

# LCD for Oncotype DX Test - Breast Cancer Prognosis (L28287)

## Contractor Information

### Contractor Name

Palmetto GBA

### Contractor Number

01192

### Contractor Type

MAC - Part B

## LCD Information

### LCD ID Number

L28287

### LCD Title

Oncotype DX Test - Breast Cancer Prognosis

### Contractor's Determination Number

J1B-08-0059-L

### AMA CPT / ADA CDT Copyright Statement

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### CMS National Coverage Policy

Title XVIII of the Social Security Act (SSA), §1862(a)(7), excludes routine physical examinations.

Title XVIII of the Social Security Act, §1862(a)(1)(A), allows coverage and payment for only those services considered medically reasonable and necessary.

Title XVIII of the Social Security Act, §1833(e), prohibits Medicare payment for any claim which lacks the necessary information to process the claim.

42 Code of Federal Regulations (CFR), §410.32, specifies that all diagnostic tests must be ordered by a provider who is the treating provider for the patient and who will use the test results in the patient's care.

CMS Manual System, Pub. 100-08, *Medicare Program Integrity Manual*, Chapter 3, §3.4.1.2, additional documentation requests. Medicare may request documentation from referring (treating) physicians as part of Medical Review of claims in prepay or postpay settings. This may result in denial of laboratory services as specified here and in 42 CFR 410.32(d).

**CMS billing rules for hospital inpatient, hospital outpatient, and other lab specimens.**

**Inpatients** - Lab tests for hospital inpatients are always bundled to the hospital payment and not payable separately by Part B.

**Outpatients** - Outpatient defined (Pub. 100-02, *Medicare Benefit Policy Manual*, Chapter 6, §20.1 based on 42 CFR 410.28, includes an outpatient tissue sample or blood draw. Part B may not pay for lab services of inpatients/outpatients; lab tests for hospital patients must be furnished by hospital or by independent lab via hospital arrangement, but only hospital may bill the program even though the test may not be, per se, bundled. This remains true even when the lab test itself occurs on another day; see full specimen date of service rules at CMS Manual System, Pub. 100-04, *Medicare Claims Processing Manual*, Chapter 16, §40.8. Hospital billing for outpatients specifically does not apply when the test is merely ordered during or as a result of a hospital outpatient encounter but both blood draw and test are obtained elsewhere.

**ASC or office** - For specimens at an ASC or office, Part B is always the payor.

### **Primary Geographic Jurisdiction**

California - Southern

### **Oversight Region**

Region I

### **Original Determination Effective Date**

For services performed on or after 09/02/2008

### **Original Determination Ending Date**

### **Revision Effective Date**

For services performed on or after 06/25/2009

### **Revision Ending Date**

### **Indications and Limitations of Coverage and/or Medical Necessity**

Oncotype DX (trademark) is a patented gene panel test developed for node-negative, estrogen receptor (ER)-positive breast cancer. More recent clinical data supports its use for micrometastases and for 1-3 positive nodes. The assay can be conducted on routine paraffin-embedded breast cancer tissue. Algorithmic weighting of gene expression yields a Recurrence Score (RS) which is strongly correlated with the recurrence of breast cancer and may be used in the decision making for chemotherapy. The test is provided to Medicare beneficiaries throughout the US by the CLIA-regulated laboratory of Genomic Health, Inc. Therefore, when this test is a Part B service, most or all coverage decisions for Medicare beneficiaries are made by the Part B contractor serving Genomic Health, Inc, which is Palmetto GBA. Test results have been incorporated in one version of a nationally recognized multi-variate prognostic model for breast cancer recurrence ([www.adjuvant-online.com](http://www.adjuvant-online.com); Ravdin, 2001).

