

# Congress of the United States

Washington, DC 20515

August 5, 2022

The Honorable Chiquita Brooks-LaSure  
Administrator  
Centers for Medicare and Medicaid services  
Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, D.C. 20201

Dear Administrator Brooks-LaSure:

We write today to express our concerns over a recent decision by CMS to eliminate a necessary procedure code for women who undergo breast reconstruction surgery, specifically S2068 for deep inferior epigastric perforator (DIEP) flap. Elimination of this procedure code will restrict patient access to and choice of a safe and preferred breast reconstruction technique. As such, we ask that CMS re-evaluate their decision and reinstate code S2068 to ensure patients facing breast cancer continue to have access to the highest standard of breast reconstruction.

As of January 2022, there are more than 3.8 million women with a history of breast cancer in the U.S., and it is estimated that this year 30% of newly diagnosed cancers in women will be breast cancers. Each woman diagnosed with breast cancer will face a myriad of decisions at one of the most stressful times in her life, and surgery to remove part or all of her breast or breasts will be considered, and she will learn about available options for breast reconstruction. For women who choose to undergo breast reconstruction surgery, several procedures are available, such as (i) autologous reconstruction, meaning the use of a patient's tissue, or (ii) implant reconstruction, meaning the insertion of a medical device. The decision to undergo breast reconstruction is highly personal to each woman and all options should be available without restriction to ensure the safest possible procedure.

Autologous reconstruction refers to tissue transplanted from another part of your body, i.e., a patient's natural tissue, and there are varying procedures for this reconstruction technique. A traditional form used the tissue from the transverse rectus abdominis (TRAM) flap. But, for many women, this procedure has resulted in long term disability, long hospitalizations, decreased strength, and complications such as hernia formation because it removes all or part of a woman's core muscles. As breast reconstruction techniques made remarkable advancements, the advent of the DIEP flap procedure revolutionized reconstruction by allowing lifelong, natural tissue reconstruction without damaging muscle. DIEP flap reconstruction has led to significantly better patient outcomes including reduced hospitalization, quicker recovery times, faster return to the work, and overall better quality of life for patients.

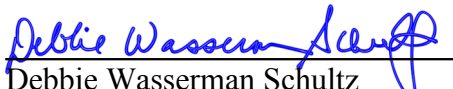
Unfortunately, in January 2021, CMS made the decision to eliminate code S2068 for deep inferior epigastric perforator (DIEP) flap breast reconstruction. This technique was previously differentiated from older, muscle-removing surgeries, like TRAM flap reconstruction, but CMS made the decision to combine all reconstructive flaps together, despite clear differences. This change has spurred commercial payers to stop reimbursing for the advanced reconstruction provided by the DIEP flap procedure. For example, United Healthcare has announced


they will no longer differentiate between muscle-removing surgeries and surgeries that do not remove any muscle,<sup>1</sup> and BCBS plans to implement a similar policy in January of 2024.<sup>2</sup>

From a patient centered perspective, these two types of surgery could not be more different. DIEP surgery reconstructs a woman's breast while preserving her strength as she plans her return to a full and productive life. TRAM surgery removes a woman's core muscles and debilitates her for the remainder of her life. Because the muscle goes undisturbed, the DIEP flap is considered an improvement over its predecessor, the TRAM flap.


The unintended consequences of CMS' decision are clear and dramatic: patients will no longer have access through insurance to the safer, advanced techniques that preserve their muscle and their function, and will be forced to choose inferior reconstructive options. For this reason, we ask that CMS re-evaluate their decision and reinstate code S2068 to ensure patients facing breast cancer continue to have access to the highest standard of breast reconstruction.


Sincerely,


  
Debbie Wasserman Schultz  
Member of Congress

  
Fred Upton  
Member of Congress

  
Brian Fitzpatrick  
Member of Congress

  
Lloyd Doggett  
Member of Congress

  
Lucille Roybal-Allard  
Member of Congress

  
John Joyce, M.D.  
Member of Congress



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Larry Bucshon, M.D.  
Member of Congress



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Karen Bass  
Member of Congress



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Neal P. Dunn, M.D.  
Member of Congress



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Ted W. Lieu  
Member of Congress



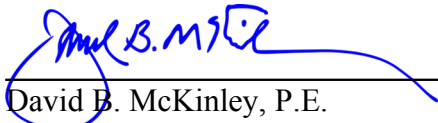
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Robert E. Latta  
Member of Congress



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Cheri Bustos  
Member of Congress



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David B. McKinley, P.E.  
Member of Congress



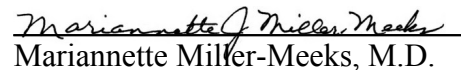
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Elissa Slotkin  
Member of Congress



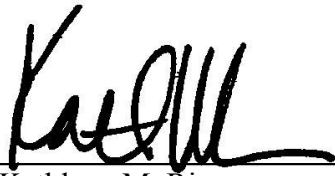
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Dan Crenshaw  
Member of Congress



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Mariannette Miller-Meeks, M.D.  
Member of Congress



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Kathleen M. Rice  
Member of Congress



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Debbie Dingell  
Member of Congress



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Daniel T. Kildee  
Member of Congress



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Jason Crow  
Member of Congress