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## AAC Funding & Report Writing for Medicare, Medicaid & Insurance

**Presenter:**  
Lewis Golinker, Esq.

**Moderated by:**  
Amy Hansen, M.A., CCC-SLP, Managing Editor, SpeechPathology.com

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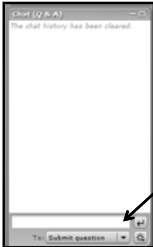
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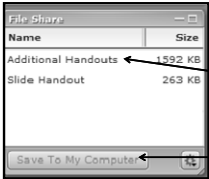
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## Today's Presenter

- Lewis Golinker, Esq.
- Attorney with 29 years experience in expanding access to funding for SGDs Facilitator of the AAC Service at the Center for Disabilities and Development
- Advocacy director for the United States Society for Augmentative and Alternative Communication (USSAAC)
- Information posted at: [www.aacfundinghelp.com](http://www.aacfundinghelp.com) and the [funding information posted at www.aac-rerc.com](http://www.aac-rerc.com).

### **AAC Funding & Report Writing for Medicare, Medicaid & Insurance**

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## **AAC Funding & Report Writing for Medicare, Medicaid & Insurance**

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## **Health Benefits Programs that Cover & Provide SGDs**

- Medicaid
- Medicare
- Insurance
- Tricare
- Department of Veterans Affairs

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## Remember: SGDs Are *NOT* “Assistive Technology”

- Health Benefits Programs Generally Do Not Recognize “assistive technology”
- Cover “Durable Medical Equipment”
- Cover “Prosthetic Devices”

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## Determining Whether SGDs Are Covered

- All Health Benefits Programs follow a 4 Question Test:
  - 1 Is the person “eligible?”
  - 2 Is the item or service “covered?”
  - 3 Is the item or service “medically necessary?”
  - 4 Does the request meet any special eligibility or coverage rules that may apply?
- **Must show that 1-4 are “yes.”**

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## Eligibility

- No Universal Health Benefit
- Medicaid: poor, disabled
- Medicare: 65 or older
  - < 65: prior work + disability + 24 months wait period (except ALS)
- Tricare: active duty military or retiree or dependent
- Insurance: must be covered by policy or plan

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## Coverage

- No Universal Benefits – item sought -- SGD -- must “fit” within *one or more* covered benefits categories
- DME – most common “equipment” benefit
- Prosthetic Devices
- Medicaid: also consider: EPSDT; OT/PT/SLP Services; ICF/MR; NF Services

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## Coverage

- Does the funding program have specific SGD Coverage Policy or SGD Coverage Criteria?
  - More than half of all Medicaid programs;
  - Medicare;
  - Many insurers, both large and small, including Aetna; CIGNA; at least 42 BCBS associations; United Healthcare
  - Tricare
- When coverage policy or criteria exist, coverage is not a key question, but other requirements must be met to gain access and funding

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## Durable Medical Equipment

- If no coverage policy, must show item or service “fits” definition of DME
- No universal definition
- Most Common:
  - able to withstand repeated use
  - is primarily and customarily used to serve a medical purpose
  - is generally not useful to a person in the absence of illness or injury
  - is suitable for use in the home.

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## Medical Purpose

- Medical purpose = treatment for a condition or disability
- This is the most common excuse to deny SGDs
- SGDs “treat” severe communication impairments:
  - Dysarthria -- Aphasia
  - Apraxia -- Aphonia
  - Developmental Expressive Communication Impairment

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## Medical Purpose: SGDs

- Criterion: “Primarily & Customarily Used to serve a Medical Purpose”
  - SGDs serve **only** a medical purpose
  - SGDs *treat* severe communication impairments that interfere with meeting communication needs arising in the daily activities.

