



Funding for SGDs in 2015, Part III:

A New Day Dawns for Medicare SGD Coverage: What Do SLPs, Medicare Beneficiaries, and Families Need to Know?

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“Our Long National Nightmare is Over”

- July 29, 2015:

- Medicare issues a new National Coverage Determination for Speech Generating Devices

Posted at: <https://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=26>

- July 30, 2015:

- President Obama signs the Steve Gleason Act

2015 NCD Replaces 2001 NCD for SGDs

- Overview: the 2015 NCD restores the full scope of Medicare SGD coverage – as to devices, capabilities and features – that existed from 2001-2013. It also “expands” coverage by redefining “speech” and making it much easier to access SGDs’ non-face-to-face communication features and their non-communication capabilities and features.
- In the past 15 years, Medicare SGD coverage has gone through 3 phases:

2001-2013	2014	2015 NCD (2015 ++)
All SGD types are covered	No computer based devices covered	All SGDs types are covered
Devices must be dedicated when delivered	Devices must be dedicated when delivered;	“Dedicated” is not “required,” but SGDs must be limited to “speech” when delivered;
“Dedicated” means device will support F2F communication	“Dedicated” means device will support F2F communication	“Speech,” <u>expanded</u> to include F2F communication as well as communication by text, e-mail or telephone
Devices can have additional features such as environmental control; phone control and general computer functions; access to these features is by “unlocking,” performed at client request and expense	Devices can have no additional features and can have no capability other than speech generation; capability for “unlocking” is expressly prohibited	Devices can have additional capabilities and features; access to these non-communication features is by use of a routine Medicare form called an Advanced Beneficiary Notice (ABN); ABN substitutes for “unlocking” and “upgrades”
Unlocking can occur at any time after device delivery	Devices can never be unlocked	ABN can be used at any time after device delivery

SGD Hardware: Types of Devices Covered

- The 2015 NCD will allow any hardware to be eligible for Medicare coverage and payment if it “is limited to use by a patient with a severe speech impairment and is primarily used for the purpose of generating speech.”
- All types of hardware used as SGDs in 2001 and all hardware used as SGDs since then will be eligible for Medicare coverage and payment.
- Computer-based devices and off-the-shelf tablets such as iPads and those made by Samsung, Dell, and Microsoft, all will be covered and paid by Medicare – **BUT** beneficiaries and SLPs still must go through Medicare suppliers for these devices: they cannot just go to a consumer electronics store, department store, or on-line marketplace to obtain them.

“Dedicated” Devices - 1

- Medicare coined the phrase “dedicated speech aids” in the 2001 NCD. No definition was provided but this phrase initially was understood to apply to SGD hardware and SGD function. As to SGD hardware, the 2001 NCD appeared to offer Medicare coverage and funding only to “purpose built” SGDs, as compared to computer-based devices, which were excluded. As to SGD function, “dedicated” SGDs could offer access to SGD software only.
- In May 2001, the NCD was clarified to eliminate its effect on the types of SGDs eligible for Medicare coverage and payment. In addition to purpose built SGDs, Medicare agreed to extend coverage and payment to “dedicated computer-based devices.”
- Also in May 2001, the functional effect of “dedicated” was interpreted to apply only to the point of SGD delivery: **at the time of delivery**, SGDs must run only SGD software. But after that, if clients wanted, SGDs could be “unlocked” to perform additional non-speech generating functions.

Dedicated Devices - 2

- It has been reported that the 2015 NCD removed the “dedicated” SGD requirement. Better to recall Mark Twain’s quip: *“The reports of my death have been greatly exaggerated.”*
- The 2015 NCD says SGDs don’t have to be “dedicated” but then imposes the following condition: *“[a]s long as the [SGD] is limited to use by patients with severe speech impairment, and is primarily used for the purpose of generating speech.”*
- In practical terms, SGDs still must be dedicated to speech generation, but “speech” has been re-defined more broadly. It now includes text, email and phone communication. On the other hand, Medicare still clearly excludes coverage of other SGD capabilities and features not within the broadened meaning of speech generation. Its expectation is that these capabilities will not be offered on SGDs **at delivery**.
- But the 2015 NCD also states clearly that “excluded” SGD capabilities and features, such as environmental control, general internet access, general computer features, and video communication capabilities, all can be included in SGDs and can be made available to beneficiaries by use of a standard Medicare form known as an “Advanced Beneficiary Notice,” or ABN. Use of an ABN substitutes for “unlocking.”

“Dedicated” Devices - 3

“Meet the New Boss. Same as the Old Boss”?

