

May 26, 2020

Debra Patterson, MD  
Vice President and Executive Contractor Medical Director  
2020 Technology Parkway  
Mechanicsburg, PA 17050  
[debra.patterson@novitas-solutions.com](mailto:debra.patterson@novitas-solutions.com)

RE: Local Coverage Determination (LCD): Intensity Modulated Radiation Therapy (IMRT) (L36711)

Dear Dr. Patterson:

The American Society for Radiation Oncology (ASTRO)<sup>1</sup> would like to request a reconsideration of Novitas Local Coverage Determination (LCD): Intensity Modulated Radiation Therapy (IMRT) (L36711). Novitas' interpretation of Medicare's physician supervision requirements for IMRT services is too restrictive and should be modified to more appropriately align with Centers for Medicare and Medicaid Services (CMS) policy.

The LCD **Provider Qualifications** state,

“The qualified radiation oncology physician must personally evaluate each patient undergoing radiation treatment on a weekly basis and provide direct supervision of radiation treatment delivery of all patients being treated at least twice during each calendar week of therapy.”

The requirement of the radiation oncologist providing twice weekly direct supervision of patients receiving IMRT does not have a regulatory basis and is burdensome, particularly for physician practices providing care in rural and underserved areas. Medicare's supervision requirements are provided in the Medicare Benefit Policy Manual and the Code of Federal Regulations. In the freestanding office setting, the Benefit Policy Manual states that direct supervision by a physician is required for radiation therapy services<sup>2</sup>, where “physician” is defined by the Social Security Act (SSA) as a Doctor of Medicine or Osteopathy legally authorized to practice medicine and surgery by the State in which he performs such function<sup>3</sup>. In the hospital outpatient setting, the CFR states that therapeutic services, such as IMRT, furnished by a facility incident to a physician's professional service are subject to general supervision.<sup>4</sup> Image guidance services performed in conjunction with IMRT, however, are a diagnostic service benefit per the SSA and are therefore subject to Medicare's direct supervision requirement for diagnostic services.<sup>5</sup> There is no regulatory requirement that a radiation oncologist supervise radiation treatment delivery twice in a calendar week.

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<sup>1</sup> *ASTRO members are medical professionals, who practice at hospitals and cancer treatment centers in the United States and around the globe and make up the radiation therapy treatment teams that are critical in the fight against cancer. These teams often include radiation oncologists, medical physicists, medical dosimetrists, radiation therapists, oncology nurses, nutritionists and social workers, and treat more than one million cancer patients each year. We believe this multi-disciplinary membership makes us uniquely qualified to provide input on the inherently complex issues related to Medicare payment policy and coding for radiation oncology services.*

<sup>2</sup> Medicare Benefit Policy Manual, Chapter 15, Section 90

<sup>3</sup> Social Security Act, Section 1861(r)

<sup>4</sup> 42CFR §410.27(a)(1)(iv)

<sup>5</sup> 42CFR §410.28(e)(1)

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It is ASTRO's opinion is that a board-certified/board-eligible Radiation Oncologist is the clinically appropriate physician to supervise radiation treatments; however, we recognize that flexibility is necessary for those practices that deliver care to underserved populations who may experience access to care issues. **Therefore, we urge Novitas to update the LCD *Provider Qualifications* to state, "The qualified radiation oncology physician must personally evaluate each patient undergoing radiation treatment on a weekly basis."**

This revision fulfills Medicare requirements and allows for the provision of critical health services for cancer patients by qualified personnel when a radiation oncologist is not immediately available to provide supervision. ASTRO's *Guidance on Supervision of Radiation Therapy Services* addresses the guidelines for supervision and is enclosed for your convenience.

Thank you for your consideration of our comments. Should you have any questions or wish to discuss IMRT supervision and our recommendations further, please contact Jessica Adams, Health Policy Analyst (703) 839-7396 or via email at [Jessica.adams@astro.org](mailto:Jessica.adams@astro.org).

Sincerely,



Laura I. Thevenot  
Chief Executive Officer

Enclosed: *ASTRO Guidance on Supervision of Radiation Therapy Services*