



Extension of Payment for Section 3712 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)

MLN Matters Number: MM11784

Related Change Request (CR) Number: 11784

Related CR Release Date: May 8, 2020

Effective Date: October 1, 2020

Related CR Transmittal Number: R10116OTN

Implementation Date: October 5, 2020

PROVIDER TYPES AFFECTED

This MLN Matters Article is intended for suppliers billing Medicare Administrative Contractors (MACs) for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) items and services provided to Medicare beneficiaries.

PROVIDER ACTION NEEDED

This article informs you of the implementation of the new April 2020 DMEPOS fee schedule amounts based on changes mandated by Section 3712 (b) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Make sure your staffs are aware of these changes.

BACKGROUND

Section 3712 of the CARES Act was signed into law on March 27, 2020. While Section 3712(a) of the CARES Act does not impact the 2020 DMEPOS fee schedule, Section 3712(b) increases the non-rural fee schedule amounts for HCPCS codes for DMEPOS items and services that are adjusted based on payments determined under the DMEPOS Competitive Bidding Program (CBP).

Specifically, Section 3712(b) of CARES Act states:

“AREAS OTHER THAN RURAL AND NONCONTIGUOUS AREAS—With respect to items and services furnished on or after the date that is 30 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall apply Section 414.210(g)(9)(iv) of title 42, Code of Federal Regulations (or any successor regulation), as if the reference to “dates of service from June 1, 2018, through December 31, 2020, based on the fee schedule amount for the area is equal to 100 percent of the adjusted payment amount established under this section” were instead a reference to “dates of service from March 6, 2020, through the remainder of the duration of the emergency period described in Section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b–

5(g)(1)(B)), based on the fee schedule amount for the area is equal to 75 percent of the adjusted payment amount established under this section and 25 percent of the unadjusted fee schedule amount”.

This change requires the calculation of new 2020 non-rural fee schedules for the HCPCS codes for certain Durable Medical Equipment (DME) and Parenteral and Enteral Nutrition (PEN) items and services. Medicare will use these schedules to pay for these items and services starting with a March 6, 2020 date of service and continuing until the end of the Novel Coronavirus (COVID-19) Public Health Emergency (PHE). For areas other than non-rural areas (i.e., rural or non-contiguous areas), the fee schedules for DME and PEN codes with adjusted fee schedule amounts will continue to be based on a blend of 50 percent of the adjusted fee schedule amounts and 50 percent of the unadjusted fee schedule amounts until the end of the COVID-19 PHE.

The 75/25 blend non-rural fee schedule amounts required by the CARES Act, effective March 6, 2020, have been calculated and made available for payment of items furnished on or after April 22, 2020. For dates of service from March 6, 2020, through April 22, 2020, MACs will reprocess affected claims; identified, in part, by the list of HCPCS codes attached to this CR, to pay the higher blended 75/25 non-rural fees for this time period.

Because the revised non-rural fee schedule amounts are partially based on unadjusted fee schedule amounts; the KE modifier (non-rural fee schedules for items bid in the initial Round 1 CBP) has been added back to the fee schedule file for the length of the PHE.

The KE modifier was added to the DMEPOS fee schedule file as part of the January 2009 fee schedule update and described items that were bid under the initial Round 1 CBP, but were used with non-competitive bid base equipment. Background information and a list of the applicable KE HCPCS codes was issued in Transmittal 1630, [CR 6270](#), dated November 7, 2008.

For beneficiaries residing in non-rural areas, in cases where accessories included in the 2008 Original Round One CBP are furnished for use with base equipment that was not included in the 2008 CBP (for example, manual wheelchairs where the KU modifier does not apply, canes, and aspirators), suppliers should submit a request for reopening if their claim for dates of service between March 6, 2020, and April 22, 2020, should have been processed with the KE modifier. For claims that the KE modifier would have been applicable to, the supplier may adjust the claim or notify the MACs to adjust the claims after the mass adjustments for the 75/25 fee blend are completed.

Your MAC will use a one-time process to validate and adjust claims using the new April 2020 DMEPOS fee schedule file when the following is true:

- The FROM date of service is between March 6, 2020, through April 22, 2020
- The HCPCS/Modifier combination is on the list in Attachment A of CR 11784
- The claim line was previously paid

Claim lines for claims with a ZIP code in rural area or in a competitive bidding area priced under the suspension are excluded. Claims for beneficiaries residing in Alaska, Hawaii, and the U.S. territories are excluded from these adjustments.

After the above automated adjustments have been completed, your MAC will adjust claims for the KE modifier with dates of service beginning March 6, 2020, through April 22, 2020, when you bring those claims to the MAC's attention for the HCPCS/Modifier Combination in Attachment B of CR 11784.

ADDITIONAL INFORMATION

The official instruction, CR 11784, issued to your MAC regarding this change is available at <https://www.cms.gov/files/document/r10116otn.pdf>. You can find the list of HCPCS codes and modifiers impacted by these changes as attachments A and B to this CR.

If you have questions, your MACs may have more information. Find their website at <http://go.cms.gov/MAC-website-list>.

DOCUMENT HISTORY

Date of Change	Description
April 12, 2021	We replaced an article link with a link to the related CR.
May 8, 2020	Initial article released.

Disclaimer: Paid for by the Department of Health & Human Services. This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents. CPT only copyright 2019 American Medical Association. All rights reserved.

Copyright © 2013-2020, the American Hospital Association, Chicago, Illinois. Reproduced by CMS with permission. No portion of the AHA copyrighted materials contained within this publication may be copied without the express written consent of the AHA. AHA copyrighted materials including the UB-04 codes and descriptions may not be removed, copied, or utilized within any software, product, service, solution or derivative work without the written consent of the AHA. If an entity wishes to utilize any AHA materials, please contact the AHA at 312-893-6816. Making copies or utilizing the content of the UB-04 Manual, including the codes and/or descriptions, for internal purposes, resale and/or to be used in any product or publication; creating any modified or derivative work of the UB-04 Manual and/or codes and descriptions; and/or making any commercial use of UB-04 Manual or any portion thereof, including the codes and/or descriptions, is only authorized with an express license from the American Hospital Association. To license the electronic data file of UB-04 Data Specifications, contact Tim Carlson at (312) 893-6816. You may also contact us at ub04@healthforum.com

The American Hospital Association (the "AHA") has not reviewed, and is not responsible for, the completeness or accuracy of any information contained in this material, nor was the AHA or any of its affiliates, involved in the preparation of this material, or the analysis of information provided in the material. The views and/or positions presented in the material do not necessarily represent the views of the AHA. CMS and its products and services are not endorsed by the AHA or any of its affiliates.