

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 1233	Date: APRIL 27, 2007
	Change Request 5477

Subject: Clarification of Bariatric Surgery Billing Requirements Issued in CR 5013

I. SUMMARY OF CHANGES: On April 28, 2006, CMS issued change request (CR) 5013 providing coverage for certain bariatric surgical procedures. This national coverage determination (NCD) is contained in § 100.1 of the Medicare NCD Manual. It has come to our attention that this NCD is not being implemented uniformly.

We have found that some claims not involving bariatric surgery are being denied in error while some covered bariatric surgery claims were being held rather than paid. CMS is issuing this new CR to clarify the claims processing instructions contained in CR 5013.

New / Revised Material

Effective Date: February 21, 2006

Implementation Date: May 29, 2007

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	Chapter / Section / Subsection / Title
R	32/150/Table of Contents
R	32/150/1/General
R	32/150/2/HCPCS Procedure Codes for Bariatric Surgery
R	32/150/3/ICD-9 Procedure Codes for Bariatric Surgery (FIs only)
R	32/150/4/ICD-9 Diagnosis Codes for Bariatric Surgery
R	32/150/5/ICD-9 Diagnosis Codes for BMI 35
R	32/150/6/Claims Guidance for Payment
R	32/150/7/Medicare Summary Notices (MSNs) and Claim Adjustment Reason Codes

R	32/150/8/Fiscal Intermediary Billing Requirements
N	32/150/9/Advance Beneficiary Notice and HINN Information

III. FUNDING:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2007 operating budgets.

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

**Unless otherwise specified, the effective date is the date of service.*

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A / B	D M E	F I	C A R R E R	D M R C	R E H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	100.1 of the Medicare NCD Manual are met.											
5477.1.1	Contractors shall accept bariatric surgery claims billed with the following HCPCS procedure codes: <ul style="list-style-type: none"> • 43770. • 43644. • 43645. • 43845. • 43846. • 43847. 	X			X							
5477.1.2	Contractors shall accept bariatric surgery claims billed with the following ICD-9-CM procedure codes: <ul style="list-style-type: none"> • 44.38, or • 44.39, or • 44.95, or • To describe either laparoscopic or open biliopancreatic diversion with duodenal switch (BPD/DS), all three following codes must be on the claim: <ul style="list-style-type: none"> • 43.89, and • 45.51, and • 45.91. 	X		X								
5477.1.2.1	Contractors shall be aware that although these ICD-9-CM procedure codes may be used to describe bariatric surgery, they can also be used to describe other gastrointestinal surgeries.	X		X								
5477.1.3	Contractors shall identify bariatric surgery claims by the presence of ICD-9-CM diagnosis code 278.01 and one of the covered ICD-9-CM procedure codes listed in 5477.1.2. Note: If these codes are not present, the claim is not for bariatric surgery and shall be processed under normal procedures.	X		X								
5477.1.3.1	Contractors shall perform facility certification validation for all bariatric	X		X								

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A / B	D M E	F I	C A R R E R	D M R C	R E H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	surgery claims on a pre-pay basis. NOTE: The approved facility list is located at http://www.cms.hhs.gov/MedicareApprovedFacilities/BSF/list.asp .											
5477.1.3.2	Contractors should review bariatric surgery claims data and determine whether a pre- or post-pay sample of bariatric surgery claims need further review to assure that the beneficiary has a BMI ≥ 35 (V85.35 - V85.4) and at least one co-morbidity related to obesity.	X		X								
5477.1.3.2.1	The FI/A/B MAC medical director may define the appropriate method for addressing the obesity-related co-morbid requirement.	X		X								
5477.1.4	Contractors shall identify bariatric surgery claims by the presence of ICD-9-CM diagnosis code 278.01 and one of the covered HCPCS procedure codes listed in 5477.1.1. NOTE: If these codes are not present, the claim is not for bariatric surgery and shall be processed under normal procedures.	X			X							
5477.1.4.1	Contractors shall perform facility certification validation for all bariatric surgery claims on a pre-pay basis. NOTE: The approved facility list is located at http://www.cms.hhs.gov/MedicareApprovedFacilities/BSF/list.asp .	X			X							
5477.1.4.2	Contractors should review bariatric surgery claims data and determine whether a pre- or post-pay sample of bariatric surgery claims need further review to assure that the beneficiary has a BMI ≥ 35 (V85.35 - V85.4) and at least one co-morbidity related to obesity.	X			X							