- Since 2001, some people have stated the 2001 NCD’s reference to “dedicated speech aids” substantively limited SGD choices, impeding access to current technologies, and limited SGD capabilities.
- Neither assertion was true. Dedication did not limit SGD hardware choice. With one exception, which lasted less than a year, any device could be made dedicated. And, SGDs were not limited as to their non-speech generating capabilities. Any Medicare beneficiary who wanted access to those features could access them simply by asking for the device to be unlocked and paying a nominal fee. SGD “dedication” was no more than a tissue paper wrapper, easily torn off.
- Instead of a limitation, “dedication” was a *protection*. All health based funding programs – not just Medicare -- have never viewed ordinary computers as medical equipment.
 - “Dedication” provided a clear distinction between ordinary computers (that were not covered) and SGDs (that were).
 - Dedication *empowered* SGD manufacturers to use any hardware that was functionally and fiscally desirable. All that was required was a simple, extremely low cost – and temporary -- modification.
 - Eliminate “dedication:” what is the distinction?
- In response to the NCD reconsideration notice some comments proposed eliminating the “dedicated” device requirement. Medicare agreed – sort of. It said: *“As long as the [SGD] is limited to use by patients with severe speech impairment, and is primarily used for the purpose of generating speech, we do not believe it is necessary for a [SGD] to be dedicated only to speech generation in order to be considered DME.”*
- This change in language may prove to be meaningless: SGDs still must be “limited” with some capabilities disabled or restricted, just as before. And SGDs must continue to be distinguished from ordinary computers.

SGD Covered Features: Re-Definition of “Speech”

- The 2001 NCD had no definition of “speech.” But it was universally understood that “speech” meant face-to-face (F2F) communication. In 2001, SGDs had the capability of supporting communication by e-mail, texting and telephone, but these were not accepted as standard features of devices.
- The 2015 NCD clarifies ***and expands*** the meaning of “speech.” “Speech” will now include actual speech to support F2F communication as well as communication by text, e-mail and telephone. The draft NCD calls this “remote” communication. It states: *“We are proposing to expand the types and features of [SGDs] that would fall within the DME benefit category.”* Specifically, *“[o]ther covered features of the device [in addition to speech generation for F2F communication] include the capability to generate email, text or phone messages to allow the patient to ‘speak’ or communicate remotely....”*
- In addition, the draft NCD states clearly that other SGD features that aid their function as SGDs are covered. *“Other covered features include ... the capability to download updates to the covered features of the device from the manufacturer or supplier of the device.”*

SGD Software Coverage

- SGD software is covered by Medicare.
- SGD software was specifically identified as covered in the 2001 NCD.
- SGD software was assigned a DME code for coverage and payment purposes: E 2511. It is defined as: “*software that allows a laptop computer, desktop computer or personal digital assistant (PDA) to function as a speech generating device.*”
- The 2015 NCD continues SGD software coverage. It updates the vocabulary to state that Medicare coverage and payment will extend to: “*software that allows a computer or other electronic device to function as a speech generating device.*”
- The 2015 NCD also rejects a limitation stated in the 2014 Coverage Reminder that excluded coverage of accessories or mounts needed by clients using their own device plus SGD software.

Other SGD Capabilities and Features: Covered or Not Covered?

- The 2001 NCD identified specific capabilities and features that would *disqualify* devices from Medicare coverage and payment. Considered as a whole, they included any “*software for purposes other than speech generation.*”
- The 2014 “coverage reminder” was far more specific and expansive. It identified many capabilities and features as examples, but then stated that devices with **any capability** “*exceeding the sole function of speech generation*” was *disqualifying*.
- The 2015 NCD rejects the approach stated in the 2001 NCD and 2014 Coverage Reminder. SGD capabilities and features are discussed only in the context of coverage (or not). None is identified as having a “disqualifying” effect. A small number of SGD capabilities and features are identified as not covered, but their presence is **not** *disqualifying* for the device. The list includes:

Capabilites and Features	
Covered	Not-covered
Speech generation	General internet service; cost of internet and phone service
“Remote” speech or communication: text; e-mail; telephone	Modifications to the home to support SGD use
Capability to download manufacturer or supplier updates to covered features	Any features not used by the client to meet functional speaking needs, e.g., environmental control
	Any computing hardware or software for any purpose not directly related to meeting functional speaking needs
	Video communications or video-conferencing