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## Medical Purpose: SGDs

- Proof: information exists about specific conditions:
  - CP; Autism; ALS
- Proof: Functional gap – Receptive language vs. expressive language
- Proof: Communication-related anger, frustration; depression; self-injurious behavior
- “but for”
- “Use” does not equal “need”
  - Educational, vocational, social “need”
- SGDs serve the same functional role as wheelchairs

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## Medical Purpose: SGDs

- Medical purpose of SGDs is confirmed by other programs:
  - Medicare
  - Medicaid
  - Food & Drug Administration

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## Medical Purpose: SGDs

- Insurers: SGD Coverage Policies:
  - Aetna
  - Majority of Blue Cross/Blue Shield Associations
  - CIGNA
  - United Healthcare  
[https://www.unitedhealthcareonline.com/ccmcontent/Provider/II/UHC/en-US/Assets/ProviderStaticFiles/ProviderStaticFilesPdf/Tools%20and%20Resources/Policies%20and%20Protocols/Medical%20Policies/Medical%20Policies/DME\\_CD.pdf](https://www.unitedhealthcareonline.com/ccmcontent/Provider/II/UHC/en-US/Assets/ProviderStaticFiles/ProviderStaticFilesPdf/Tools%20and%20Resources/Policies%20and%20Protocols/Medical%20Policies/Medical%20Policies/DME_CD.pdf). see page 3 item 11]
- Insurers: Past Approvals:
  - If insurers previously paid, they must explain how policies or plans are different

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## Prosthetic Devices

- No universal definition
- Medicaid: "means replacement, corrective or supportive devices ... to:
  1. artificially replace a missing portion of the body
  2. prevent or correct physical deformity or malfunction; or
  3. support a weak or deformed portion of the body."
- Medicare: "(1) devices that replace all or part of an internal body organ";
- Medicare: "devices that replace all or part of the function of a permanently inoperative or malfunctioning internal body organ"

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## Prosthetic Devices

- SGDs are Prosthetic Devices:
  - Tricare – by statute (only federal statute that mentions SGDs as covered benefits)
  - Dept. of Veterans Affairs

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## Also Consider Other Covered Benefits: Medicaid

- EPSDT: for persons birth to age 21
- OT/PT/SLP Services: cover “necessary supplies and equipment.”
- ICF/MR-DD Facility Services
- NF Services
  - Special issues: who pays: Medicaid or NF?

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## Medical Need: SGDs

- No Universal Definition
- NY Medicaid:
  - “Medical assistance” shall mean payment of part or all of the cost of **medically necessary** medical, dental and remedial care, services and supplies, as authorized in this title or the regulations of the department, which are **necessary to prevent, diagnose, correct or cure** conditions in the person that **cause acute suffering, endanger life, result in illness or infirmity, interfere with such person’s capacity for normal activity, or threaten some significant handicap** and which are furnished an eligible person in accordance with this title and the regulations of the department.
- Washington Medicaid:
  - a requested service reasonably calculated to diagnose, correct, cure, alleviate or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, **and another equally effective more conservative or substantially less costly course of treatment is not available or suitable for the recipient requesting the service. The course of treatment may include mere observation, or, where appropriate, no treatment at all.**

Source: Washington Administrative Code (WAC) § 388-80-005(44)(1992).

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## Medical Need: SGDs

- Medicare: “Reasonable & Necessary”
  - Medicare is prohibited from making payment under Parts A or B for any items or services “which ... are not reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member.”

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## Medical Need Issues: SGDs

- Medical Need arises when an individual, due to severe communication impairment, is not able to meet all communication needs arising in all daily activities
- Medical Need is not “medical speak”
- “Need” is not measured by *who* (is spoken to), *where* (speech occurs), or *what* (is said).
- AMA, AAN, AAPMR, AAP all say SGDs are effective, medically necessary treatment

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## Special Eligibility Rules

- Look within eligibility for benefits
  - E.g., age; place of service restrictions
- Look within Coverage Policies
  - E.g., dedicated speech generating devices
  - E.g., trial use periods; videos
- Look at “Exclusions”
  - express exclusions
  - “convenience items”
  - “experimental or investigational care”
  - “devices to aid non-verbal communication”