For many medical devices and laboratory tests, the FDA makes determinations of safety and effectiveness, while Medicare or its contractors subsequently determine when the test is reasonable and necessary, for patient care, based on individual decisions, National Coverage Determinations, or Local Coverage Determinations. When a test is not subject to FDA marketing clearance or approval before marketing, Medicare contractors must determine safety or effectiveness. Otherwise, a test subject to FDA clearance/approval must have that approval before Medicare coverage. If a test becomes newly subject to FDA clearance/approval before further sales, due to a change in FDA policy, further coverage depends on that clearance/approval. After these steps, Medicare contractors proceed to determinations as to when the test is reasonable and necessary in specific circumstances for Medicare beneficiaries.

## **Indications and Limitations of Coverage**

Based on analysis of peer-reviewed publications, local guidance from Oncology Associations (ANCO, MOASC) as to clinic practice standards of care, extensive national comments from our LCD, and guidance from our Contractor Advisory Committee oncologists, Palmetto GBA has determined that the Oncotype DX test is considered safe and effective and reasonable and necessary to contribute to breast cancer diagnosis and major treatment decisions with the following limitations:

### **1. Characteristics of the Disease**

The Oncotype DX test is covered for patients with estrogen-receptor positive, node-negative carcinoma of the breast, for patients with estrogen receptor positive micrometastases of carcinoma of the breast, and for patients with estrogen positive breast carcinoma with 1-3 positive nodes.

### **2. Medical necessity of the Test**

Medical tests are covered only when ordered by the treating physician, when necessary for diagnosis or treatment decisions, and when used in patient care. Documentation on file with the treating physician should indicate that results of the Oncotype DX test are expected to play a significant role in management of the patient. For example, a patient with a large, high grade carcinoma who, in agreement with the oncologist and patient, has decided to have adjuvant chemotherapy regardless of the results of the test would not be an appropriate candidate for this test.

### **3. Timeliness of the Test**

A key output of the Oncotype DX test is its use in decision-making for adjuvant chemotherapy of non-metastatic breast carcinoma or for patients with micrometastases and/or 1-3 positive nodes. Usually chemotherapies have been studied for effectiveness based on initiation within 3 months of diagnosis. Oncotype DX test is not considered reasonable and necessary for care when more than six months have elapsed since diagnosis, since the value of the test for highly delayed chemotherapy is not established.

Breast cancer that is ER negative or has 4 or more positive lymph nodes is not covered for this test because clinical test show the test cannot be used for prognosis or determination of clinical course.

## Coding Information

### Bill Type Codes:

Contractors may specify Bill Types to help providers identify those Bill Types typically used to report this service. Absence of a Bill Type does not guarantee that the policy does not apply to that Bill Type. Complete absence of all Bill Types indicates that coverage is not influenced by Bill Type and the policy should be assumed to apply equally to all claims.

999x Not Applicable

### Revenue Codes:

Contractors may specify Revenue Codes to help providers identify those Revenue Codes typically used to report this service. In most instances Revenue Codes are purely advisory; unless specified in the policy services reported under other Revenue Codes are equally subject to this coverage determination. Complete absence of all Revenue Codes indicates that coverage is not influenced by Revenue Code and the policy should be assumed to apply equally to all Revenue Codes.

99999 Not Applicable

### CPT/HCPCS Codes

84999 UNLISTED CHEMISTRY PROCEDURE

### ICD-9 Codes that Support Medical Necessity

174.0 - 174.8	MALIGNANT NEOPLASM OF NIPPLE AND AREOLA OF FEMALE BREAST - MALIGNANT NEOPLASM OF OTHER SPECIFIED SITES OF FEMALE BREAST
174.9	MALIGNANT NEOPLASM OF BREAST (FEMALE) UNSPECIFIED SITE
175.0	MALIGNANT NEOPLASM OF NIPPLE AND AREOLA OF MALE BREAST
175.9	MALIGNANT NEOPLASM OF OTHER AND UNSPECIFIED SITES OF MALE BREAST
V86.0	ESTROGEN RECEPTOR POSITIVE STATUS [ER+]

### Diagnoses that Support Medical Necessity

## **ICD-9 Codes that DO NOT Support Medical Necessity**

## **ICD-9 Codes that DO NOT Support Medical Necessity Asterisk Explanation**

## **Diagnoses that DO NOT Support Medical Necessity**

### **General Information**

#### **Documentation Requirements**

Available documentation with the laboratory and/or the ordering physician should indicate that the patient has carcinoma of the breast which is hormone-receptor positive and node-negative and:

• Node-negative

• Micrometastases present

• Three or less positive nodes.

