

Documenting Compliant Reconstructive Surgery Reviews

April 2017

Why we are here



Today's goal is to give you tools to perform and document reconstructive surgery reviews that are compliant with the Reconstructive Surgery Act, and with Blue Shield of California's medical policy.



Compliance with California state law.

Fewer overturns from Blue Shield.

Learning objectives

Upon completion of this webinar, you should be able to:

- 1 Describe the requirements of the Reconstructive Surgery Act.
- 2 Describe the requirements of Blue Shield's medical policy for reconstructive surgery.
- 3 List the 5 steps in documenting compliant reconstructive surgery reviews.
- 4 Identify characteristics of compliant reconstructive surgery reviews.
- 5 Use the reconstructive review checklist when performing reviews.

Requirements of the Reconstructive Surgery Act



About the state law: Definitions

California Health and Safety code section 1367.63
(Reconstructive Surgery Act)



(c) (1) "Reconstructive surgery" means surgery performed to correct or repair abnormal structures of the body caused by congenital defects, developmental abnormalities, trauma, infection, tumors, or disease to do either of the following:

(A) To improve function.

(B) To create a normal appearance, to the extent possible.

(d) "Cosmetic surgery" means surgery that is performed to alter or reshape normal structures of the body in order to improve appearance.

About the state law: Review standards



California Health and Safety code section 1367.63 (Reconstructive Surgery Act)

- (e) In interpreting the definition of reconstructive surgery, a health care service plan may utilize prior authorization and utilization review that may include, but need not be limited to, any of the following:
- (1) Denial of the proposed surgery if there is another more appropriate surgical procedure that will be approved for the enrollee.
 - (2) Denial of the proposed surgery or surgeries if the procedure or procedures, in accordance with the standard of care as practiced by physicians specializing in reconstructive surgery, **offer only a minimal improvement in the appearance of the enrollee.**
 - (3) Denial of payment for procedures performed without prior authorization.

AB 1621, hearing date: February 25, 1998

Assembly Committee on Insurance, Liz Figueroa, Chair

Why the bill was introduced:

- Managed care organizations were refusing to cover surgeries to correct serious physical deformities in patients, often children.
- Plans' rationale: Reconstructive surgery was not medically necessary because the person could continue to function without the surgery.
- This "bodily function test" can have cruel repercussions, for example:
 - A young deaf child born with no outer ear was denied surgery to create a visible ear structure.
 - The HMO argued that surgery would have been "cosmetic" rather than medically necessary because the child was deaf.
 - The plan argued that reconstructive surgery would not have improved any bodily function, and would only have improved the child's appearance.
- Out of at least 10 similar cases that the Department of Corporations (DOC) documented, they concluded that only one surgery was "cosmetic."

Legislative intent

Reconstructive surgery either improves function or creates a normal appearance to the extent possible.

Vs.

Cosmetic surgery is performed to alter or reshape normal structures of the body in order to improve appearance.

Support for the bill

- The California Nurses Association points out the distinction between reconstructive surgery and cosmetic surgery as shown above. This distinction is at the heart of the bill.
- The Children's Advocacy Institute argues that more than 12,500 babies a year are born in California with birth defects, most of which are correctable with reconstructive surgery.
 - When health plans deny these children coverage of surgery, the deformation can lead to serious childhood despair and other unquantifiable psychosocial costs.
 - Denial of this care can have life-altering consequences for these children and their families.
- Similarly, the San Francisco Commission on the Status of Women notes that reconstruction is an essential element on the continuum of quality care.

Blue Shield's
reconstructive surgery
policy:
"Reconstructive Services"



Blue Shield's reconstructive surgery policy

blue  of california

What is an abnormal structure?

- In differentiating a normal from an abnormal structure, the qualified reviewer will consider any of the following:
 - The availability of published normative data for specific anatomic measurements (e.g., cephalometric data for orthognathic surgery).
 - The structural changes that are accommodative responses to gain or loss of body mass (e.g., abdominal panniculus without complications).
 - The structural changes that are associated with aging.
 - The normal structures wide range of accepted variations in diverse populations (e.g., nasal size and shape).
 - The presence of a cosmetic implant, in the absence of adjacent native tissue structural pathology, does not constitute an abnormal structure (e.g., cosmetic unilateral, bilateral or asymmetrical saline breast implants).
- In determining whether or not a procedure is likely to result in more than minimal improvement in appearance, the qualified reviewer will consider both the size and location of the structural abnormality.

