COLLEGE of AMERICAN PATHOLOGISTS

October 26, 2022

To Whom It May Concern:

On behalf of the College of American Pathologists (CAP), we appreciate your work to evaluate and improve the local coverage determination (LCD) process, including addressing the current utilization (or lack thereof) of the Contractor Advisory Committee (CAC) members. The CAP has long advocated for increased transparency in the LCD process while maintaining – and increasing – meaningful opportunities for CAC members to provide input on the realities of practice in their local jurisdictions.

The 2019 changes to the Program Integrity Manual, Chapter 13, (Rev. 863, 02-12-19) following passage of the 21st Century Cures Act has resulted in a kind of reshuffled portfolio of meeting formats, including "touch base" and open public meetings. However, we strongly believe that this has left CAC members without a pertinent opportunity to relate proposed coverage policies to their practical role as CAC members, which is intrinsically and necessarily their expertise as local practitioners, rather than as technical subject matter experts.

Specifically, as we have communicated to staff at the Centers for Medicare & Medicaid Services (CMS), "touch base" meetings do not include coverage policy discussions and open meetings, while necessary for public comment and testimony, are ill-suited for CAC members to address and interactively discuss with the contractor medical directors, the realities of practice and the needs of patient populations within specific jurisdictions, which are critical for shaping local coverage determinations. We appreciate the increased focus on flexibility and interest in sharing best practices with different jurisdictions. Nonetheless, we have become progressively concerned that this reorganization of the LCD process has "thrown the baby out with the bathwater" in seeking to parallel the very differently resourced national coverage determination (NCD) process, and we respectfully urge your workgroup to consider our recommendations, which we have previously shared with CMS, and which are summarized below.

1. CAC Meeting Format: Essential elements of local coverage policy are the local patient and practitioner populations, and their needs and capabilities within the specific jurisdictions. CAC members are a critical source of this information for MACs. As is currently implemented, CAC meetings are no longer a substantive venue for CAC members representing the local practice community to interact with MACs on coverage issues. Rather, it appears MACs are relying exclusively on subject matter experts (SMEs) regarding the strength of generic (non-locality-specific) published evidence. However, in addition to considering such evidence, a well-functioning LCD will be reflective of the circumstances of practice in the jurisdiction for which it is developed, and the uniquely necessary resource to achieve this is a body reflective of the local practice community. This is how CAC representatives are selected, but this is no longer how they are utilized. The CAC members reflect the local practice community and provide unique insight into the actual nature of local practice and needs of local patient populations. Under the current structure these insights and this information has no effective venue. We therefore recommend that you restore the CAC meeting environment to encourage CAC member participation as valued local advisors from the practitioner community.

2. CAC Meeting Frequency: Under the new LCD guidelines, the holding of CAC meetings is at the sole discretion of the MACs, which means CAC members may be

College of American Pathologists
1001 G Street, NW, Suite 425W
Washington, DC 20001
202-354-7100

left out of the LCD process altogether if a MAC does not choose to hold a CAC meeting. The CAP believes this lack of a uniform process denies MACs valuable information about the practice environment in their local jurisdiction and we therefore recommend an increased and regular frequency in the holding of CAC meetings.

3. CAC and Open Meeting Logistics: CAC meetings, when held, seem to limit discussion only to published evidence relevant to a coverage consideration. Additionally, CAC members receive insufficient time to prepare for meetings, receiving only an unstructured bibliography of the evidence to be considered by the MAC. Additionally, CAC meeting times have moved from evenings to daytime, in part to accommodate multijurisdictional meetings across time zones. However, daytime meetings impede participation by CAC members who are practicing physicians. As such we recommend that MACs consider scheduling times that are most conducive to CAC member participation (MACs should work with their CAC representatives to determine scheduling times) and giving CAC members more adequate time (e.g., one month) to review meeting materials/evidence prior to CAC meetings. We further recommend that meeting materials provided to CAC members include at a minimum the specific proposal and rationale for coverage/non-coverage under consideration, rather than simply providing a bibliography of evidence and a voting questionnaire with minimal to no context.

Thank you again for allowing us to express our concerns and recommendations on the LCD process and CAC member involvement. Should you have any questions regarding our comments, please do not hesitate to contact Nonda Wilson, MS, at nwilson@cap.org, 202-354-7116.

Sincerely,

College of American Pathologists

College of American Pathologists
1001 G Street, NW, Suite 425W
Washington, DC 20001
202-354-7100