In addition, documentation of the ordering physician prior to ordering the test should indicate that the intention to treat or not treat with adjuvant chemotherapy would be contingent, at least in part, on the results of the test for the individual patient in question.

Negotiated rulemaking for laboratories indicate that upon medical review and determinations of the contractor, payment to the billing laboratory may be denied based on inadequate or nonsupportive documentation of a referring physician.

Genomic Health public documents filed with the SEC note that Oncotype DX is not currently regulated by the FDA (neither approved nor disapproved), but this status could be subject to change. Determinations of the FDA which directly affect the legality of marketing status would override this LCD.

## **Appendices**

### **Utilization Guidelines**

The test is covered for:

1. Estrogen receptor (ER) positive, lymph node negative, positive breast cancer
2. Estrogen receptor (ER) positive breast cancer with micrometastases
3. Estrogen receptor (ER) positive breast cancer with no more than three positive lymph nodes. (ER) - positive.

As is true for other clinical laboratory tests, controls and confirmatory results are considered part of the initial payment for the test.

Typically one would not perform this test more than once in a lifetime; but there are rare conditions where breast cancer can occur in a contralateral breast that is of a different cell type or different gene expression. In these cases a second test will be covered. Chart documentation should support the second test.

### **Sources of Information and Basis for Decision**

The following publications, among others, were considered in the assessment of the Oncotype DX test.

Blamey. et al. Prognostic factors in breast cancer – the formation of a prognostic index. *Clin Oncol.* 1979;5:227–236. See also application and follow-up articles in Eden, 2004.

Bast, Hortobagyi. Individualized Care for Patients with Cancer — A Work in Progress. *NEJM.* 2004;351:2865-7.

Bast, Hortobagyi. Response. *NEJM.* 2005;352:1607.

Bunnell, Winer. Lumping v. splitting. *J Clin Oncol.* 2002;20:3576-7.

Caly. et al. Analysis of correlation between mitotic index, MIB1 score and S-phase fraction as proliferation markers in invasive breast carcinoma. Methodological aspects and prognostic value in a series of 257 cases. *Anticancer Res.* 2004;24:3283-8.

Chang J, Makris A, Gutierrez AG. et al. Gene Expression Patterns in Formalin-Fixed Paraffin-Embedded Core Biopsies Predict Docetaxel Chemo sensitivity in Breast Cancer Patients, *Breast Cancer Research and Treatment.* 28 Apr 2007;108(2):233-240. Available at: [springerlink.com/content/K34173px6873j7h6/](http://springerlink.com/content/K34173px6873j7h6/). Accessed 06/10/2009.

Cobleigh MA. et al. Tumor gene expression and prognosis in breast cancer patients with 10 or more positive lymph nodes. *Clin Cancer Res.* 2005;11:8623-31.

Du. et al. Discrepancy between Consensus Recommendations and Actual Community Use of Adjuvant Chemotherapy in Women with Breast Cancer. *Ann Int Med.* 2003;138:90-97.

Eden et al. “Good Old” clinical markers have similar power in breast cancer prognosis as microarray gene expression profilers. *Euro J Cancer.* 2004;40:1837-41.

Esteval, Hortobagyi. Prognostic markers in early breast cancer. *Breast Ca Res.* 2004;6:109-18.

Gene Expression Profiling of Breast Cancer to Select Women for Adjuvant Chemotherapy. TEC Assessment Program, BCBS, 2008; 22(13):1-49. Available at: [http://www.bcbs.com/blueresources/tec/vols/22/22\\_13.html](http://www.bcbs.com/blueresources/tec/vols/22/22_13.html). Accessed 06/15/2009.

