

Notice on Never Events

ConnectiCare will deny Medicare claims submitted for never events. The Centers for Medicare and Medicaid Services (CMS) no longer cover surgical or other invasive procedures for the treatment of medical conditions when such procedures are performed in error by a practitioner or group of practitioners. These errors are known collectively as *never events*. This CMS policy became effective on January 15, 2009.

Surgical and other invasive procedures are defined as operative procedures in which skin or mucous membranes and connective tissue are cut into or an instrument is introduced through a natural body orifice. Procedures range from the minimally invasive to major surgeries. This applies to all procedures found in the surgery section of the Current Procedural Terminology (CPT) coding. It does not include use of instruments such as otoscopes for examinations or very minor procedures such as drawing blood.

Never event errors include:

- **Performing a different procedure altogether**
A surgical or invasive procedure is considered to be the wrong procedure if it is not consistent with the correctly documented informed consent for the patient.
- **Performing the correct procedure on the wrong body part**
A surgical or other invasive procedure is considered to have been performed on the wrong body part if it is not consistent with the correctly documented informed consent for the patient. This includes surgery on the appropriate body part, but in the wrong place for example, operating on the left arm versus the right or on the left kidney not the right, or at the wrong level (spine).
- **Performing the correct procedure on the wrong patient**
A surgical or other invasive procedure is considered to have been performed on the wrong patient if that procedure is not consistent with the correctly documented informed consent for that patient.

Related Services

All related services provided during the same hospitalization in which the error occurred are not covered. Medicare will also not cover other services related to these non-covered procedures as defined in the Medicare Benefit Policy Manual (BPM):

- All services provided in the operating room when such an error occurs are considered related.
- All providers who could bill individually for their services and who are in the operating room when the error takes place are not eligible for payment.
- Related services do not include performance of the correct procedure after the never event has occurred.

NOTE: Emergent situations that change the plan in the course of surgery and/or whose exigency precludes obtaining informed consent are not considered erroneous under the CMS ruling. This also includes the discovery of new pathologies near the surgery site, if the risk of a second surgery outweighs the benefit of patient consultation, or the discovery of an unusual physical configuration (e.g., adhesions, extra vertebrae, etc.).

A fuller explanation of never events and the new policy may be found on the CMS website <http://www.cms.hhs.gov/>.