

# Insurance for Bilateral Cochlear Implants?

Three years ago, fewer than 50 children in the United States had bilateral cochlear implants (CIs). Today, approximately 500 children and as many adults across the United States have two implants.

Although the number of bilateral cochlear implant users is on the rise, the concept of two implants as the standard of care

in the United States is relatively new, and insurance companies are still adapting to this rapidly moving field.

If you're considering getting a second implant for yourself or your child, don't be surprised if your insurance company initially denies coverage for the second implant. Even though Wellpoint-affiliated Blue Cross Blue Shield (BCBS) subsidiaries announced on July 25, 2006, that they explicitly added coverage for bilateral implantation, others in the BCBS family and many other major insurers continue to actively exclude coverage.

On a positive note, however, many individuals eventually obtain approval for coverage following a denial of their original request by their insurance carrier.

Here are some tips to help you navigate the insurance process and pave the way to obtaining a second implant.

## Getting Started

If candidacy evaluations for the second ear are favorable and your clinic is not willing to advocate for the medical necessity of a bilateral

implant, investigate other centers. According to a recent study conducted by the Let Them Hear Foundation (LTHF), 84 percent of surgeons who perform cochlear implant surgery in the United States have either performed bilateral cochlear implant surgery or have applied for insurance preauthorization to perform one.

The number of bilateral CIs approved upon initial request is on the rise, but you can find help if you initially are denied coverage. All three cochlear implant manufacturers can provide patients with information, such as research study results, to help gain approval for bilateral surgery. In addition, some cochlear implant centers have reimbursement specialists who can help with the approval process.

LTHF, a non-profit organization that specializes in the appeals process for bilateral CI coverage, can also help. LTHF has successfully overturned 189 hearing loss-related denials since December 2005, 103 of which were for bilateral cochlear implantation. About 95 percent of these denials were pre-service. "People are shocked when I tell them that 12 percent of the insurance denials we appeal are denials that are illegal under applicable federal or state law," said Sheri Byrne-Haber, J.D., director of advocacy for LTHF.

## Dealing with a Denial

Insurers issue denials for a number of reasons. When you begin to build your appeal, it is important to clearly

X-ray taken during sequential bilateral cochlear implant surgery to check electrode placement.



identify the reason you were denied coverage to ensure that your argument is appropriately specific. If you have received a denial, it is likely to fall into one of a handful of categories. Byrne-Haber offers the following insight for dealing with each type of denial.

### ■ Not Medically Necessary

If your insurer is arguing that the procedure is not medically necessary, then your appeal needs to focus on why it is. Include objective test results demonstrating the medical need for the second implant, such as the Hearing in Noise Test (HINT) speech perception results and speech assessments, in your appeal. Subjective data, such as letters from teachers, also can support your case. Be sure your appeal addresses the psychological impact of having to hear with only one ear.

### ■ Experimental/Investigational

There are approximately 3,000 bilateral CI users worldwide and an ever-growing body of scientific evidence supporting better speech recognition in noise and better sound localization with two implants. Your argument should focus on these results, as well as on improved safety.

Forty percent of individuals who are deaf or hard of hearing may have another medical condition that makes a second CI even more important, such as vision or balance problems, weak muscle tone or sensory integration issues. Include details on those conditions if they are pertinent to your case.

Cite recent research relevant to your case. All of the CI companies publish research, available on their Web sites, in favor of bilateral implantation. In addition, you can check the Medline database at [www.pubmed.gov](http://www.pubmed.gov) for research on the topic. Be sure to review the papers cited by your insurance company as the basis for the denial. They may have disregarded more recent work on larger numbers of subjects or the articles they cited may focus on a patient population whose situation is different from yours.

### ■ Out-of-Network Service Provider

Insurance companies are obligated to provide you with a competent medical provider. However, an in-network medical provider may not offer the specialized support services you need. Visit with the proposed provider to determine his or her qualifications. If the in-network provider does not offer what you need, tailor your argument as to why the in-network provider is not as qualified as another provider you have identified. Remember to keep an open mind when exploring alternative centers.

### ■ Contract Exclusions

Blanket exclusion of CIs or implanted hearing devices in employer-provided group insurance is illegal under the *Equal Employment Opportunity Act* and the *Americans with Disabilities Act*. For more information, see Equal Employment Opportunity Commission (EEOC) Notice Number 915.002, located at [www.eeoc.gov/policy/docs/health.html](http://www.eeoc.gov/policy/docs/health.html) combined with 28 C.F.R. § 35.104, and a statement made by the EEOC at [www.abanet.org/jceb/2003/qa03eeoc.pdf](http://www.abanet.org/jceb/2003/qa03eeoc.pdf).

Even self-insured companies are not exempt. "We have been able to get blanket cochlear implant exclusions dropped for 20 different companies, and over a dozen of those were Fortune 500 corporations," said Byrne-Haber.

### What Laws Govern My Appeal?

At the onset of your appeal, figure out whether it is governed by state or federal law. You may be surprised to discover that your insurer is your employer; in fact, one-third of Americans nationwide are insured by a self-insured employer. In these cases, the name of the company on your insurance card is not your insurer but a third party claims administrator (frequently referred to as a "TPA"). If your employer is self-insured, your case is governed by a complex set of federal laws known as the *Employee Retirement Income Security Act* (ERISA), and you may not utilize your individual state's insurance commission to intervene in your case. Many self-insured employers provide internal appeals options and others require that EEOC complaints or lawsuits be filed once you have exhausted appeals with the TPA.

How do you know whether your plan is self insured? "Every employer with more than 500 employees is likely to be self insured," said Byrne-Haber. "If there is any doubt, ask the human resources department. If your employer is not self insured, you may be able to use the department that regulates insurance in your state to mediate your dispute. Forty-three of 50 states have formal processes for filing complaints.