Steps for documenting compliant reviews



5 steps to a compliant review:

1. **Abnormal structure:** Answer the question: Is this an abnormal structure?
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** Determine if the surgery is reconstructive in nature:
 - a. Will the proposed surgery improve function?
 - b. Will the proposed surgery create a normal appearance to the extent possible?
4. **UM:** State UM considerations.
5. **Medically necessary:** Determine if the surgery is medically necessary to treat an illness, injury or medical condition.

TIP: Remember “A D R U M”



Compliant review documentation

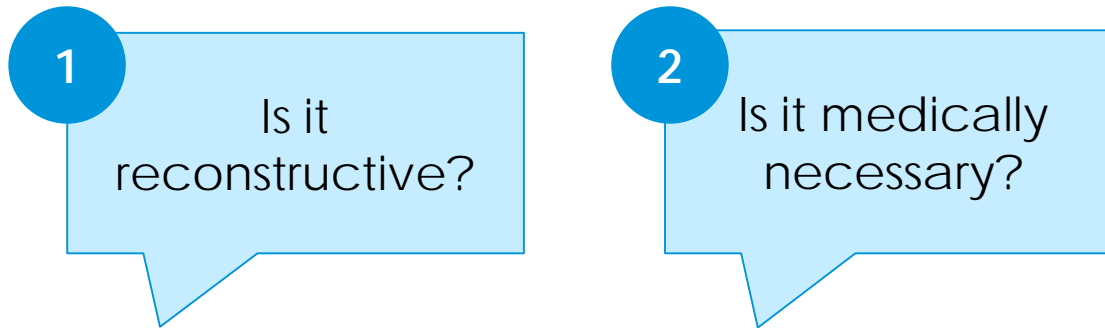
The phrase, “cosmetic, not covered” does not support a compliant review when used alone.



- Essentials of denial language as defined by DMHC are:
 - Clear and concise explanation for the decision
 - Description of the criteria or guideline used for the determination
 - Clinical reason for the decision

Compliant review documentation

When performing reviews, the main questions to ask are:



- If neither one is true, then it is not covered and we don't need to use the term "cosmetic."
- The National Committee for Quality Assurance (NCQA) requires review by someone who is competent in evaluating the specific clinical issues involved in the requested care.
- The law requires the reviewer be familiar with standards for performing reconstructive surgery and what constitutes minimal improvement.

Examples from participating medical groups and DMHC decisions



Medical group denial: Laser for Becker's nevus shoulder

EXAMPLE:
Non-compliant
review

"The service requested is denied because there is lack of medical necessity. We cannot approve your request for a consult at UCLA Dermatology Center (specialty that deals with skin condition) for an evaluation of patches on the shoulder.

[Your child's] records do not show that he is having any pain or infection. Therefore, it has been determined by a physician reviewed at PMG that this request is not medically necessary at this time. Instead of the above request we are recommending the following: please follow up with [your child's] PCP to determine other options for care."
*The service requested is considered to be **cosmetic — not a covered benefit.**"*

The member's father appeals for Blue Shield to overturn the PMG's denial and authorize the consultation for laser treatment of his son's right shoulder lesion. He says the symptoms on his son's shoulder have persisted for the past six years, have increased in size and coloration during this period and, at this time, is impacting his overall well-being.

"My son's condition is medical and may not have any physical pain or infection but my observation is that of a young man who is preoccupied by a skin condition affecting his self-esteem. The treatment of this lesion should be considered medically necessary as a health plan should be comprehensive and address the physical, mental and spiritual well-being of an individual."

5 steps to a compliant review:

1. **Abnormal structure:** Answer the question: Is this an abnormal structure?
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** Determine if the surgery is reconstructive in nature:
 - a. Will the proposed surgery improve function?
 - b. Will the proposed surgery create a normal appearance to the extent possible?
4. **UM:** State UM considerations.
5. **Medically necessary:** Determine if the surgery is medically necessary to treat an illness, injury or medical condition.

TIP: Remember “A D R U M”



Blue Shield uphold: Laser for Becker's nevus shoulder



We cannot approve your request for coverage of a consultation for [member] for laser surgery for a Becker's nevus.

The principal reason is that you **did not meet the medically necessary criteria** established by Blue Shield of California's medical policy for reconstructive services.

