

## Adopt the Local Coverage Determination (LCD) Clarification Act (HR 3635/S 794)

**PROBLEM** The closed-door process that Medicare Administrative Contractors (MACs) use to develop LCD policies lacks transparency and true accountability.



Closed-door process



Lack of open dialogue with physicians and other stakeholders



Medical judgement of independent providers removed from LCD process



Flawed evidence



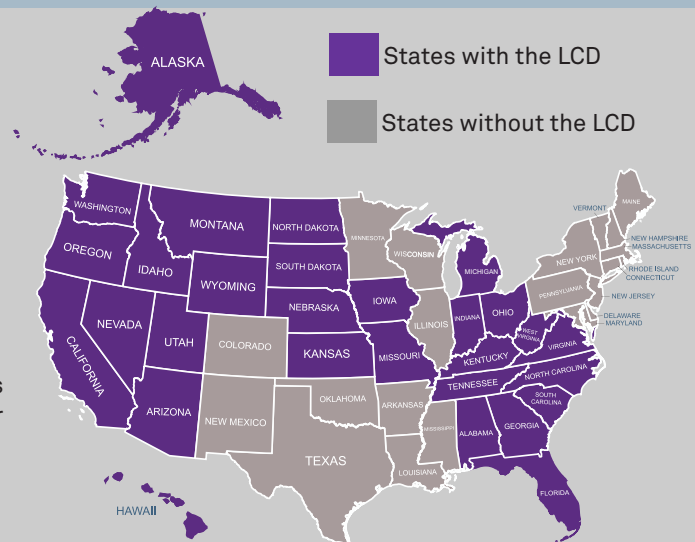
No appeals process exists for contractor's reconsideration decisions

### PROOF POINT

The MAC Palmetto finalized an LCD establishing thresholds for stains used to diagnose cancer, impeding the physician's medical judgment.

The CAP opposed the LCD and submitted evidence reviewed by more than 40 pathology experts who identified in the policy highly selective and partial literature citations, misrepresented opinions of national organizations, and statements contrary to generally accepted guidelines. The MAC ignored this expertise and implemented the LCD. The Centers for Medicare & Medicaid Services (CMS) stated it did not have the authority to intervene on this LCD with the MAC.

This flawed LCD is now in 29 states!



**SOLUTION** The CAP is calling on Congress to enact reforms to improve the LCD process, which would:

### Rx 1 Require open meetings

Make MAC carrier advisory committee meetings open, public, and on the record.



### Rx 2 Establish upfront disclosure

Require a MAC—at the outset of the process—to include a description of the evidence the MAC considered when drafting an LCD and rationale it is relying on to deny coverage.

### Rx 3 Create meaningful reconsideration and options for appeal

Ask Congress to codify a meaningful LCD reconsideration process that gives providers and suppliers the opportunity to have a qualified disinterested secondary review of a reconsideration denial.

### Rx 4 Stop the abuse of LCDs as a backdoor to NCDs

Congress should prohibit the CMS from appointing a single MAC that can make determinations used on a nationwide basis.