

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



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Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP): Additional Instructions for Grandfathered Items Subject to CBP

Provider Types Affected

This MLN Matters® Article is intended for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers submitting claims to Durable Medical Equipment Medicare Administrative Contractors (DME MACs) for grandfathered DMEPOS items provided to Medicare beneficiaries under the competitive bidding program.

Provider Action Needed

The Centers for Medicare & Medicaid Services (CMS) issued Change Request (CR) 9060 to make certain that your DME MACs adjust their systems as necessary to process and pay claims from grandfathered DME suppliers for certain items subject to the CBP, including capped rental items, and oxygen supply items. Make certain your billing staffs are aware of these changes.

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Background

The DMEPOS Competitive Bidding Program (CBP) was mandated by Congress through the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The statute requires that Medicare replace the current fee schedule payment methodology for selected DMEPOS items with a competitive bid process. The intent is to improve the effectiveness of the Medicare methodology for setting DMEPOS payment amounts which will reduce beneficiary out-of-pocket expenses and save the Medicare program money while ensuring beneficiary access to quality items and services.

Under the program, CMS conducts a competition among suppliers who operate in a particular Competitive Bidding Area (CBA). Suppliers are required to submit a bid for selected products. Not all products or items are subject to competitive bidding. Bids are submitted electronically through a web-based application process and required documents are mailed. Bids are evaluated based on the supplier's eligibility, its financial stability and the bid price. Contracts are awarded to the Medicare suppliers who offer the best price and meet applicable quality and financial standards. Contract suppliers must agree to accept assignment on all claims for bid items and will be paid the bid price amount. The amount is derived from the median of all winning bids for an item.

The following policies detail the CR9050 instructions for grandfathered DME items:

Accessories for Capped Rental Items

A grandfathered supplier with claims for accessories with a date of service during the rental period of the grandfathered equipment is entitled to payment at the single payment amount regardless the status of the Certificate of Medical Necessity (CMN) when the claim is submitted (provided timely filing requirements are met). DME MACs will make changes in order to pay in accordance with this policy.

Advance Beneficiary Notice (ABN)

If an Original Medicare beneficiary living in a CBA opts to receive their competitively bid items and supplies from a non-contract supplier, they can indicate that preference by signing an ABN. The DME MAC should allow the claims to process, but deny the with a Patient Responsibility (PR) group code so the beneficiary is financially responsible for the claim.

The GA modifier indicates that the beneficiary has signed an ABN for the item or supply.

The following remark and reason codes will be used when denying a claim for a competitive bid item obtained from a non-contract supplier, when the supplier has obtained an ABN from the beneficiary:

- N211: Alert: You may not appeal this decision.;
- 96: Non-covered charge(s). At least one Remark Code must be provided (may be comprised of either the NCPDP Reject Reason Code, or Remittance Advice Remark Code that is not an ALERT.) Note: Refer to the 835 Healthcare Policy Identification Segment (loop 2110 Service Payment Information REF), if present.; and

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- M38: The patient is liable for the charges for this service as you informed the patient in writing before the service was furnished that we would not pay for it, and the patient agreed to pay.

Group Code: PR – Patient Responsibility

Grandfathering: Changing Locations

Medicare allows a new 13-month capped rental period when a beneficiary receiving a capped rental item from a grandfathered supplier elects to transition to a contract supplier prior to the 13th month of rental. Medicare also allows a contract supplier to receive 10 monthly rental payments if a beneficiary receiving oxygen items from a grandfathered supplier elects to transition to a contract supplier prior to the 36th month of rental but after the 27th month of rental. If the 10 monthly rental payments are not complete prior to the end of the round and the beneficiary elects to switch again to a new contract supplier for the subsequent round, the new contract supplier will be paid the remainder of the 10 monthly rental payments. The additional payments are not payable if a beneficiary switches from a contract supplier to another contract supplier. The additional payments are payable if a beneficiary switches from a non-contract supplier (grandfathered) to a contract supplier even if it occurs between rounds.

Contract suppliers may designate certain locations as contract supplier locations and other locations that serve as a non-contract grandfather location. In any grandfathering situation, when a beneficiary switches from a grandfathered supplier (non-contract) location to a contracted location of the same or related supplier that contract supplier is not entitled to the additional payments. Simply changing the location that was furnishing the grandfathered item to a contracted location of a related supplier does not entitle the contracted supplier to additional payments.

Processing Grandfathering Claims at the 6-Digit Provider Transaction Access Number (PTAN) Level

Currently, if a non-contracted supplier provides a competitive bid item to a competitive bid beneficiary as a grandfathered supplier and then transitions the beneficiary to another related non-contracted location (that is, both locations share the same Employee Identification number and the first six-digits of their PTAN), the new location would be eligible for payment as a grandfathered supplier. Medicare's claims processing system needs to allow for payment if there is a match between the billing supplier and the supplier on the CMN at the six-digit PTAN level as opposed to the 10-digit PTAN. Once the system is updated, a related location of the grandfathered supplier can receive payment for the equipment's remaining rental months in place of the original grandfathered supplier.

Determining the Appropriate Payment Amount for a Grandfathered Item

Payment for grandfathered items is dependent upon whether or not the item was previously included in a competitive bidding round. In order to correctly determine the payment

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amount for grandfathered items, Medicare's claims processing system needs to identify grandfathered claims using a combination of ZIP Code and HCPCS code. Currently, that system identifies grandfathered claims by CBA, HCPCS code, and HCPCS modifier which can cause processing errors if the identifier used for the CBA changes (from one round to another) or if a HCPCS modifier requirements change.

Additional Information

The official instruction for CR9060 issued to your DME MAC regarding this change is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R1470OTN.pdf> on the CMS website.

“The Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Grandfathering Requirements for Non-Contract Suppliers” should be review at http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/DME_Grandfathering_Factsheet_ICN900923.pdf on the CMS website.

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

Seasonal Flu Vaccinations - For information on coverage and billing of the influenza vaccine and its administration, please refer to [MLN Matters® Article #MM8890](#), “Influenza Vaccine Payment Allowances - Annual Update for 2014-2015 Season” and [MLN Matters® Article #SE1431](#), “2014-2015 Influenza (Flu) Resources for Health Care Professionals.”

Also, check out the following resources from the Centers for Disease Control and Prevention (CDC): [Influenza \(Flu\)](#) web page for the latest information on flu including the CDC 2014-2015 recommendations for the prevention and control of influenza, antiviral information, CDC flu mobile app, Q&As, toolkit for long term care employers, and other free resources. Review the CDC’s [Antiviral Drugs](#) website for information about how antiviral medications can be used to prevent or treat influenza when influenza activity is present in your community, and view the updated “Influenza Antiviral Medications: Summary for Clinicians.” A CDC Health Update reminding clinicians about the importance of flu antiviral medications was distributed via the CDC Health Alert Network on January 9, 2015, and is available at <http://emergency.cdc.gov/HAN/han00375.asp> on the Internet.

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