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A / B	D M E	F I	C A R I E R	D M R I C	R E H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	NOTE: This review should occur if indicated through data analysis and inclusion in the medical review strategy as it is the contractor's usual process.											
5477.1.4.2.1	The carrier/A/B MAC medical director may define the appropriate method for addressing the obesity-related co-morbid requirement.	X			X							
5477.1.5	Contractors shall afford appeal rights to all parties when claims for covered bariatric surgery procedures are denied/rejected.	X		X	X							
5477.2	Effective for claims with dates of service on or after February 21, 2006, contractors shall not pay for nationally noncovered bariatric surgery procedures as specified in section 100.1 of the Medicare NCD Manual.	X		X	X							
5477.2.1	Contractors shall deny bariatric surgery claims billed with HCPCS procedure code 43842 when used for open vertical banded gastroplasty. NOTE: This code was included in the April 2006 update of the Medicare Physician Fee Schedule Database.	X			X							
5477.2.2	Contractors shall deny bariatric surgery claims billed with HCPCS Not Otherwise Classified (NOC) code 43999 when used for the following noncovered procedures: <ul style="list-style-type: none"> • Laparoscopic vertical banded gastroplasty. • Open sleeve gastrectomy • Laparoscopic sleeve gastrectomy. • Open adjustable gastric banding. Note: When this NOC code is used, the procedure should be described.	X			X							
5477.2.3	Contractors shall reject bariatric surgery claims billed with principal ICD-9 CM diagnosis code 278.01 and ICD-9 procedure code 44.68 when used for the following noncovered procedures: <ul style="list-style-type: none"> • Open adjustable gastric banding. 	X		X								

										F I S S	M C S	V M S	C W F	
5477.4	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X		X	X									

IV. SUPPORTING INFORMATION

A. For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
5477.1.1	<ul style="list-style-type: none"> • 43770 - Laparoscopy, surgical, gastric restrictive procedure: placement of adjustable gastric band (gastric band and subcutaneous port components). • 43644 - Laparoscopy, surgical, gastric restrictive procedure with gastric bypass and Roux-en-Y gastroenterostomy (roux limb 150 cm or less). • 43645 - Laparoscopy, surgical, gastric restrictive procedure with gastric bypass and small intestine reconstruction to limit absorption. • 43845 - Gastric restrictive procedure with partial gastrectomy, pylorus-preserving duodenoileostomy and ileoileostomy (50 to 100 cm common channel) to limit absorption (biliopancreatic diversion with duodenal switch). • 43846 - Gastric restrictive procedure, with gastric bypass, for morbid obesity; with short limb (150 cm or less) Roux-en-Y gastroenterostomy. • 43847 - Gastric restrictive procedure with small intestine reconstruction to limit absorption.
5477.1.2	<ul style="list-style-type: none"> • 43.89 - Other; partial gastrectomy with bypass gastrogastrostomy; sleeve resection of stomach. • 44.38 - Laparoscopic gastroenterostomy; bypass: gastroduodenostomy, gastroenterostomy, gastrogastrostomy; laparoscopic gastrojejunostomy without gastrectomy NEC. • 44.39 - Other gastroenterostomy; bypass: gastroduodenostomy, gastroenterostomy,

X-Ref Requirement Number	Recommendations or other supporting information:
	gastrogastrostomy; gastrojejunostomy without gastrectomy NOS. <ul style="list-style-type: none"> • 44.95 - Laparoscopic gastric restrictive procedure; adjustable gastric band and port insertion. • 45.51 - Isolation of segment of small intestine; isolation of ileal loop; resection of small intestine for interposition. • 45.91 - Small-to-small intestinal anastomosis.
5477.1.3	<ul style="list-style-type: none"> • 278.01 - Morbid obesity; severe obesity.
5477.1.3.2	<ul style="list-style-type: none"> • V85.35 - Body Mass Index 35.0-35.9, adult. • V85.36 - Body Mass Index 36.0-36.9, adult. • V85.37 - Body Mass Index 37.0-37.9, adult. • V85.38 - Body Mass Index 38.0-38.9, adult. • V85.39 - Body Mass Index 39.0-39.9, adult. • V85.4 - Body Mass Index 40 and over, adult.
5477.2.1	<ul style="list-style-type: none"> • 43842 - Gastric restrictive procedure, without gastric bypass, for morbid obesity; vertical-banded gastroplasty.
5477.2.3	<ul style="list-style-type: none"> • 44.68 - Laparoscopic gastroplasty; banding, silastic vertical banding, vertical banded gastroplasty, code also any synchronous laparoscopic gastroenterostomy (44.38).
5477.2.4	<ul style="list-style-type: none"> • 44.69 - Other. Inversion of gastric diverticulum. Repair of stomach NOS.
5477.2.5	<ul style="list-style-type: none"> • 43.89 - Other; partial gastrectomy with bypass gastrogastrostomy; sleeve resection of stomach.