Access to Non-Covered Capabilities and Features

- The 2015 NCD lists several SGD capabilities and features that Medicare will not cover or pay for. But the 2015 NCD does not restrict SGDs from having these capabilities.
- The 2015 NCD also makes clear that Medicare beneficiaries can access these non-covered features. It provides specific instructions for how that access can be achieved.
- The instructions stated in the 2015 NCD involve use of a standard Medicare form called an Advanced Beneficiary Notice, or ABN. An ABN is a form given to beneficiaries by suppliers to identify device components that Medicare will not pay for. Generally, these components will be “options” added to or included with a device at an additional charge. The ABN provides *notice* to the *beneficiary* in *advance* of the order being submitted. Its purpose is to allow beneficiaries to make informed choice about whether they want these additional items.
- The SGD manufacturers have not yet decided how they will use ABNs. Two options are possible: “Fee” and “Free & Fee.”
- Fee: This option will use an ABN with a list of non-covered – and functionally disabled – features and will ask beneficiaries if they want access to them. If so, there will be a nominal “fee” or charge. This is little different than the “unlocking” procedure that had been in effect between 2001-2013. Under this approach, all of the non-covered features will be bundled: beneficiaries will not be offered the opportunity to select specific features they wish and to bypass others.
- Free & Fee: This option will use 2 ABNs. One – “free” -- will list non-covered features that will be offered as operational on all SGDs and thus will be provided without client election and without charge. This ABN will represent acknowledgement by the SGD manufacturer that Medicare will not cover or pay for a specific feature. It will be the equivalent of ABNs provided for DME “upgrades” provided at no cost to beneficiaries. (Medicare guidance specifically allows non-covered items or features to be provided at no cost to beneficiaries.) This type approach may result from SGD manufacturers’ conclusions that it is too costly or difficult to disable or restrict a specific feature, such the user-facing camera or internet access to allow access only to e-mail. Thus, these features, which Medicare clearly states it will not cover or pay for, will be operational on all devices, but at no cost. Under this alternative, a second ABN – “fee” -- will list all the features capable of being disabled or restricted, which will be provided on the basis of beneficiary election, and at nominal expense.

Environmental Control Coverage

- Environmental control is one of the oldest non-speech generating capabilities of SGDs. It has been an available feature of SGDs since the 1980s.
- The 2015 NCD does not mention environmental control, but it clearly fits within the general category of non-covered capabilities and features: “*any other function ... that is not directly related to meeting the functional speaking communication needs of the patient....*”
- In response to a comment during the NCD reconsideration, Medicare made clear that it views environmental control as a non-covered feature: “such assistive technology is not necessary for the generation of speech.”
- Environmental control to generate a signal to control an appliance, doors, windows, blinds, thermostat, etc., may be non-covered, but it can be an SGD capability. Thus, it can be provided and accessed by ABN.
- It will be up to the SGD manufacturers whether to offer environmental control as a free feature, available on all devices, or to disable it, and make it available as part of the non-covered features bundle, accessible at beneficiary request and for a nominal fee.
- Under the 2015 NCD, no beneficiary who may ever need environmental control should be unable to access it.

Internet Access // E-mail

- The 2015 NCD states communication by e-mail is within the meaning of “speech” for the purposes of Medicare SGD coverage and payment. As a result, SGDs provided to Medicare beneficiaries can have e-mail access as a standard feature.
- This may be easier said than done. E-mail access requires some form of internet access. Medicare acknowledges this. But is also says that it does not support coverage or payment for internet access in general. *“Coverage is limited to whatever capability is necessary to generate e-mails, which may include access to the internet for the purpose of sending e-mail messages, but access to the internet in general is not a covered feature of an SGD.”*
- The SGD manufacturers may conclude that it is too costly, burdensome or undesirable to devise some form of limited internet or e-mail access to comply literally with Medicare’s expectation. But such a conclusion need not cause any problem because capabilities *beyond* what Medicare will cover and pay for are allowed – as long as they are described on an ABN. General internet access and free choice of e-mail provider may become part of either a “free” or “fee” ABN option.
- The 2015 NCD also states that, as a standard feature, SGDs can have the additional capability to download software and receive technical assistance from manufacturers or suppliers.