State principal reason for denial

Your appeal tells us that [member] is preoccupied by the skin condition and it is affecting his self-esteem. According to the policy, your **plan covers reconstructive surgery for abnormal structures of the body that are present at birth or due to trauma, infection, tumors or disease**. The surgery must do one of the following:

Summarize the appeal

- (1) **Create a normal appearance** to the extent possible, or
- (2) **Improve function**

Explain criteria using language from the law and Blue Shield policy (abnormal structure)

Blue Shield uphold: Laser for Becker's nevus shoulder, continued

EXAMPLE:
Compliant
review

It is **not medically necessary** unless it is likely to result in more than a minimal improvement in appearance.

Your records were **reviewed by an independent dermatologist** whose opinion is that this service is not covered as medically necessary reconstructive surgery. The reviewer commented that laser therapy is generally not very effective for this type of lesion. Accordingly there is a strong likelihood that only **minimal improvement** would occur and the likelihood of **recurrence is potentially strong**.

Explain that the criteria was not met and why (not medically necessary)

Explain who reviewed the records and what the findings were

The reviewer stated that a Becker's nevus is not usually treated because there are **no physical or functional limitations** from it and it is likely that only a minimal improvement would occur with therapy.

Torn earlobe request: What would you do?



POLL

A 40-year-old female enrollee has requested a bilateral earlobe piercing repair. She is requesting surgery to repair both earlobes. The right hole is stretched, and the left earlobe is torn through completely.

Answer choices:

1. DENY both sides because ear piercing is cosmetic and this created the problem to begin with.
2. DENY both sides because it is not due to trauma, congenital defect or disease, so is not reconstructive.
3. DENY both sides because repair would offer only minimal improvement.
4. DENY right stretched side because repair would offer only minimal improvement, and APPROVE left side because it is due to trauma and repair would offer more than minimal improvement.
5. APPROVE both sides because the left is due to trauma and offers more than minimal improvement, and repairing the right will create symmetry to achieve a normal appearance.


The best answer is #4. DENY the right stretched side because repair would offer only minimal improvement, and APPROVE the left because it is due to trauma and repair would offer more than minimal improvement.

Compliant review for Torn earlobe

A compliant review should ask the following:

1. **Abnormal structure:** Is this an abnormal structure?
 - Right ear: No, normal extension of piercing due to long-term stress of wearing an earring
 - Left ear: Yes, lobe torn due to trauma
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** If an abnormal structure is documented, determine if the surgery is reconstructive in nature:
 - Left ear: Will the proposed surgery improve function? No. Will the proposed surgery create a normal appearance to the extent possible? Yes.
 - Analysis not required for right ear because there is no abnormal structure.
4. **UM considerations:**
 - Left ear: will the procedure result in more than minimal improvement in appearance? Yes
5. **Medically necessary:**
 - Right ear: Is surgery medically necessary to treat an illness, injury or medical condition? No. (this analysis is required for the right ear because coverage is denied under the reconstructive analysis. This analysis is not required for the left ear because the proposed surgery was determined to be reconstructive in nature, therefore covered).

DMHC review: Torn earlobe



EXAMPLE:
Compliant
review

A 40-year-old female enrollee has requested a bilateral earlobe piercing repair. She is requesting surgery to repair both ear lobes. The right hole is stretched, and the left ear lobe is torn through completely.

The physician reviewer found that evidence did not reveal a functional deficit, illness or disease related to the patient's enlarged right earring hole or left earlobe split.

Left approved: However, the split left earlobe constitutes an abnormal structure of the body presumably caused by trauma and would offer more than a minimal improvement in the appearance of the patient. Thus, surgical repair of the left split earlobe meets the criteria for reconstructive surgery.

Right denied: Since the patient's enlarged earring hole on the right side **does not constitute an abnormal structure** and is not related to a functional deficit, its repair would be considered cosmetic in nature.

Keloid excision request: What would you do?



POLL

A 53-year-old male enrollee has requested right ear keloid excision for treatment of a mass on his right earlobe that developed following surgery nine months ago.

It is an enlarging, painful keloid that developed behind the right ear. No other conservative measures to address the keloid have been attempted.