B. For all other recommendations and supporting information, use the space below:

V. CONTACTS

Pre-Implementation Contact(s):

Coverage: Kate Tillman at 410-786-9252 or katherine.tillman@cms.hhs.gov

FI Claims: Cindy Murphy at 410-786-5733 or cindy.murphy@cms.hhs.gov

Carrier Claims: April Billingsley at 410-786-0140 or april.billingsley@cms.hhs.gov

Post-Implementation Contact(s): Regional Office

VI. FUNDING

A. TITLE XVIII Contractors:

No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2007 operating budgets.

B. Medicare Administrative Contractors:

The contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the Statement of Work (SOW). The contractor is not obligated to incur costs in excess of the amounts specified in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

Medicare Claims Processing Manual

Chapter 32 - Billing Requirements for Special Services

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- 150.2 - HCPCS *Procedure* Codes for Bariatric *Surgery*
- 150.3 - ICD-9 *Procedure* Codes for Bariatric Surgery (*FIs only*)
- 150.4 - *ICD-9 Diagnosis Codes for Bariatric Surgery*
- 150.5 - *ICD-9 Diagnosis Codes for BMI ≥ 35*
- 150.6 - *Claims Guidance for Payment*
- 150.7 - *Medicare Summary Notices (MSNs) and Claim Adjustment Reason Codes*
- 150.8 - *Fiscal Intermediary Billing Requirements*
- 150.9 - *Advance Beneficiary Notice and HINN Information*

150.1 - General

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

A. Covered Bariatric Surgery Procedures

Effective for services on or after February 21, 2006, *Medicare has determined that the following bariatric surgery procedures are reasonable and necessary under certain conditions for the treatment of morbid obesity. The patient must have a body-mass index (BMI) ≥ 35 , have at least one co-morbidity related to obesity, and have been previously unsuccessful with medical treatment for obesity. This medical information must be documented in the patient's medical record. In addition, the procedure must be performed at an approved facility. A list of approved facilities may be found at <http://www.cms.hhs.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage>.*

- *Open Roux-en-Y gastric bypass (RYGBP).*
- *Laparoscopic Roux-en-Y gastric bypass (RYGBP).*
- *Laparoscopic adjustable gastric banding (LAGB).*
- *Open biliopancreatic diversion with duodenal switch (BPD/DS).*
- *Laparoscopic biliopancreatic diversion with duodenal switch (BPD/DS).*

B. Non-Covered Bariatric Surgery Procedures

Effective for services on or after February 21, 2006, Medicare has determined that the following bariatric surgery procedures are not reasonable and necessary for the treatment of morbid obesity.

- *Open vertical banded gastroplasty.*
- *Laparoscopic vertical banded gastroplasty.*
- *Open sleeve gastrectomy.*
- *Laparoscopic sleeve gastrectomy.*
- *Open adjustable gastric banding.*

Complete coverage guidelines can be found in the National Coverage Determination Manual (Publication 100-03), Sections 40.5 and 100.1.

150.2 - HCPCS *Procedure Codes* for Bariatric Surgery

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

A. Covered HCPCS Procedure Codes

For services on or after February 21, 2006, the following HCPCS *procedure* codes *are covered for bariatric surgery*:

- 43770 - Laparoscopy, surgical, gastric restrictive procedure; placement of adjustable gastric band (gastric band and subcutaneous port components).
- 43644 - Laparoscopy, surgical, gastric restrictive procedure; with gastric bypass and Roux-en-Y gastroenterostomy (roux limb 150 cm or less).
- 43645 - Laparoscopy with gastric bypass and small intestine reconstruction to limit absorption. (Do not report 43645 in conjunction with 49320, 43847.)
- 43845 - Gastric restrictive procedure with partial gastrectomy, pylorus-preserving duodenoileostomy and ileoieostomy (50 to 100 cm common channel) to limit absorption (biliopancreatic diversion with duodenal switch).
- 43846 - Gastric restrictive procedure, with gastric bypass for morbid obesity; with short limb (150 cm or less Roux-en-Y gastroenterostomy. (For greater than 150 cm, use 43847.) (For laparoscopic procedure, use 43644.)
- 43847 - With small intestine reconstruction to limit absorption.