User Facing Camera // Video Communication

- A common feature of tablet and laptop computers is a user-facing camera. It is used to allow for video conferencing through services such as Skype.
- The *user-facing* camera is to be distinguished from the *forward-facing* camera. The forward-facing camera is used to take photographs that can be added to the SGD's display. It clearly is a tool to aid the device's function as an SGD.
- The 2015 NCD singles out video-communication and video-conferencing as non-covered features. As a result, this creates an issue for the SGD manufacturers: what will they do with the user-facing camera?
- It is unreasonable to expect this camera to be physically removed from the SGD case. And that is not necessary. As with any other non-covered feature, it can be part of the SGD, with capability for access and use, subject to description on an ABN.
- It is uncertain, however, whether disabling this camera to comply with Medicare's non-coverage determination is a reasonable task. If it can be disabled reasonably, it is likely to be identified as part of the "fee" ABN that will include a bundle of otherwise non-covered features that will be made operational at beneficiary request and payment of a nominal fee. Or, if it cannot be reasonably disabled, it may be described on a "free" ABN, acknowledging Medicare's non-coverage and non-payment, that will be operational when the device is delivered, and provided without charge to the beneficiary.

When is the 2015 NCD Effective?

Medicare has stated the 2015 NCD is effective immediately.

The immediate effect of the 2015 NCD is that it can be applied to all existing capped rental devices. Under capped rental, the SGD manufacturers have tried to act in compliance with *current Medicare guidance*. Because the 2015 NCD is now effective – *it* is the current Medicare guidance, and it does not bar access to non-covered features.

Any beneficiary who will benefit from text, e-mail or phone communication should contact the SGD manufacturer immediately to gain access to these capabilities.

What Happens Next?

- We should celebrate on behalf of our clients. The 2015 NCD provides a basis for SGD coverage and payment that will ensure our clients' will have the opportunity to gain access to SGDs that provide all the capabilities and features they need to communicate and more broadly, to have 'access to life.'
- As a practical matter, the SGD manufacturers must develop procedures for ABNs and decide whether and how they are going to adapt their devices and marketing materials to comply with the 2015 NCD.
- It is essential to remember that the 2015 NCD applies only to Medicare. No other funding source has to follow it – immediately, or ever. Thus, every other funding program that has a requirement or expectation that SGD funding requests be for a “dedicated” SGD will continue to have that requirement or expectation until they change it. Even if the 2015 NCD does not require use of the “word” dedicated, the SGD manufacturers have to continue to offer “dedicated” devices to ensure approvals by all these other funding programs.
- All SLPs with clients or former clients now in capped rental status should inform them of the opportunity to have their devices be “unlocked” to provide access to e-mail, texting and phone communication and to other functions that they may wish to use and benefit from.

Steve Gleason Act

- On July 30, President Obama signed the Steve Gleason Act into law.
- The law does not become effective immediately.
- It ends capped rental effective October 1, 2015.
- The end of capped rental will apply to all SGDs delivered after October 1. They will become the beneficiary's property upon delivery. There will not be monthly calls from the manufacturer asking about ongoing use. There will be effect on SGD access if there is a long hospitalization, or the onset of nursing facility or hospice care. In all three circumstances, the device can come and go with the beneficiary without risk of device loss.
- Medicare also has stated that it will end capped rental for all existing SGDs. Procedures must be developed to calculate the balance of the beneficiary's co-payment for the device and how that can be paid. Once it is paid, the device will become the beneficiary's property, ending monthly calls from the manufacturer asking about ongoing use. And, ending the potential risk of device loss if there is a long hospitalization, or the onset of nursing facility or hospice care. In all three circumstances, the device can come and go with the beneficiary without risk of device loss.
- The Gleason Act also changes the wording of the Medicare Act's definition of durable medical equipment, which becomes effective January 1, 2016. The change will add SGD eye tracking accessories to the definition. This change will not affect beneficiaries: they should continue to be recommended for eye tracking accessories when necessary, and they will continue to be provided. The change to the statute is intended to help resolve the payment dispute related to these accessories.

What Changes for SLPs?

- Defining speech
- Performing evals
- Recommending SGDs
- Writing reports

Speech

- SGDs are DME that provides an individual who has a **severe speech impairment** with the ability to meet his/her functional, speaking needs.
- Other covered features of the device include the capability to **generate email, text, or phone messages** to allow the patient to “speak” or communicate remotely

Evaluations

- Should still be done using the same feature-matching approach that's always been used
- Should include trials with email, texting, and phone use (based on client need and preference)
- Given that patients may be composing more complex messages, language formulation method remains a crucial feature in the evaluation.
- May take longer as there are more features to look at. This may result in reimbursement issues. It is possible that having OT or other disciplines involved in the evaluation may help recover cost.
- May require greater education for SLPs as evaluators will need to have a good understanding of how patients will access these different types of speech.

