Anyone with questions about the draft NCD or how to submit comments can contact Lewis Golinker at [lgolinker@aol.com](mailto:lgolinker@aol.com).

Lewis Golinker, Esq., Director, Assistive Technology Law Center, 401 East State Street, Suite 300, Ithaca, NY 14850, [607-277-7286](tel:607-277-7286) (v); [lgolinker@aol.com](mailto:lgolinker@aol.com) (e-mail)

**\*\*PLEASE NOTE:** The CMS comments link will not be "active" and able to accept a comment until the link providing access to the CMS privacy policy actually is selected. THEN the box acknowledging it has been read is checked. Only then will input of information and a comment be accepted.