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Each state's rules regarding what types of cases they review, whether individuals must pay a fee to have their case reviewed and the timelines for submitting requests are all different." ♪

### Let Them Hear Foundation

LTHF offers a nationwide Insurance Advocacy Program to assist individuals in appealing insurance denials, free of charge. LTHF provides appeal support for cochlear implants (single or bilateral), Bone-Anchored Hearing Aid implantation, conventional hearing aids, atresia repair, microtia reconstruction, balance disorders and other hearing related surgery. For more information, visit [www.letthemhear.org](http://www.letthemhear.org).

## LTHF's Frequently Asked Questions About

**Q: Are simultaneous (those received during the same surgery) bilateral implants easier to get coverage for than sequential (those received in separate surgeries) bilateral implants?**

A: "Yes," says Byrne-Haber. "Typically, the argument with insurers is about the cost of the procedure, and simultaneous implantation costs approximately \$15,000 less overall than two sequential bilateral implants."

**Q: Am I more likely to be approved because my first implant was paid for by another company?**

A: Payment for the first implant does not factor at all into the final decision. The only controlling issue is the contract between you and your current health insurer.

**Q: Are children more likely to be approved than adults or vice versa?**

A: Adults who are prelingually deaf or older children who received their first implant more than eight years ago are more likely to be turned down for second-side implantation. "We see more denials for these individuals," says Byrne-Haber. "The same research that demonstrates the benefits of bilateral implantation also suggests that although these population groups clearly do better with two implants than with one, their gains take longer to achieve and can be

smaller in magnitude than those seen in younger children or adults who are postlingually deaf."

**Q: Is it worth fighting or am I better off switching insurance companies next time I have the chance?**

A: If the other company's policy clearly states that bilateral implantation is covered and your current policy clearly excludes bilateral implantation, it may make sense to switch. But if it's not clear cut, Byrne-Haber suggests considering the following information.

- Each insurer differs on a state-by-state basis. Coverage can vary regionally and change over time.
- Generally speaking, the ease of appeal from easiest to most difficult is as follows. PPOs >> Open HMOs >> Closed HMOs >> Public Insurance.

**Q: The appeal process is slow, and I am worried that my child is getting older and it will be harder for him or her to adapt to the second implant. Should we just pay first and try to get reimbursed afterwards?**

A: Unless you are prepared to be ultimately responsible for the initial hospital bill, follow-up care and costs associated with complications, you are much better off waiting. On average, 80 percent of pre-

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## Bilateral Cochlear Implant Insurance

service denials (when an appeal is made before a procedure takes place) are overturned compared to 36 percent of post-service denials, leaving a majority of those appealing after the fact stuck with their bills.

"It is much easier to make a plea for a person's welfare before a surgery has taken place," says Byrne-Haber. "After receiving a second implant, the argument becomes only about the money to pay for a procedure that the insurance company said they weren't going to pay for and is much less compelling. Even though LTHF has a perfect record with pre-service appeals, we average a 60 to 80 percent success rate with post-service appeals. Post-service appeals typically take three times as long to resolve."

**Q: Can my clinic just omit mentioning that I already have a working implant in one ear when I apply for the second implant?**

A: Absolutely not. Omitting any details that are pertinent to approval could lead to the approval being revoked after the fact and could even lead to criminal charges for insurance fraud.

**Q: I sent in an appeal a month ago and was told over the phone the next day that it had been received. I called to check on it again, and now I am being told they never received my paperwork. What happened?**

A: "If it's not in writing, it didn't happen," says Byrne-Haber. "All dealings with the insurer need to be in writing. All phone calls should be summarized in writing and sent to the insurer by certified mail with return receipt requested."

**Q: How long do I have to file my appeal?**

A: The limit for each stage of your appeal can range from two weeks to one year depending on what state you live in and what level of appeal you are submitting.

**Q: Is there any way to speed up the process?**

A: If you have been waiting for a while, you may be tempted to call your insurer and demand an immediate decision. "Sit tight," advises Byrne-Haber. "Calling your insurer and demanding a decision, even if the insurer has missed their deadline, is more likely to result in a denial than an approval."

Byrne-Haber also recommends giving your insurer a reasonable extension if they request it. "An extension request from your insurer means they are still thinking about approving your request for coverage and, perhaps, are seeking an outside opinion through an external review organization."

The LTHF Insurance Advocacy program's experience has been that appeals can take anywhere from two days to 16 months, with an average of 11 weeks for the initial submission. Expedited appeals typical-

ly are available only in cases in which your doctor is willing to certify that the patient's medical condition is in severe jeopardy by a delayed answer. Typically, this type of letter is available only for patients who have had meningitis or a device failure.

**Q: Is the process really worth the battle?**

A: Sixty percent of the denials handled by LTHF were overturned on the first appeal and another 18 percent on the second appeal. Only seven percent required arbitration, external review or independent medical review before an insurance commissioner prior to successful resolution. Because this is such a long process, it is not uncommon for people to change jobs, move to another state or change insurers and be forced to restart the process. There are many opportunities to appeal and re-appeal internally to the insurer and externally to medical review boards all the way up to filing complaints with the insurance commissioner or a law suit.

Another reason not to give up is that perseverance pays off. Insurers know they profit from attrition. They are also aware that their inflexibility eventually becomes more costly than the procedure itself.

Finally, keep in mind that you are not alone. Even Michael Chorost, author of *Rebuilt: How Becoming Part Computer Made Me More Human*, is battling his insurance company for a second implant. Watch his blog for the developing story at [www.michaelchorost.com](http://www.michaelchorost.com).

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