Some Considerations

- Will patients access email and texting thru SGD proprietary software or via desktop?
 - Some email providers have accounts that port easily into SGD software that may be customized to support alternative access; others do not.
- Will the technology integrate in actuality and not just theory?
 - The fact that a manufacturer claims a device can perform a specific task does not mean that the device can do that with the client's existing equipment. For example, a device may have the capability of sending/receiving text messages, but only with specific phones, and the available versions of specific phones may vary by phone provider.
- Does the SGD retain a Bluetooth connection or does it drop it and require renewed pairing?
 - If an external speaker is required for speech to be heard, the speaker may always work every time the SGD is turned on or it may require adjustment. Patients may be cognitively or physically unable to make adjustments.

Recommending SGDs

- Equipment will still have to be acquired thru a Medicare supplier.
 - It will not be possible to get an iPad at Best Buy and expect that Medicare will cover it.
 - This also applies to the purchase of software and communication apps. While apps might technically fall under the SGD software definition, keep in mind that any SGD, including software, must be purchased from a Medicare vendor.
- Manufacturers will continue to provide dedicated devices, since the 2015 NCD applies only to Medicare. It behooves us to recommend the dedicated version of devices, especially since many Medicare beneficiaries have secondary insurances that are not bound by the 2015 NCD.
- Recommending the “dedicated” version ensures that the device complies with the NCD requirement that *the SGD is limited to use by a patient with a severe speech impairment and is primarily used for the purpose of generating speech.*

Writing Reports

- The SLP evaluation and report required by the Medicare Local Coverage Decisions for SGDs should continue to be followed.
- The outlines, templates and report writing aids developed to help SLPs conduct complete evaluations and prepare complete reports consistent with the LCDs for SGDs should continue to be used. (These can be found at <http://aac-rerc.psu.edu/index.php/pages/show/id/5>; and a www.aacfundinghelp.com (AAC report coach) and at the web pages for the SGD manufacturers.)
- SLPs should continue to identify Medicare beneficiaries' need for an SGD based on their inability to meet their daily speaking needs using oral speech or other natural communication methods.
- SLPs should continue to report only the client's need for oral speech.
- SLPs should *never* include in their reports that Medicare beneficiaries need or intend to use the SGD for any purposes other than as a supplement or substitute for speaking.
- SLPs should *never* include in their reports that Medicare beneficiaries will seek to access any of the non-speech generating capabilities of the SGD, such as videoconferencing, Skype, controlling the TV, etc.
- SLPs should continue to identify in their recommendations the *dedicated* model of the SGD most appropriate to meet Medicare beneficiaries' needs.

Writing About Remote Communication

- SLPs will clearly be allowed to include references to remote communication need or intent without risking Medicare funding
- It would be better to **NOT** take advantage of this as the expanded definition of speech only applies to Medicare.
 - No other funding program has yet adopted the 2015 NCD
 - Most other funding sources expect or require SLP reports and recommendations to establish that clients require a dedicated SGD to meet communication need in a face-to-face fashion.
 - Many Medicare beneficiaries have dual eligibility, and reports must be written based on the narrowest approval criteria. Writing a report differently may result in funding denial.
 - Omitting references to remote communication in a report does not suggest SLPs should omit examining the need for these features in the evaluation.

Examples of Functional Communication Needs

- Mr. Smith needs to **speak** with his wife daily to assure her that he is safe while she is at work. (the fact that he does this via text message does not need to be stated).
- Mrs. Jones needs to **speak** with her transportation company to arrange transportation for herself. (the fact that she does this on line or via email does not need to be stated)

Conclusion

- The 2015 NCD restores the scope of Medicare SGD coverage that existed between 2001-2013, and will make it easier for clients to access SGDs' non-face-to-face communication features and non-communication features.
- The 2015 NCD eliminates all vestiges of the 2014 “coverage reminder.”
- The Gleason Act eliminates “capped rental.”
- Once again, Medicare SGD coverage criteria can be a *positive* model for other funding programs to copy for their own use.
- As occurs with all new coverage opportunities or guidelines, there will be a period of adjustment and assimilation of new procedures, vocabulary and opportunities. Hopefully, this period will be short and whatever issues are identified will be resolved quickly.

Follow Up Information

- FAQ about the 2015 NCD are posted at www.patientprovidercommunication.org.
- The slides from Sessions I and II are posted for download and an audio recording of Session I is posted for review at <https://www.isaac-online.org/english/news/webinars/>. The slides and audio for this session also will be posted at this site.
- Join USSAAC! <http://www.ussaac.org/memberships.cfm>
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- Let us know what you think and ideas for future topics and events
- Thank you!