Gianna L, Zambetti M, Clark K. et al. Gene Expression Profiles in Paraffin Embedded Core Biopsy tissue Predict Response to Chemotherapy in Women with Locally Advanced Breast Cancer. *JCO.* 2005;23(24):7265-77.

Goldstein LJ, Gray R, Badve S. et al. Prognostic Utility of the 21- Gene Assay in Hormone Receptor Positive Operable Breast Cancer Compared with Classical Clinicopathologic Features. *JCO.* 1 Sep 2008;26(25):4063-71. Available at: [www.jcojournal.org/cgi/content/abstract/26/25/4063](http://www.jcojournal.org/cgi/content/abstract/26/25/4063). Accessed 06/10/2009.

Goodson. Letter to editor, *NEJM*. 2005;352:1605. The authors did not reply to Dr. Goodson's letter. SEE ALSO: Lombardo JF, Letter to editor, *NEJM*. 353:12 and reply, Paik, Tang. 353:12.

Hayes. et al. Prognostic factors in breast cancer: Current and new. *J Mamm Gland Biol & Neoplasia*. 6:375-92. See also: Hayes (2003) Clinical importance of prognostic factors. In: Bronchud, *Principles of Molecular Oncology*. 2nd ed., 2001:51-72.

Hennessy BT. et al. Individualization of neoadjuvant therapy for breast cancer according to molecular tumor characteristics. *Nat Clin Pract Oncol*. 2001;2:598-99.

Homes, Muss. Diagnosis and treatment of breast cancer in the elderly. *Cancer J Clin*. 2003;53:227-44.

Paik. et al. A multigene assay to predict recurrence of tamoxifen-treated, node-negative breast cancer. *NEJM*. 2004;351:2817-26.

Paik S. et al. Response. *NEJM*. 2005;352:1606-7.

Paik S. et al. Technology insight: Application of molecular techniques to formalin-fixed paraffin-embedded tissues from breast cancer. *Nat Clin Pract Oncol*. 2005;2:246-54.

Ravdin. et al Computer program to assist in making decisions about adjuvant therapy for women with early breast cancer. *J Clin Oncol*. 2001;19:980-991. Interval update publications have appeared.

Robbins. et al. Histological grading of breast carcinomas: a study of interobserver agreement. *Hum Pathol*. 1995;26:873-9.

Ross JS. et al. Breast cancer biomarkers. *Adv Clin Chem*. 2005;40:99-125.

Schott, Hayes. Adjuvant Chemotherapy for Elderly Women With Hormone Receptor-Positive Breast Cancer: An Old(er) Problem. *J Clin Oncol*. 2004;22:4660-2.

Swain SM. A Step in the Right Direction. *JCO*. Aug 10 2006;24(23):1-2.

Sylvia. et al. Review of determinants of patients' preferences for adjuvant therapy in cancer. *J Clin Oncol*. 2004;22:3181-90.

Van't Veer LJ, Paik S, Hayes DF. Gene expression profiling of breast cancer: a new tumor marker. *J Clin Oncol*. 2005;23:1631-5.

Weeks. et al. (1998) Relationship between cancer patients' predictions of prognosis and their treatment preferences. *JAMA*. 1998;279:1709-14.

Weiss JR. et al. (2005) Epidemiology of male breast cancer. *Cancer Epidemiol Biomarkers*. 2005;14:20-6.

### **Advisory Committee Meeting Notes**

This policy does not reflect the sole opinion of the contractor or Contractor Medical Director. Although the final decision rests with the contractor, this policy was developed in cooperation with advisory groups, which include representatives from the affected provider community.

