

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services



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MLN Matters® Number: MM8636

Related Change Request (CR) #: CR 8636

Related CR Release Date: May 16, 2014

Effective Date: June 17, 2014

Related CR Transmittal #: R517PI

Implementation Date: June 17, 2014

Update to Surety Bond Collection Procedures

Provider Types Affected

This MLN Matters® Article is intended for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) suppliers that submit claims to Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and are required to obtain and maintain a surety bond as a condition of their enrollment in the Medicare program.

Provider Action Needed

This article is based on Change Request (CR) 8636, which outlines revised procedures to be used in the surety bond collection process. Be certain you are aware of these clarifications.

Background

For purposes of the surety bond requirement, 42 Code of Federal Regulations (CFR) section 424.57(a) defines an “unpaid claim” as an overpayment (including accrued interest, as applicable) made by the Medicare program to the DMEPOS supplier for which the supplier is responsible.

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Key Points of CR8636

The following describe the revised procedures involved in making a claim against a surety bond.

- If 45 days have passed since the initial demand letter was sent to the DMEPOS supplier, full payment has not been received, and the supplier has a surety bond, the DME MAC will (subject to the situations described in Pub. 100-08, chapter 15, section 15.21.7.1(A)(2)(b)(1) through (5)) send an “Intent to Refer” (ITR) letter to the supplier and a copy thereof to the supplier’s surety. The letter and copy will be sent no earlier than the 45th day and no later than the 60th day after the initial demand letter was sent.
- If the DME MAC does not receive full payment from the supplier within 30 days of sending the ITR letter (and subject to the situations described in Pub. 100-08, chapter 15, section 15.21.7.1(A)(2)(b)(1) through (5)), the contractor will notify the surety via letter that payment of the claim must be made to CMS within 45 days from the date of the surety letter. The DME MAC will send the surety letter no earlier than 30 days and no later than 75 days after sending the ITR letter.
- Between 8 and 12 calendar days after sending the surety letter, the DME MAC will contact the surety by telephone or e-mail to determine whether the surety received the letter.
- If the surety fails to make full payment within the 45-day timeframe, the DME MAC will (1) continue collection efforts and (2) notify the appropriate Center for Program Integrity (CPI) liaison via e-mail of the surety’s failure to make payment.

Additional Information

The official instruction regarding this change, CR 8636, is available at

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R517PI.pdf> on the CMS website.

Interested parties are strongly encouraged to read this instruction in full, as it contains additional information about the revised collection procedures.

Medicare’s surety bond requirements are summarized in detail in article MM6392 at:

<http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/MM6392.pdf> on the CMS website.

Also, you may want to review MM6854 at <http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/MM6854.pdf> which clarifies situations where surety bonds must be reported to the National Supplier Clearinghouse.

If you have any questions, please contact your DME MAC at their toll-free number. That number is available at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html> under - How Does It Work.

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