Answer choices:

1. APPROVE excision to improve appearance.
2. DENY because keloids are scars that develop from time to time after surgery so they are not an abnormal structure due to trauma, congenital defect, infection or disease.
3. DENY because there has not been enough time to see if the keloid will resolve on its own. The provider can resubmit after 12 months to see if it is better.
4. DENY because treatment will only offer a minimal improvement in appearance since it is behind the ear.
5. DENY due to no trial of conservative therapy such as steroid injections.
6. DENY because there is another more appropriate surgery that can be performed such as steroid injections.


The best answer is # 6. DENY because there is another more appropriate surgery that can be performed such as steroid injections.

Compliant review for keloid excision

A compliant review should ask the following:

1. **Abnormal structure:** Is this an abnormal structure? Yes.
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** If an abnormal structure is documented, determine if the surgery is reconstructive in nature:
 - Will the proposed surgery improve function? No.
 - Will the proposed surgery create a normal appearance to the extent possible? Yes.
4. **UM considerations:**
 - Will the procedure result in more than minimal improvement in appearance? Yes.
 - Is there another more appropriate surgical procedure that will be approved? Yes.
5. **Medically necessary:** Determine if the surgery is medically necessary to treat an illness, injury or medical condition.
 - The painful enlarging keloid is a medical condition and treatment is medically indicated.
 - Is the proposed surgery consistent with generally accepted professional standards to treat this medical condition? No, due to lack of efficacy.

Medical group denial: Mole removal



EXAMPLE:
Compliant
review

An enrollee is requesting removal of moles.

We cannot approve your request to remove your mole(s).

*It is **not medically necessary** reconstructive surgery. "Reconstructive surgery" means surgery on an abnormal structure of the body that you were born with or that was caused by trauma, infection, tumors or disease. The surgery must either improve function or create a normal look if possible.*

*We reviewed your records. You have moles that you want removed. Moles are **not abnormal structures** of the body. They form in response to being in the sun. Also, the moles are small and removal would only result in a minimal improvement. They **do not have signs of possible cancer** so it is not medically necessary to take them off.*

Compliant review for mole removal

A compliant review should ask the following:

1. **Abnormal structure:** Is this an abnormal structure? No.
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** If an abnormal structure is documented, determine if the surgery is reconstructive in nature:
 - Will the proposed surgery improve function? n/a.
 - Will the proposed surgery create a normal appearance to the extent possible? n/a.
4. **UM considerations:**
 - Will the procedure result in more than minimal improvement in appearance? n/a.
 - Is there another more appropriate surgical procedure that will be approved? n/a.
5. **Medically necessary:** Is the surgery is medically necessary to treat an illness, injury or medical condition?
 - No, there is no documented illness, injury or medical condition requiring treatment.

Abdominoplasty and panniculectomy



Blue Shield's reconstructive surgery policy

Panniculectomy

- If the Reconstructive Surgery Act definition is met, **panniculectomy may be considered “reconstructive surgery” and medically necessary** for an individual who meets either of the following:
 - For restoration of normal appearance when the panniculus hangs at or below the level of the symphysis pubis (documented by medical quality color clinical preoperative frontal and lateral photographs).
 - For restoration of normal function, if office notes document the panniculus is causing a chronic and persistent skin condition (e.g., panniculitis, cellulitis, non-healing skin ulceration, or intertriginous dermatitis) that remains refractory to at least three months of medically supervised conservative treatment (e.g., in addition to good hygiene practice, topical antifungals, topical and/or systemic corticosteroids, and/or local or systemic antibiotics).

Blue Shield's reconstructive surgery policy

Abdominoplasty and diastasis recti

Abdominoplasty


Abdominoplasty is generally considered not medically necessary; however, abdominoplasty may be considered reconstructive according to the Reconstructive Surgery Act when there is documentation of a significant structural abnormality of the abdominal musculature caused by a congenital defect, developmental abnormality, trauma, infection, tumors or disease, and the purpose of the procedure is to do either of the following:

- Create a normal appearance to the extent possible
- Improve function

Diastasis recti repair

Repair of diastasis recti, alone or in combination with another abdominal procedure, is considered not medically necessary for all indications; a review for medical necessity is required.

DMHC review: Panniculectomy and breast reconstruction



EXAMPLE:
Compliant
review

A 54-year-old female has requested panniculectomy, breast tissue reconstruction/mastopexy (CPT 19319) and excessive skin removal/whole body lift (CPT 15831) for treatment of her medical condition status post gastric bypass with weight loss.