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## Age; Place of Service Limits

- Some benefits are limited by recipient age: e.g., Medicaid – EPSDT (only to 21<sup>st</sup> birthday); other “optional” services
- Some benefits are limited only to recipients with certain status: e.g., Tricare, before Sept. 1, 2005 SGDs were covered only for dependents of active duty personnel (new rules went into effect on 9/1/05)
- Some benefits are limited by where the recipient lives, e.g., Medicare – DME is not a covered benefit for NF residents
- Some benefits are limited by enrollment in special services, e.g., Medicare – DME is not a covered benefit for hospice recipients

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## Dedicated “Speech Generating Devices”

- Medicare insists that computer and PDA-based SGDs be “dedicated”
- “Dedicated” means able to run only SGD software (not a meaningful limitation in practice)
- Many Medicaid programs have longstanding SGD coverage guidelines that say computer-based SGDs are covered
- Newer guidelines may require “dedicated” devices
- SLPs **always** should recommend dedicated, locked or Medicare-compliant SGD model and say so in report.

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## Special Data Requirements

- Some SGD coverage guidelines require special data to be supplied, e.g., trial use period reports or video-tapes of clients using devices

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## Exclusions

- Insurance – exclusions are common.
- Insurance policies: stated in benefits booklet
- Health benefits plans: stated in “summary plan description”
- Exclusions are phrased in several ways:
  - Some identify specific types of treatment or equipment that are not covered;
  - others refer to characteristics of care that will cause non-coverage if the characteristic applies to the treatment being requested.
- SGD exclusions may be express, e.g., “devices and computers that aid communication and speech” are not covered;
- SGDs may be cited as an example of an exclusion based on care characteristics, e.g., care “convenience items,” or “experimental or investigational care.”
- If SGDs are specifically excluded, these denials can be challenged, but a professional advocate is needed.
- If SGDs are not specifically identified as an excluded item or as an example within an exclusion category, any reference to an exclusion as a reason for denial of an SGD funding request will just be a reviewer’s opinion. These are easily reversed on appeal.

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## SGDs are not “Convenience Items”

- Communication is “vital” human functional ability
- Communication is the functional ability that distinguishes humans from other species
- Communication Impairments create life-death risks

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## SGDs are not “Convenience Items”

- Medicare & Tricare Both Recognize SGDs are not Convenience Items
- Medicare: “convenience item” means: “[e]quipment which basically serves comfort or convenience functions or is primarily for the convenience of the person caring for the patient, such as elevators, stairway elevators, and posture chairs.”
- Tricare: “Personal, comfort, or convenience items such as beauty and barber services, radio, television and radio.”

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## If Denied: Appeal

- All funding programs offer appeal opportunities
- Appeals should be considered in every denial circumstance
- Advocates should be sought in every circumstance

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## Funding Resources:

- Assistive Technology Law Center
  - 401 East State Street, Suite 300
  - Ithaca, NY 14850
  - 607-277-7286
  - lgolinker@aol.com
- [www.aacfundinghelp.com](http://www.aacfundinghelp.com)

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### SpeechPathology.com Virtual Conference on AAC

**Guest Moderator: Filip Loncke**

<b>Monday, 3/21</b>	AAC in School Settings: What is the Role of the SLP? <i>Nancy Robinson, Ph.D., CCC-SLP</i>
<b>Tuesday 3/22</b>	Use of AAC Devices and Strategies for People with Aphasia <i>Sarah Wallace, Ph.D.</i>
<b>Wednesday 3/23</b>	Practicing AAC in Acute Care Settings <i>Debora Downey, M.A., CCC-SLP</i>
<b>Thursday 3/24</b>	AAC Funding and Report Writing for Medicare, Medicaid and Insurance <i>Lewis Golinker, Esq.</i>
<b>Friday 3/25</b>	AAC Funding and Report Writing for Special Education <i>Lewis Golinker, Esq.</i>

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