

90.5 – Creating New Guidance

(Rev. 120, Issued: 01-16-15, Effective: 01-01-15, Implementation: 01-01-15)

In coverage situations where there is no NCD, LCD, or guidance on coverage in original Medicare manuals, an MAO may adopt the coverage policies of other MAOs in its service area.

However, if the MAO decides not to use coverage policies of other MAOs in its service area, the MAO:

- Must make its own coverage determination;
- Must provide CMS an objective evidence-based rationale relying on authoritative evidence such as:
 - Studies from government agencies (e.g. the FDA);
 - Evaluations performed by independent technology assessment groups (e.g. BCBSA); and
 - Well-designed controlled clinical studies that have appeared in peer review journals; and
- In providing its justification, the MAO may not use conclusory statements with no accompanying rationale (e.g., “It is our policy to deny coverage for this service.”)

The requirement that an MA plan provide coverage for all Medicare-covered services is not intended to dictate care delivery approaches for a particular service. MA plans may encourage enrollees to see more cost-effective provider types than would be the typical pattern in original Medicare, as long as those providers are licensed and working within the scope of their licenses and the plan complies with the provider anti-discrimination rules set forth in 42 CFR §422.205.

An MA plan’s flexibility to deliver care using cost-effective approaches should not be construed to mean that Medicare coverage policies do not apply to the MA program. If original Medicare covers a service only when certain conditions are met, then such conditions must be met in order for the service to be considered part of the original Medicare benefits component of an MA plan. An MA plan may cover the same service when the conditions are not met, but these benefits would then be defined as supplemental.