Panniculectomy approved: The physician reviewer found that the excess abdominal tissue of the lower abdomen and ptotic breast tissue should be considered abnormal as a result of obesity and subsequent weight loss. This finding is consistent with the photographs and medical documentation as obesity can be considered a disease. The patient reports irritation, rashes and open sores and has tried over-the-counter medications. The requested panniculectomy would be expected to offer more than a minimal improvement.

Breast reconstruction denied: Finally, the appearance of the breasts confirms a grade II ptosis, but does not appear to be significantly abnormal to justify treatment, and may be expected given her age and current weight.

Compliant review based on Panniculectomy, Abdominoplasty, and Surgical Management of Diastasis Recti medical policy

1. **Abnormal structure:** Is this an abnormal structure? Abdominal panniculus: Yes, when the panniculus hangs at or below the level of the symphysis pubis. Breast ptosis: No, if within the range of normal for age and weight.
2. **Documentation:** State the presence or lack of appropriate documentation.
3. **Reconstructive:** If an abnormal structure is documented, determine if the surgery is reconstructive in nature:
 - Will the proposed surgery improve function? Yes, if medical records document a chronic and persistent skin condition per policy criteria.
 - Will the proposed surgery create a normal appearance to the extent possible? Yes, when the panniculus hangs at or below the level of the symphysis pubis
4. **UM considerations:**
 - Will the procedure result in more than minimal improvement in appearance? Yes, when the panniculus hangs at or below the level of the symphysis pubis.
 - Is there another more appropriate surgical procedure that will be approved? n/a.
5. **Medically necessary:** Is the surgery is medically necessary to treat an illness, injury or medical condition?
 - Chronic skin breakdown is also a medical condition that requires treatment. If the procedure is not deemed reconstructive in nature, it should be evaluated for medical necessity.

Checklist and resources



Summary: Compliant review checklist



- ☐ Did you answer the question: Is this an **abnormal structure**?
- ☐ Did you state the presence or lack of appropriate **documentation**?
- ☐ Did you determine if the surgery is **reconstructive** in nature?
 - ☐ Will the proposed surgery improve function?
 - ☐ Will the proposed surgery create a normal appearance to the extent possible?
- ☐ Did you state **UM** considerations?
- ☐ Did you determine if the surgery is **medically necessary** to treat an illness, injury or medical condition?

TIP: Remember “A D R U M”



Resources

- [California Reconstructive Surgery law](#)
(or go to <http://leginfo.legislature.ca.gov> and search for HCS 1367.63)
- [Blue Shield's policy](#) "Reconstructive Services" on Provider Connection
(www.blueshieldca.com/provider/authorizations/clinical-policies)
- If you have questions, contact your Blue Shield regional medical director

The screenshot displays the 'blue of california' logo and 'provider connection' header. A navigation bar includes links for 'provider home', 'eligibility & benefits', 'authorizations', 'claims', 'guidelines & resources', and 'new'. Below this, a breadcrumb trail reads 'Provider Connection > Authorizations > Clinical Policies and Guidelines'. The main content area is titled 'clinical policies and guidelines' and contains two columns. The left column has a sidebar with links: 'Request Authorization', 'View Authorization Status', 'Managing Out-of-Area Blue Plan Members', 'Clinical Policies and Guidelines' (highlighted), and a list of sub-topics including 'Drug Formulary, Policy and Forms', 'Medical Policies and Procedures', 'Medication Policy', and 'Medical Policy and General Prior Authorization Requirements for Out-of-'. The right column provides descriptive text and a section titled 'IN THIS SECTION' with two links: 'Drug Formulary, Policy And Forms' and 'Medical Policies And Procedures'. A large black arrow points from the right towards the 'Medical Policies And Procedures' link.

blue of california | provider connection

provider home | eligibility & benefits | **authorizations** | claims | guidelines & resources | new

Provider Connection > Authorizations > Clinical Policies and Guidelines

clinical policies and guidelines

Find policy information about medications and medical procedures, devices and technologies, learn about our prior authorization procedures, and access our outpatient drug formulary in this section.

Also download prior authorization forms for medical procedures, oral/topical drugs and home self-administered injectables.

IN THIS SECTION

Drug Formulary, Policy And Forms
Search our drug formulary database, get prior authorization forms, and find information on oral and topical drugs, home-injectable drugs and more.

Medical Policies And Procedures
Learn about our medical policies, policy goals and our process for making coverage decisions for new technologies.