

AMERICAN ACADEMY OF AUDIOLOGY

11730 Plaza America Drive, Suite 300, Reston, VA 20190-4798 • 1-800-AAA-2336

May 4, 2012

Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Acting Administrator Tavenner,

The American Academy of Audiology is the world's largest professional organization of, by, and for audiologists. The American Academy of Audiology (the "Academy") promotes quality hearing and balance care by advancing the profession of audiology through leadership, advocacy, education, public awareness, and support of research. On behalf of over 11,000 members, the Academy writes to urge the Centers for Medicare & Medicaid Services (CMS) to conduct a full investigation into a Medicare Advantage hearing aid benefit being offered by a subsidiary of United Healthcare called hi HealthInnovations.

While the Academy recognizes that hearing aids are not a covered benefit under the traditional fee-for service Medicare program, initial diagnostic audiology services that may ultimately result in the provision of a hearing aid are indeed covered under the fee-for-service Medicare benefit. The Academy asserts that the United Healthcare/hi HealthInnovations (UHC/HHI) Medicare Advantage hearing aid benefit effectively denies to Medicare Advantage beneficiaries a diagnostic service performed by a qualified health professional under Part B that is currently available to Medicare fee-for-service beneficiaries, thereby creating an inequitable level of service problem that necessitates CMS review.

UHC/HHI introduced an online hearing test as part of a new 'hearing aid benefit' during the nationwide open enrollment period for Medicare Advantage insurance plans in October 2011. In addition to the online test, another component of the benefit is the availability of a limited variety of hearing aids for online internet purchase by the beneficiary directly from hi HealthInnovations. It has been the Academy's position from the inception that this benefit, in its current state, poses health and efficacy concerns to Medicare Advantage beneficiaries because the benefit purports to diagnose hearing loss without direct patient contact with an audiologist or other qualified hearing health professional. Direct patient contact and interaction with a qualified hearing health professional through the diagnostic hearing exam is a required step in the process of assessing and diagnosing hearing loss.

The removal of audiologists and other hearing health professionals from the initial screening process in this internet "benefit" effectively denies the same level of service to Part C participants under Section 1852 (a)(1)(B) of the Social Security Act, which requires that all Medicare Part A and Part B services "are available" to Part C beneficiaries. The internet hearing aid benefit offered under Medicare Advantage Part C plans by UHC/HHI literally cuts short the Part B hearing exam benefit that a beneficiary is otherwise entitled to under fee-for-service Medicare.

Section 1852 (a)(1)(B) is further explained in regulations at 42 CFR section 422.101, governing Medicare Advantage Program benefits and beneficiary protections, and states in relevant part:

[E]ach Medicare Advantage organization must meet the following requirements:

(a) Provide coverage of, by furnishing, arranging for, or making payment for, all services that are covered by Part A and Part B of Medicare (if the enrollee is entitled to benefits under both parts) or by Medicare Part B (if entitled only under Part B) and that are available to beneficiaries residing in the plan's service area.¹

The Academy strongly believes that the best model for hearing health care consists of a comprehensive evaluation by a licensed hearing health professional, such as an audiologist, followed by, when applicable, the appropriate fitting of a hearing aid, as well as rehabilitation and counseling. Intervention by a highly qualified health care provider is not a part of the direct-to-consumer model being marketed to United Healthcare beneficiaries. This critical component is necessary to ensure the safety of the Medicare beneficiary.

Audiologists have Master's or Doctoral Degrees in audiology and hold state licenses that reflect their scope of practice, which includes diagnostic and treatment services for persons with hearing and balance disorders. Audiologists are uniquely educated and trained in the evaluation, assessment, diagnosis, management, treatment and prevention of hearing and balance problems. Part of an audiologic evaluation includes identifying "red flags" which may indicate the presence of a medical condition, for which an audiologist is required to refer the patient to a physician. Through the HealthInnovations benefit, there are no safeguards in place to identify medical conditions using an internet-based hearing test.

In addition, the Academy has become aware of a UHC/HHI Hearing Test Kit that has been distributed to primary care physician offices throughout the country to instruct network physicians when seeing patients who may need to be tested for hearing loss. One of the Academy's many concerns with the Hearing Test Kit includes the billing advice that accompanies the product. By way of background, the UHC/HHI Hearing

¹ Code of Federal Regulations, 42 CFR 422.101 (2011).

Test Kit testing procedure is performed via an automated process and does not require a qualified health care provider to administer the procedure. The instructions state “...the software will guide the patient through the hearing test” and advises the provider to remain “nearby.” Documentation included with the product indicates that the procedure is billable to United Healthcare Medicare Advantage Plans using CPT code 92552 (Pure tone audiometry [threshold], air only).

The Academy remains concerned that UHC/HHI is advising physicians in its network to bill the procedure to CPT code 92552 and that there is no guidance regarding the qualifications of the individual administering the test, in fact, no qualified health care provider need be present at all. Under the Medicare program, CPT code 92552 is diagnostic and requires the skills of qualified health professional, who would use clinical judgment, decision-making, specialized knowledge of anatomy, physiology, and neurology to name a few areas of expertise set forth in the Medicare Manuals, including Chapter 12 of the Medicare Claims Processing Manual (publication 100-04). Again, in this way, the UHC/HHI internet hearing benefit violates Social Security Act section 1852 (a)(1)(B) and related regulations promulgated at 42 CFR 422.101 by failing to provide a similar level of hearing health diagnostic services for Medicare Advantage beneficiaries as compared to beneficiaries who choose to participate in the fee-for-service Medicare option.

The Academy believes that the direct-to-consumer hearing benefit currently offered to Medicare Advantage subscribers by hi HealthInnovations poses significant safety concerns and limits access to high quality, professional care by well-trained, licensed providers. Further, denying Medicare Advantage beneficiaries access to a Medicare Part B service that is otherwise available to beneficiaries who do not choose to enter the Medicare Advantage market is a violation of Section 1852 (a)(1)(B) of the Social Security Act, and inconsistent with the objective and spirit of the Part C program to maintain an equitable level of service across Medicare programs, whether a beneficiary should choose to stay with the traditional fee-for service model or opt for a Medicare Advantage plan.

For the reasons outlined above, the Academy requests that CMS conduct a full investigation into the legal and regulatory sufficiency of the UHC/HHI Medicare Advantage hearing aid benefit, including the online hearing exam, the Hearing Test Kit (the Academy can provide you with a sample at your request) and related marketing materials located at <https://www.hihealthinnovations.com/>. The Academy looks forward to a response from CMS regarding these concerns.

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Should you have any questions regarding this request, or if the Academy may be of further assistance, please contact Sharmila Sandhu at (202) 544-9337 or by email at ssandhu@audiology.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'T Walden', written in a cursive style.

Therese Walden, AuD
President

Cc: Danielle Moon, J.D., M.P.A., Director, Medicare Drug and Health Plan Contract
Administration Group