



Ensure Coverage for Your Refractive Surgery

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Being specialists in the underwriting and management of risk for the practice of ophthalmology, OMIC makes sure that all insureds are individually reviewed and approved for their unique practices. Therefore, OMIC's policy excludes all refractive surgery until the company has had an opportunity to review the credentials and experience of ophthalmologists in the performance of each type of refractive surgery. Once approved, these services are covered at full policy limits by endorsement to the policy. No additional premium is charged for this coverage. However, coverage applies only to the specific procedure(s) added by endorsement. If an insured who has been approved for one type of procedure would like to perform other types of refractive surgery, he or she must apply and undergo underwriting review and approval for each additional type of procedure.

OMIC's refractive surgery endorsements all have a common condition for coverage to apply: the procedure must be "performed within OMIC's underwriting requirements or any exceptions to the requirements granted in writing by OMIC." Specific procedures have their own requirements, and there is also an overall set of refractive surgery requirements applicable to all. These requirements, which address patient selection criteria, informed consent processes, and postoperative care, among other issues, must be met in order for a claim to be covered. All applicants for refractive surgery receive these requirements, and, in their supplemental application, they warrant and represent that they will abide by these rules and deviate from them only after approval on a case-by-case basis from OMIC. To view OMIC's most current underwriting requirements for refractive surgery, go

to the Refractive Surgery Information page of OMIC's web site (accessible from the "Favorites" section of OMIC's home page or by selecting "Products," then "Professional Liability") and select the procedure of your choice within the supplemental refractive surgery questionnaires.

The reasons for these requirements are threefold. Performance of refractive surgery procedures within these parameters, based on sensible medical practice and sound risk management principles, should reduce the likelihood of unanticipated outcomes, and consequently, claims. They also protect the insured if a claim does arise, as procedures performed within the requirements are more defensible. The requirements also protect the company and its member-insureds, since more defensible claims protect the financial solvency of the company and therefore enable OMIC to continue to operate for the benefit of all insureds.

The requirements were implemented by OMIC's Board of Directors, under the guidance of the Underwriting Committee, composed entirely of ophthalmologists, including refractive surgery specialists. They are continually reviewed and updated as necessary, with nearly all revisions to date expanding coverage. OMIC's requirements with respect to patient selection are never more restrictive than the FDA on-label requirements and are generally more permissive. Information gleaned from past refractive surgery claims, input from defense attorneys, and studies such as the one discussed in this issue's lead article by Anne Menke, together with personal experience and expertise, all help our Board develop OMIC's refractive surgery requirements. On occasion, the Board also seeks outside input from respected leaders in the refractive surgery community before implementing requirements.

In addition to the underwriting requirements for refractive surgery procedures, OMIC also has specific postop care requirements found in the policy itself in Section III. Common

Exclusions, A.16. For coverage to apply, the insured must meet these conditions: (a) the insured operating ophthalmologist or an on-call or locum tenens ophthalmologist must perform the patient's postoperative care throughout the patient's recovery period; (b) the insured operating ophthalmologist must (i) refer the patient to a licensed ophthalmologist or other licensed physician as appropriate and (ii) obtain the patient's informed consent for planned comanagement prior to surgery; or (c) the insured operating ophthalmologist must (i) arrange for a portion of the outpatient postoperative care to be rendered by a non-physician provider who is clinically competent and lawfully able to provide that care and (ii) obtain the patient's written informed consent for planned comanagement prior to surgery. Such delegated postoperative care must be provided under the insured operating ophthalmologist's supervision. In addition to this postop care exclusion, which applies to all ophthalmic surgeries, the refractive surgery requirements oblige the operating surgeon or a designated ophthalmologist to perform the first postop visit. Together, OMIC believes these requirements best protect the insured operating ophthalmologist while providing flexibility in the provision of postoperative care by comanaging providers. Since the operating ophthalmologist is ultimately responsible for the outcome of his or her surgery, we want to facilitate his or her oversight, or proper delegation of the management, of postoperative care.

OMIC's Board is constantly balancing patient safety, claims defensibility, and its fiduciary duty to insureds with the company's desire to cover insureds for their growing expertise in new and modified procedures. So far, we're confident we've gotten it right since OMIC's claims experience is significantly better than the industry average. If you have any questions or comments about OMIC's refractive surgery requirements, please contact your underwriter.