DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410 and 414

[CMS–6087–N]

Medicare Program; Suspension of Required Prior Authorization for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Items Under Certain Circumstances

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, (HHS).

ACTION: Suspension of prior authorization requirements for specified orthoses prescribed and furnished urgently or under special circumstances.

SUMMARY: This document announces the suspension of prior authorization for specified orthoses items on the Required Prior Authorization List that require prior authorization as a condition of payment under certain circumstances when reported with certain modifiers. Items subject to face-to-face encounter and written order prior to delivery requirements are not impacted by this document.

DATES: The suspension of the prior authorization requirement discussed in this document took effect on April 13, 2022, when CMS published an announcement on its website.

FOR FURTHER INFORMATION CONTACT: Emily Calvert, (410) 786–4277.

SUPPLEMENTARY INFORMATION:

I. Background

In the December 30, 2015, final rule (80 FR 81674) titled, ''Medicare Program; Prior Authorization Process for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies,'' we implemented section 1834(a)(15) of the Act by establishing an initial Master List (called the Master List of Items Frequently Subject to Unnecessary Utilization) of certain DMEPOS that the Secretary determined, on the basis of prior payment experience, are frequently subject to unnecessary utilization and by establishing a prior authorization process for these items.

In the November 8, 2019, **Federal Register** (84 FR 60648), we published a final rule titled, ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Fee Schedule Amounts, DMEPOS Competitive Bidding Program (CBP) Amendments, Standard Elements for a DMEPOS Order, and Master List of DMEPOS Items Potentially Subject to a Face-to-Face Encounter and Written Order Prior to Delivery and/or Prior Authorization Requirements.'' Through this November 2019 final rule, we harmonized the lists of DMEPOS items created by former rules and established one ''Master List of DMEPOS Items Potentially Subject to Face-To-Face Encounter and Written Orders Prior to Delivery and/or Prior Authorization Requirements'' (the ''Master List''). The November 2019 final rule was effective January 1, 2020.

In January 13, 2022, **Federal Register** (87 FR 2051), we published a document, titled, ''Medicare Program; Updates to Lists Related to Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Conditions of Payment.'' Through the January 2022 **Federal Register** document, we updated the Master List and selected certain lower limb orthoses, lumbar sacral orthoses, and power mobility devices to be subject to required prior authorization. The January 2022 **Federal Register** document was effective April 13, 2022.

II. Provisions of the Document

In accordance with 42 CFR 414.234(f), CMS may suspend DMEPOS prior authorization requirement generally or for a particular item or items at any time and without undertaking rulemaking. Due to the need for certain patients to receive an orthoses item that may otherwise be subject to prior authorization when the 2-day expedited review would delay care and risk the health or life of the beneficiary, we are suspending prior authorization requirements indefinitely, under these limited circumstances:

- Claims for HCPCS codes L0648, L0650, L1832, L1833, and L1851 that are billed using modifier ST, indicating that the item was furnished urgently.
- Claims for HCPCS codes L0648, L0650, L1833, and L1851 billed with modifiers KV, J5, or J4, by suppliers furnishing these items under a competitive bidding program exception (as described in 42 CFR 414.404(b)), to convey that the DMEPOS item is needed immediately either because it is being furnished by a physician or treating practitioner during an office visit where the physician or treating practitioner determines that the brace is needed immediately due to medical necessity or because it is being furnished by an occupational therapist or physical therapist who determines that the brace needs to be furnished as part of a therapy session(s).

Prior authorization will continue for these orthoses items (HCPCS L0648, L0650, L1832, L1833, and L1851) when furnished under circumstances not covered in this update, as well as all other items on the Required Prior Authorization List, available at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/DMEPOS/Downloads/DMEPOS_PA_Required-Prior-Authorization-List.pdf.*

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: August 5, 2022.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–17187 Filed 8–9–22; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–5537–N]

Medicare Program; Alternative Payment Model (APM) Incentive Payment Advisory for Clinicians—Request for Current Billing Information for Qualifying APM Participants

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Payment advisory.

SUMMARY: This advisory is to alert certain clinicians who are Qualifying APM participants (QPs) and eligible to receive an Alternative Payment Model (APM) Incentive Payment that CMS does not have the current billing information needed to disburse the payment. This advisory provides information to these clinicians on how to update their billing information to receive this payment.

DATES: Updated billing information must be received no later than November 1, 2022 (see **SUPPLEMENTARY INFORMATION** for details).