B. Noncovered HCPCS Procedure Codes

For services on or after February 21, 2006, *the following HCPCS procedure codes are non-covered for bariatric surgery:*

- 43842 - *Gastric restrictive procedure, without gastric bypass, for morbid obesity; vertical banded gastroplasty.*
- *NOC code 43999 used to bill for:*
 - *Laparoscopic vertical banded gastroplasty.*
 - *Open sleeve gastrectomy.*
 - *Laparoscopic sleeve gastrectomy.*
 - *Open adjustable gastric banding.*

150.3 - ICD-9 Procedure Codes for Bariatric Surgery (FIs only)

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

A. Covered ICD-9 Procedure Codes

For services on or after February 21, 2006, the following ICD-9 procedure codes *are covered for bariatric surgery:*

- 44.38 - Laparoscopic gastroenterostomy (laparoscopic Roux-en-Y).
- 44.39 - Other gastroenterostomy (open Roux-en-Y).
- 44.95 - Laparoscopic gastric restrictive procedure (laparoscopic adjustable gastric band and port insertion).
- *Open and laparoscopic BPD with DS.*
 - 43.89 - Other partial gastrectomy.
 - 45.51 - Isolation of segment of small intestine.
 - 45.91 - Small to small intestinal anastomosis.

Note: There is *no* distinction between open and laparoscopic BPD with DS for the inpatient setting. *For either approach, all three codes must appear on the claim to be covered.*

B. Noncovered ICD-9 Procedure Codes

For services on or after February 21, 2006, the following ICD-9 procedure codes are non-covered for bariatric surgery:

- 44.68 - Laparoscopic gastroplasty (vertical banded gastroplasty).
- 44.69 - Other. Inversion of gastric diverticulum. Repair of stomach NOS.
- 43.89 - Other partial gastrectomy.

Note: 44.68 is non-covered when used to bill for open adjustable gastric banding and laparoscopic vertical banded gastroplasty. 44.69 is non-covered when used to bill for open vertical banded gastroplasty. 43.89 is non-covered when used to bill for open and laparoscopic sleeve gastrectomy.

150.4 - ICD-9 Diagnosis Codes for Bariatric Surgery (Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

For services on or after February 21, 2006, the following ICD-9 diagnosis code is covered for bariatric surgery if certain other conditions are met:

1. 278.01 - Morbid obesity; *severe obesity.*

150.5 - ICD-9 Diagnosis Codes for BMI ≥ 35 (Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

The following ICD-9 diagnosis codes identify BMI ≥ 35 :

- V85.35 - Body Mass Index 35.0-35.9, adult.
- V85.36 - Body Mass Index 36.0-36.9, adult.
- V85.37 - Body Mass Index 37.0-37.9, adult.
- V85.38 - Body Mass Index 38.0-38.9, adult.
- V85.39 - Body Mass Index 39.0-39.9, adult.
- V85.4 - Body Mass Index 40 and over, adult.

150.6 - Claims Guidance for Payment (Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

A. Covered Bariatric Surgery Procedures

Process covered bariatric surgery claims as follows:

1. *Identify bariatric surgery claims.*

- *FIs identify bariatric surgery claims by the presence of ICD-9-CM diagnosis code 278.01 for morbid obesity and one of the covered ICD-9-CM procedure codes listed in §150.3.*
 - *Carriers identify bariatric surgery claims by the presence of ICD-9-CM diagnosis code 278.01 for morbid obesity and one of the covered HCPCS procedure codes listed in §150.2.*
2. *Perform facility certification validation for all bariatric surgery claims on a pre-pay basis.*
 - *A list of approved facilities may be found at:
<http://www.cms.hhs.gov/MedicareApprovedFacilitie/BSF/list.asp#TopOfPage>.)*
 3. *Contractors should review bariatric surgery claims data and determine whether a pre- or post-pay sample of bariatric surgery claims need further review to assure that the beneficiary has a BMI ≥ 35 (V85.35 - V85.4) and at least one co-morbidity related to obesity.*
 - *The carrier/FI/A/B MAC medical director may define the appropriate method for addressing the obesity-related co-morbid requirement.*

