

## § 410.31

## 42 CFR Ch. IV (10–1–23 Edition)

that meet one of the following conditions:

(1) The approved labeling includes the indication for preventing or treating the rejection of a transplanted organ or tissue.

(2) The approved labeling includes the indication for use in conjunction with immunosuppressive drugs to prevent or treat rejection of a transplanted organ or tissue.

(3) Have been determined by a carrier (in accordance with part 421, subpart C of this chapter), in processing a Medicare claim, to be reasonable and necessary for the specific purpose of preventing or treating the rejection of a patient's transplanted organ or tissue, or for use in conjunction with immunosuppressive drugs for the purpose of preventing or treating the rejection of a patient's transplanted organ or tissue. (In making these determinations, the carriers may consider factors such as authoritative drug compendia, current medical literature, recognized standards of medical practice, and professional medical publications.)

(b) *Eligibility.* For drugs furnished on or after December 21, 2000, coverage is available only for prescription drugs used in immunosuppressive therapy, furnished to an individual who received an organ or tissue transplant for which Medicare payment is made, provided the individual is eligible to receive Medicare Part B benefits, including, beginning January 1, 2023, an individual who meets the requirements specified in § 407.55 of this subchapter.

(c) *Coverage.* Drugs are covered under this provision irrespective of whether they can be self-administered.

[60 FR 8955, Feb. 16, 1995. Redesignated at 63 FR 34327, June 24, 1998; 74 FR 62002, Nov. 25, 2009; 87 FR 66510, Nov. 3, 2022]

### § 410.31 Bone mass measurement: Conditions for coverage and frequency standards.

(a) *Definition.* As used in this section unless specified otherwise, the following definition applies:

*Bone mass measurement* means a radiologic, radioisotopic, or other procedure that meets the following conditions:

(1) Is performed for the purpose of identifying bone mass, detecting bone loss, or determining bone quality.

(2) Is performed with either a bone densitometer (other than single-photon or dual-photon absorptiometry) or with a bone sonometer system that has been cleared for marketing for this use by the FDA under 21 CFR part 807, or approved for marketing by the FDA for this use under 21 CFR part 814.

(3) Includes a physician's interpretation of the results of the procedure.

(b) *Conditions for coverage.* (1) Medicare covers a medically necessary bone mass measurement if the following conditions are met:

(i) Following an evaluation of the beneficiary's need for the measurement, including a determination as to the medically appropriate procedure to be used for the beneficiary, it is ordered by the physician or a qualified nonphysician practitioner (as these terms are defined in § 410.32(a)) treating the beneficiary.

(ii) It is performed under the appropriate level of supervision of a physician (as set forth in § 410.32(b)).

(iii) It is reasonable and necessary for diagnosing and treating the Condition of a beneficiary who meets the conditions described in paragraph (d) of this section.

(2) Medicare covers a medically necessary bone mass measurement for an individual defined under paragraph (d)(5) of this section if the conditions under paragraph (b)(1) of this section are met and the monitoring is performed by the use of a dual energy x-ray absorptiometry system (axial skeleton).

(3) Medicare covers a medically necessary confirmatory baseline bone mass measurement for an individual defined under paragraph (d) of this section, if the conditions under paragraph (b)(1) of this section are met and the confirmatory baseline bone mass measurement is performed by a dual energy x-ray absorptiometry system (axial skeleton) and the initial measurement was not performed by a dual energy x-ray absorptiometry system (axial skeleton).

(c) *Standards on frequency of coverage*—(1) *General rule.* Except as allowed under paragraph (c)(2) of this

section, Medicare may cover a bone mass measurement for a beneficiary if at least 23 months have passed since the month the last bone mass measurement was performed.

(2) *Exception.* If medically necessary, Medicare may cover a bone mass measurement for a beneficiary more frequently than allowed under paragraph (c)(1) of this section. Examples of situations where more frequent bone mass measurement procedures may be medically necessary include, but are not limited to the following medical circumstances:

(i) Monitoring beneficiaries on long-term glucocorticoid (steroid) therapy of more than 3 months.

(ii) Allowing for a confirmatory baseline measurement to permit monitoring of beneficiaries in the future if the requirements of paragraph (b)(3) of this section are met.

(d) *Beneficiaries who may be covered.* The following categories of beneficiaries may receive Medicare coverage for a medically necessary bone mass measurement:

(1) A woman who has been determined by the physician (or a qualified nonphysician practitioner) treating her to be estrogen-deficient and at clinical risk for osteoporosis, based on her medical history and other findings.

(2) An individual with vertebral abnormalities as demonstrated by an x-ray to be indicative of osteoporosis, osteopenia, or vertebral fracture.

(3) An individual receiving (or expecting to receive) glucocorticoid (steroid) therapy equivalent to an average of 5.0 mg of prednisone, or greater, per day for more than 3 months.

(4) An individual with primary hyperparathyroidism.

(5) An individual being monitored to assess the response to or efficacy of an FDA-approved osteoporosis drug therapy.

(e) *Denial as not reasonable and necessary.* If CMS determines that a bone mass measurement does not meet the conditions for coverage in paragraphs (b) or (d) of this section, or the standards on frequency of coverage in paragraph (c) of this section, it is excluded from Medicare coverage as not “reasonable” and “necessary” under sec-

tion 1862(a)(1)(A) of the Act and § 411.15(k) of this chapter.

(f) *Use of the National Coverage Determination Process.* For the purposes of paragraphs (b)(2) and (b)(3) of this section, CMS may determine through the National Coverage Determination process that additional bone mass measurement systems are reasonable and necessary under section 1862(a)(1) of the Act for monitoring and confirming baseline bone mass measurements.

[71 FR 69783, Dec. 1, 2006]

**§ 410.32 Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests: Conditions.**

(a) *Ordering diagnostic tests.* Except as otherwise provided in this section, all diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests must be ordered by the physician who is treating the beneficiary, that is, the physician who furnishes a consultation or treats a beneficiary for a specific medical problem and who uses the results in the management of the beneficiary’s specific medical problem. Tests not ordered by the physician who is treating the beneficiary are not reasonable and necessary (see § 411.15(k)(1) of this chapter).

(1) *Mammography exception.* A physician who meets the qualification requirements for an interpreting physician under section 354 of the Public Health Service Act as provided in § 410.34(a)(7) may order a diagnostic mammogram based on the findings of a screening mammogram even though the physician does not treat the beneficiary.

(2) *Application to nonphysician practitioners.* Nonphysician practitioners (that is, clinical nurse specialists, clinical psychologists, clinical social workers, nurse-midwives, nurse practitioners, and physician assistants) who furnish services that would be physician services if furnished by a physician, and who are operating within the scope of their authority under State law and within the scope of their Medicare statutory benefit, may be treated the same as physicians treating beneficiaries for the purpose of this paragraph.

(3) *Public Health Emergency exceptions.* During the Public Health Emergency