FOR FURTHER INFORMATION CONTACT: Tanya Dorm, (410) 786–2216.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare Quality Payment Program, an eligible clinician who participates in an Advanced Alternative Payment Model (APM) and meets the applicable payment amount or patient count thresholds for a performance year is a Qualifying APM Participant (QP) for that year. For payment years 2019 through 2024, an eligible clinician who is a QP for a year based on their performance in a QP Performance Period earns a 5-percent lump sum APM Incentive Payment that is paid in a payment year that occurs 2 years after the QP Performance Period. The amount of the APM Incentive Payment is equal to 5 percent of the estimated aggregate paid amounts for covered professional services furnished by the QP during the calendar year immediately preceding the payment year.

II. Provisions of the Advisory

The Centers for Medicare & Medicaid Services (CMS) has identified those eligible clinicians who earned an APM Incentive Payment in CY 2022 based on their CY 2020 QP status.

When we disbursed the CY 2022 APM Incentive Payments, we were unable to verify current Medicare billing information for some QPs and therefore unable to issue the payment. In order to properly disburse the APM Incentive Payment, CMS is requesting assistance in identifying current Medicare billing information for these QPs in accordance with 42 CFR 414.1450(c)(8).

We have compiled a list of QPs we have identified as having unverified billing information. These QPs, and any others who anticipated receiving an APM Incentive Payment but have not, should follow the instructions to provide CMS with updated billing information at the following web address: *https://qpp-cm-prod-content.s3.amazonaws.com/uploads/1968/2022%20QP%20Notice%20for%20APM%20Incentive%20Payment%20Zip%20File.zip.*

If you have any questions concerning submission of information through the website, please contact the Quality Payment Program Help Desk at 1–866–288–8292.

All submissions must be received no later than November 1, 2022. After that time, any claims by a QP to an APM Incentive Payment will be forfeited for the CY 2022 payment year. To make sure we have received all updated billing forms, we will process remaining CY 2022 APM Incentive Payments during one payment cycle in the beginning of 2023, based on updated billing information for QPs received by November 1, 2022. Payment processing occurs one time after all forms have been received.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Lynette Wilson, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: August 5, 2022.

Lynette Wilson,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–17186 Filed 8–9–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217095–2081–04; RTID 0648–XC199]

Reef Fish Fishery of the Gulf of Mexico; 2022 Recreational Accountability Measure and Closure for Gulf of Mexico Red Grouper

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2022 fishing year through this temporary rule. NMFS has projected that the 2022 recreational annual catch target (ACT) for Gulf red grouper will have been reached by August 30, 2022. Therefore, NMFS closes the recreational sector for Gulf red grouper on August 30, 2022, and it will remain closed through the end of the fishing year on December 31, 2022. This closure is necessary to protect the Gulf red grouper resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, on August 30, 2022, until 12:01 a.m., local time, on January 1, 2023.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727–551–5719, email: *daniel.luers@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes red grouper, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All red grouper weights discussed in this temporary rule are in gutted weight.

Following a recent red grouper stock assessment, NMFS implemented Amendment 53 to the Reef Fish FMP (87 FR 25573, May 2, 2022), which modified the allocation between the commercial and recreational sectors, and the sector catch limits. The new assessment incorporated updated historical recreational landings estimates calibrated to the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES), the current method for estimating recreational effort. The previous recreational catch limits were based on an assessment that incorporated the historical recreational landings estimates generated using the prior (MRIP) Coastal Household Telephone Survey (CHTS), which produced significantly lower estimates of recreational effort. Under Amendment 53, the recreational annual catch limit (ACL) is 1.73 million lb (0.78 million kg) and the recreational ACT is 1.57 million lb (0.71 kg)(in MRIP FES units). Subsequent to the Amendment 53 final rule, NMFS implemented a final rule for a framework action under the FMP (87 FR 40742, July 8, 2022) which further revised the red grouper recreational ACL to 2.02 million lb (0.92 million kg) and the ACT to 1.84 million lb (0.83 million kg). This rule is effective August 8, 2022.

The Gulf red grouper recreational ACL was exceeded in 2021 by approximately 0.72 million lb (0.33 million kg) or 72 percent of the recreational ACL. As specified in 50 CFR 622.41(e)(2)(ii), in the year following a recreational ACL overage, NMFS is required to maintain the red grouper ACT in that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining