

## Same or Similar Tips and Examples With Clinical Scenarios & Documentation

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AFO's denied by Traditional MCR as "Same or Similar" may be appealed through the redetermination process. MCR Advantage and other third-party payers all have various appeal processes.

No matter whether Traditional Medicare, MCR Advantage or Third Party, the success of an appeal will always depend on the strengths of your documentation.

Carriers will review documentation to determine if the previous item was lost, stolen, irreparably damaged by a specific incident, **or if there was a change in the patient's diagnosis or medical/physiological condition.**

In our overview document TayCo provided many scenarios which would qualify as change of condition or diagnosis. **This document will provide several common clinical scenarios (abridged as needed) with some simple pearls for documentation providing some every examples of every day scenarios. Every patient's documentation must be individualized. Documentation supporting the need for a replacement/new device may span several dates of service, all of which should be submitted with the appeal.** One may choose to mix and match many of the suggestions from these clinical examples to match those of your patients.

### **General Rule in Documentation in preparation of Same or Similar Denials and Appeals:**

1. The clinical examination must justify the use of an AFO (custom fit or custom fabricated) and meet the Medicare Policy requirements better known as the Local Carrier Determination (LCD).
2. When justifying a replacement device, objective recording of why the current/past device is not meeting the current needs of the patient and how the new/replacement device will meet the patient's current needs must both be documented.

Case 1. No Same or Similar Found: Medicare Noridian and MYCGS all four portals and found no AFO dispensed in last five years. A copy of these reports is attached and is to be considered part of the medical record.

Diagnosis: Initial encounter for left ankle sprain grade 3, anterior talofibular, calcaneofibular, and deltoid ligaments.

Plan of Care: Applied compression wrap with posterior splint made of fiberglass and padded appropriately. Instructions were given for PWB with crutches, NSAIDS, and elevation. Pt to be evaluated in one week to for a TayCo XAB L1971 with limited ROM 5-10° and FWB and PT. The TayCo will provide a progression of care plan from no ROM to limited ROM to full ROM per standard of care not provided by the previous device.

Case 2. No Same or Similar Found: Medicare Noridian and MYCGS all four portals and found no AFO dispensed in last five years. A copy of these reports is attached and is to be considered part of the medical record.

Diagnosis: Degenerative Arthritis of the Ankle, Ankle Equinus, Talipes Valgus Treatment Plan: Prescription for custom ankle-foot orthosis with ankle joints. The patient demonstrates significant pain with limited ankle joint ROM and equinus with hindfoot valgus deformity. The patient has the potential to benefit functionally and requires correction in more than one plane of deformity and they will require the AFO to be used for a period exceeding 6 months.

Case 3. Same or Similar Found on portal. Patient had left plantar fasciitis and static NWB AFO L4397 was dispensed in April 2017 by another provider Jon Smith DPM. Copy of Portal Results incorporated into chart and considered part of the medical record.

Diagnosis: Initial encounter for left ankle sprain grade 3 - anterior talofibular, calcaneofibular, and deltoid ligaments.

Plan of Care: Medicare Noridian and MYCGS all four portals and found an AFO was dispensed within the last five years by another provider in our DME MAC (Region A). The device dispensed in 2017 was for a different diagnosis (plantar fasciitis) and is inappropriate and contraindicated (for wt. bearing use). The TayCo AFO is to be used to treat the patients PWB to FWB needs of a grade 3 ankle sprain which cannot be addressed by a static NWB AFO (L4396).

The patient signed an ABN which (check one):

- 1) Accepted financial responsibility to pay for the TayCo and asked that we not bill Medicare
- 2) Accepted financial responsibility and paid for the TayCo acute brace but asked that we do bill Medicare.
- 3) Accepted financial responsibility but asked that we bill Medicare and if Medicare did not cover the TayCo, they would pay for the device.

Patient is to be placed in compression wrap (posterior splint). Instructions were given for PWB with crutches, NSAIDS, and elevation. Patient was instructed to RTO in one week for evaluation of a TayCo XAB L1971 with limited ROM 5-10°. Subsequently there we will transition to full ROM with the same TayCo with a different hinge setting, and a PT referral/consult will be made and obtained.

Case 4. Same or Similar Found with different diagnosis (previous CAM Walker for 5th metatarsal left fracture) now needs device with ROM for progression of care.

Diagnosis: Initial encounter left ankle sprain grade 3: anterior talofibular, calcaneofibular, and deltoid ligaments.

Plan of Care: Medicare Noridian and MYCGS all four portals and found an AFO (Cam boot) was dispensed within the last five years by Dr Smith (e.g., Region A). That provider informed us that it was provided for a left foot fifth metatarsal base fracture. This was corroborated by the patient.

This device is inappropriate for the current new diagnosis because it would not provide for allowance of a progression of care. That is while the CAM walker device would immobilize, it would not facilitate and would actually interfere with the patient's rehabilitation by providing only total immobilization and not

allow adequate adjustable ROM to facilitate soft tissue healing and prevent scarring of intra and extra-articular structures. The CAM walker device would create undue harm to the patient and prevent them from adequately recovering to performing their ADL's.

The patient signed an ABN which (check one):

- 1) Accepted financial responsibility to pay for the TayCo and asked that we not bill Medicare
- 2) Accepted financial responsibility and paid for the TayCo acute brace but asked that we do bill Medicare.
- 3) Accepted financial responsibility but asked that we bill Medicare and if Medicare did not cover the TayCo, they would pay for the device.

Patient was placed in compression wrap (posterior splint). Instructions were given for PWB crutches, NSAIDS, and elevation. Patient will be evaluated in one week to for a TayCo XAB L1971 with limited ROM 5-10°. Subsequently patient will transition to full ROM with the same TayCo XAB L1971 with a different hinge setting, and PT. The TayCo will provide a progression of care plan from no ROM to limited ROM to full ROM per standard of care not provided by the previous device.

Case 5. Same or Similar Found with same diagnosis for custom fabricated device.

Diagnosis: Follow up encounter for partial drop foot.

Major issue to emphasize: Same diagnosis different condition. Significant wt. gain

Plan of Care: Our history of this patient goes back >10 years. Our records indicate that he had a complete left foot drop as a result of a CVA in 2018. The medical records also document the patient weighed 150 lbs. in 2018. The patient today weighed at 225 lbs. He attributes this weight gain due to his inactivity and excessive eating. Multiple attempts were made to conform to the patient's leg were attempted but failed to obtain a proper fit. Heating the device either by us or by our vendor laboratory failed to obtain a proper fit (cite those DOS). Therefore, the patient needs a new device which can fit his anatomy as the present is too tight presents a potential danger to create a pressure injury with soft tissue breakdown. The patient also refuses to wear the device on many days because it will not lift and they are unstable in their without a corrective braces creating a significant potential for a major fall related injury. While his diagnosis is the same his condition has measurably changed (wt. gain).-We have also provided the order form documenting the measurement changes taken in 2018 and those taken today illustrating the measurement differences. Additionally, the use of the TayCo custom device L1970 base code, not previously available, by eliminating the foot plate, allows the patient to utilize their own shoe(s) eliminating the inherent limb length discrepancy and back issue often found in patients utilizing AFO's. The patient's diagnosis requires he use this device for their lifetime. Also by virtue of the design of the TayCo brace, this device will be much more amenable to fit with either wt. gain or loss.

The patient signed an ABN which (check one):

- 1) Accepted financial responsibility to pay for the TayCo and asked that we not bill Medicare

- 2) Accepted financial responsibility and paid for the TayCo acute brace but asked that we do bill Medicare.
- 3) Accepted financial responsibility but asked that we bill Medicare and if Medicare did not cover the TayCo, they would pay for the device.

As patient agreed to (state which one) the patient.

Continue with the casting, measuring note etc.

#### Case 6. Same or Similar Found: Diagnosis Same, Worsening Condition

Patient had previously received a custom fitted and now needs custom fabricated device.

Major issue to emphasize: Same diagnosis different (worsening) condition. Inability to use previous brace because of a significant change in anatomy with progressive collapse of midtarsal and subtalar joints from PTTD/Adult Acquired Flatfoot. The previous custom fitted device no longer fits despite numerous attempts at repair.

Hx: Patient was prescribed a custom fitted AFO in 2019 for PTTD/Adult Acquired Flatfoot. However over the next 3 years the deformity progressed with hindfoot valgus, midfoot collapse and forefoot. The previous brace no longer fits nor controls the deformity, making it medically ineffective.

Plan of care: Replace with custom fabricated AFO which will control the hindfoot, midfoot, and forefoot in more than one plane, allowing the patient ambulate and perform ADL's

The patient signed an ABN which (check one):

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- 2) Accepted financial responsibility and paid for the TayCo acute brace but asked that we do bill Medicare.
- 3) Accepted financial responsibility but asked that we bill Medicare and if Medicare did not cover the TayCo, they would pay for the device.

As patient agreed to (state which one) the patient.

Continue with the casting, measuring note etc.

Case 7. Same or Similar Found with Same diagnosis plus new diagnosis and different condition for custom fabricated device when previously patient used custom fabricated and now needs custom fabricated device.

Diagnosis: Follow up encounter for partial left drop foot. Patient has now developed medial/lateral instability, which then previous brace does not control the transverse (abduction/adduction) or frontal plane stability.

Major issue to emphasize: Same plus new diagnosis.

Plan of Care: Our history of this patient goes back >10 years. Our records indicate that he had a partial left foot drop as a result of a CVA in 2018. He then suffered another CVA approximately 3 months ago (Feb 2022) and now has a combination of partial footdrop in the sagittal plane and instability in the transverse and frontal planes.

LT MT: Ankle DF is 3/5, abductors/adductors 3/5, inversion/eversion 3/5. Reflex 0 no clonus or spasticity. Etc.

Past notes prior to the previous CVA (July 2021) document the left partial footdrop.

The previous dorsiflex assistive device is thus inappropriate and contraindicated as the patient requires a custom fabricated device which will be required for their lifetime. The patient refuses to wear the DF assistive device because of their instability since his last CVA. The patient cannot walk currently with this dorsiflex assist device and is confined to a wheelchair and/or in his attempts at gait either with a DF assist device or with no AFO reveals he is significantly unstable as he has weak dorsiflexion combined with instability. While his previous diagnosis is the same his condition has measurably changed since the second stroke. The TayCo Custom brace will control both problems, partial footdrop and instability.

The patient signed an ABN which (check one):

- 1) Accepted financial responsibility to pay for the TayCo and asked that we not bill Medicare
- 2) Accepted financial responsibility and paid for the TayCo acute brace but asked that we do bill Medicare.
- 3) Accepted financial responsibility but asked that we bill Medicare and if Medicare did not cover the TayCo, they would pay for the device.

As patient agreed to (state which one) the patient.

Continue with the casting, measuring note etc.

*Disclaimer: This document contains generalized information that is presented for informational purposes only and not specific for any one patient or circumstance. Providers are required to submit accurate and appropriate claims for the services that they provide. It is the provider's responsibility to determine medical necessity and to submit appropriate codes, charges, and modifiers for services that are rendered. Providers should consult with their payers, reimbursement specialists and/or legal counsel regarding coding, coverage and reimbursement matters. The information in this document does not constitute medical, legal, or other advice, nor is any information intended as a promise or guarantee by TayCo Brace regarding coverage or payment for products or procedures by Medicare or other payers. TayCo Brace specifically disclaims responsibility for the results or consequences of any actions taken in reliance on information in this document.*