Contractor Advisory Committee meeting dates:

California -

Hawaii -  
Nevada -

### **Start Date of Comment Period**

### **End Date of Comment Period**

### **Start Date of Notice Period**

06/16/2008

### **Revision History Number**

Revision #4

### **Revision History Explanation**

Revision #4, effective for dates of service on or after 06/25/2009

Revisions made: This LCD was updated to make clarification of coverage and to expand coverage. Under "Indications and Limitations of Coverage and/or Medical Necessity" added the statement that clinical data supports its use for micrometastases and for 1-3 positive nodes. Also added the statement the gene expression yields a Recurrence Score which correlates with the recurrence of breast cancer and "may be used in the decision making for the type of chemotherapy used ". Removed the statement that CMS ALJ has consistently determined that Oncotype DX test is covered by Medicare. Under subheading 'Characteristics of the Disease' added 'for patient with estrogen receptor positive micrometastases of carcinoma of the breast, and for patients with estrogen positive breast carcinoma with 1-3 positive nodes'. Under subheading 'Timeliness of the Test' added the statement 'for patients with micrometastases and/or 1-3 positive nodes'. Also added the statement "Breast cancer that is ER negative or has 4 or more positive lymph nodes is not covered for this test because clinical tests show the test cannot be used for prognosis or determination of clinical course. Under "Documentation Requirements" added node negative, micrometastases present and three or less positive nodes. Under "Utilization Guidelines" added the test is covered for Estrogen receptor (RE) positive, lymph node negative breast cancer, Estrogen receptor (ER) positive breast cancer with micrometastases and Estrogen receptor (ER) positive breast cancer with no more than 3 positive lymph nodes (ER) - positive. Also added the statement that one would not perform this test more than once in a lifetime; but there are rare conditions where breast cancer can occur in a contralateral breast that is of a different cell type or different gene expression. In these cases a second test will be covered. Chart documentation should support the second test. Under "Sources of Information and Basis for Decision" added four additional references (Chang J, Makris A, Gutierrez AG. et al. Gene Expression Patterns in Formalin-Fixed Paraffin-Embedded Core Biopsies Predict Docetaxel Chemo sensitivity in Breast Cancer Patients, *Breast Cancer Research and Treatment*. 28 Apr 2007;108(2):233-240; Gene Expression Profiling of Breast Cancer to Select Women for Adjuvant Chemotherapy. TEC Assessment Program, BCBS, 2008; 22(13):1-49; Gianna L, Zambetti M, Clark K. et al. Gene Expression Profiles in Paraffin Embedded Core Biopsy tissue Predict Response to Chemotherapy in Women with Locally Advanced Breast Cancer. *JCO*. 2005;23(24):7265-77; and Goldstein LJ, Gray R, Badve S. et al. Prognostic Utility of the 21-Gene Assay in Hormone Receptor Positive Operable Breast Cancer Compared with Classical Clinicopathologic Features. *JCO*. 1 Sep 2008;26(25):4063-71) which were placed in AMA citation format.

Revision #3, 02/26/2009

This LCD is being revised to implement the streamlining of the Part B LCDs per the published article "Palmetto Team to Streamline Part B LCDs in Jurisdiction 1 (J1)." This article can be viewed at [www.PalmettoGBA.com](http://www.PalmettoGBA.com) by searching for the above article name. This revision will become effective on 02/26/2009.

Revision 2, effective for dates of service on or after 02/19/2009

Revisions made: Under CMS National Coverage Policy corrected citations (i.e., Federal Register), removed duplicate citations and incorrect citations. "Utilization Guidelines" removed the limit of one test per patient. As the test may be synchronous or metachronous breast cancer and must be node negative, estrogen receptor (ER) - positive breast cancer. "Sources of Information and Basis for Decision" references were placed in AMA citation format.

Revision #1, 09/02/2008

This LCD is being revised to add Bill Type 999X because the automated system transcription process was incomplete.

### **Reason for Change**

### **Last Reviewed On Date**

06/10/2009

### **Related Documents**

This LCD has no Related Documents.

### **LCD Attachments**

There are no attachments for this LCD.

### **All Versions**

Updated on 06/19/2009 with effective dates 06/25/2009 - N/A

Updated on 02/19/2009 with effective dates 02/26/2009 - 06/24/2009

Updated on 02/13/2009 with effective dates 02/19/2009 - 02/25/2009

Updated on 07/26/2008 with effective dates 09/02/2008 - 02/18/2009

Updated on 06/08/2008 with effective dates 09/02/2008 - N/A