Note: *If ICD-9-CM diagnosis code 278.01 and one of the covered ICD-9-CM procedure codes listed in §150.3 (for FIs) or HCPCS procedure codes listed in §150.2 (for carriers) are not present, the claim is not for bariatric surgery and should be processed under normal procedures.*

B. Non-Covered Bariatric Surgery Procedures

Carriers are to process non-covered bariatric surgery claims according to the conditions outlined below:

1. *Deny claims billed with HCPCS procedure code 43842 when used for:*
 - *Open vertical banded gastroplasty.*
2. *Deny claims billed with HCPCS NOC code 43999 when used for:*
 - *Laparoscopic vertical banded gastroplasty.*
 - *Open sleeve gastrectomy.*
 - *Laparoscopic sleeve gastrectomy.*
 - *Open adjustable gastric banding.*

FIs are to process non-covered bariatric surgery claims according to the conditions outlined below:

1. *Reject claims billed with principal ICD-9 CM diagnosis code 278.01 and ICD-9 procedure code 44.68 when used for:*
 - *Open adjustable gastric banding.*
 - *Laparoscopic vertical banded gastroplasty.*
2. *Reject billed with principal ICD-9 CM diagnosis code 278.01 and ICD-9 procedure code 44.69 when used for:*
 - *Open vertical banded gastroplasty.*
3. *Reject claims billed with principal ICD-9 CM diagnosis code 278.01 and ICD-9 procedure code 43.89 when used for:*
 - *Open sleeve gastrectomy.*
 - *Laparoscopic sleeve gastrectomy.*

Note: If ICD-9 procedure code 43.89 appears on the claim along with 45.51 and 45.91 to describe open or laparoscopic BPD/DS, process as a covered procedure according to §150.6.A.

150.7 - Medicare Summary Notices (MSNs) and Claim Adjustment Reason Codes

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

When rejecting/denying claims because bariatric surgery procedures were performed in an unapproved facility use:

- *MSN 16.2 - "This service cannot be paid when provided in this location/facility."*
- *Claim Adjustment Reason Code 58 - "Payment adjusted because treatment was deemed by the payer to have been rendered in an inappropriate or invalid place of service."*

When rejecting/denying claims for noncovered bariatric surgery procedures use:

- *MSN16.10 - Medicare does not pay for this item or service.*
- *Claim Adjustment Reason Code 50 - "These are noncovered services because this is not deemed a "medical necessity" by the payer."*

When rejecting/denying claims for covered bariatric surgery procedures because the patient did not meet the conditions for coverage use:

- *MSN 15.4 - "The information provided does not support the need for this service or item."*
- *Claim Adjustment Reason Code 167 - "This (these) diagnosis(es) is (are) not covered"*

In addition to the codes listed above, afford appeal rights to all parties.

150.8 - Fiscal Intermediary Billing Requirements

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

The FI will pay for bariatric surgery only when the services are submitted on the following type of bill (TOB): 11X.

Type of facility and setting determines the basis of payment:

- For services performed in IHS inpatient hospitals, TOB 11X under IPPS payment is based on the DRG.
- For services performed in inpatient hospitals, TOB 11X under IPPS payment is based on the DRG.
- For services performed in IHS critical access hospitals, TOB 11X, payment is based on 101% facility specific per diem rate.
- For services performed in CAH inpatient hospitals, TOB 11X, payment is based on 101% of reasonable cost.

150.9 - Advance Beneficiary Notice and HINN Information

(Rev.1233, Issued: 04-27-07, Effective: 02-21-06, Implementation: 05-29-07)

Physicians must be advised that the physician is liable for charges if the surgery is performed in an unapproved facility, unless the beneficiary was informed that he or she would be financially responsible prior to performance for the procedure. The provider must have the beneficiary sign an advance beneficiary notice (ABN) if the bariatric surgery is performed in an unapproved facility. Note that the ABN is the appropriate notice for Part B services.

The HINN model language should be adapted to this situation in the sections addressing: description of the care at issue if the surgery is performed on an inpatient basis, in an unapproved facility, to avoid being liable, the provider must issue a HINN. Other content requirements of HINN still apply. Use the HINN letter most appropriate to the overall situation.