

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 4130	Date: September 14, 2018
	Change Request 10924

SUBJECT: Update to the Medicare Claims Processing Manual, Chapter 23, Section 60.3

I. SUMMARY OF CHANGES: The Internet-Only-Manual (IOM 100-04, Chapter 23) relating to the methodology for gap-filling durable medical equipment, prosthetic, orthotic and supplies (DMEPOS) fee schedules is being updated to reflect the use of new sources of gap-fill pricing information announced June 11, 2018 on the CMS Spotlight section of the DME Center page (<https://www.cms.gov/Center/Provider-Type/Durable-Medical-Equipment-DME-Center.html>).

EFFECTIVE DATE: June 11, 2018

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: October 15, 2018

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	23/60/60.3/Gap-filling DMEPOS Fees

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Attachment - Business Requirements

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I. GENERAL INFORMATION

A. Background: The Internet-Only-Manual (IOM 100-04, Chapter 23) relating to the methodology for gap-filling durable medical equipment, prosthetic, orthotic and supplies (DMEPOS) fee schedules is being updated to reflect the use of new sources of gap-fill pricing information announced June 11, 2018 on the CMS Spotlight section of the DME Center page (<https://www.cms.gov/Center/Provider-Type/Durable-Medical-Equipment-DME-Center.html>). This Change Request will update Chapter 23, Section 60.3 of the IOM by adding language indicating that potential appropriate sources for gap-filling include verifiable information from supplier invoices and non-Medicare payer data.

B. Policy: For newly covered items of DMEPOS paid on a fee schedule basis where a Medicare fee does not exist, the Centers for Medicare & Medicaid Services (CMS) uses a process to establish fees called gap-filling. This allows Medicare to establish a price that aligns with the statutory requirements for the DMEPOS fee schedule.

Sections 1834(a), (h), and (i) of the Social Security Act mandate that the fee schedule amounts for durable medical equipment (DME), prosthetic devices, prosthetics and orthotics, and surgical dressings, respectively, be calculated based on average reasonable charges paid for the item or device under Medicare from a past period (“the base year”). For example, the exclusive payment rule for DME items requiring frequent and substantial servicing indicates that the fee schedule amounts must be based on the average reasonable charge in the state for the rental of the item or device for the 12-month period ending with June 1987.

Under current gap filling guidelines outlined in Chapter 60.3 of the Medicare Claims Processing Manual, Medicare establishes a new fee schedule amount based on (1) the fee schedule amount for a comparable item in the DMEPOS fee schedule, or (2) supplier price lists or retail price lists, such as mail order catalogs, with prices in effect during the base year. In establishing fees for newly covered DMEPOS, Medicare first looks to identify a comparable DMEPOS item for which a fee schedule amount already exists, as existing fee schedule amounts are based on average reasonable charges for items paid during the base year. CMS determines whether a comparable item exists based on the purpose and features of the device, nature of the technology, and other factors, and then applies that fee to the new item.

Supplier price lists include catalogues and other retail price lists (such as internet retail prices) that provide information on commercial pricing for the item. Beginning June 11, 2018, potential appropriate sources for such commercial pricing information can also include verifiable information from supplier invoices and non-Medicare payer data (e.g., fee schedule amounts comprised of the median of the commercial pricing information adjusted as described below).

If the only available commercial pricing is from a period other than the base year, CMS first deflates pricing data to the mid-point of the base year (e.g., December 1986) using the percentage change in the Consumer Price Index for All Urban Consumers from the mid-point of the pricing year to the mid-point of the base year (see Publication 100-04, Chapter 23, Section 60.3 for deflation factors). CMS then inflates that amount to the payment year using the update factors required by law. This allows Medicare to establish a fee for the

newly covered item consistent with the law.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility								
		A/B MAC			D M E M A C	Shared-System Maintainers				Other
		A	B	H H H		F I S S	M C S	V M S	C W F	
10924.1	The MACs shall be aware of the new source additions to the gap-fill instructions in Chapter 23, Section 60.3 of the IOM.				X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E M A C	C E D I
		A	B	H H H		
10924.2	MLN Article: CMS will make available an MLN Matters provider education article that will be marketed through the MLN Connects weekly newsletter shortly after the CR is released. MACs shall follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1, instructions for distributing MLN Connects information to providers, posting the article or a direct link to the article on your website, and including the article or a direct link to the article in your bulletin or newsletter. You may supplement MLN Matters articles with localized information benefiting your provider community in billing and administering the Medicare program correctly. Subscribe to the "MLN Matters" listserv to get article release notifications, or review them in the MLN Connects weekly newsletter.				X	

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information: N/A
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Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Karen Jacobs, Karen.Jacobs@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 0

Medicare Claims Processing Manual

Chapter 23 - Fee Schedule Administration and Coding Requirements

60.3 - Gap-filling DMEPOS Fees

(Rev. 4130, Issued: 09-14-18, Effective: 06-11-18, Implementation: 10-15-18)

The DME MACs and Part B MACs must gap-fill the DMEPOS fee schedule for items for which charge data were unavailable during the fee schedule data base year using the fee schedule amounts for comparable equipment, using properly calculated fee schedule amounts from a neighboring DME MAC or Part B MAC area, or using supplier price lists with prices in effect during the fee schedule data base year. Data base “year” refers to the time period mandated by the statute and/or regulations from which Medicare allowed charge data is to be extracted in order to compute the fee schedule amounts for the various DMEPOS payment categories. For example, the fee schedule base year for inexpensive or routinely purchased durable medical equipment is the 12 month period ending June 30, 1987. *Supplier price lists include catalogues and other retail price lists (such as internet retail prices) that provide information on commercial pricing for the item. Potential appropriate sources for such commercial pricing information can also include verifiable information from supplier invoices and non-Medicare payer data (e.g., fee schedule amounts comprised of the median of the commercial pricing information adjusted as described below).* Mail order catalogs are particularly suitable sources of price information for items such as urological and ostomy supplies which require constant replacement. DME MACs will gap-fill based on current instructions released each year for implementing and updating the new year’s payment amounts.

If the only available price information is from a period other than the base period, apply the deflation factors that are included in the current year implementation instructions against current pricing in order to approximate the base year price for gap-filling purposes.

The deflation factors for gap-filling purposes are:

Year*	OX	CR	PO	SD	PE	SC	IL
1987	0.965	0.971	0.974	n/a	n/a	n/a	n/a
1988	0.928	0.934	0.936	n/a	n/a	n/a	n/a
1989	0.882	0.888	0.890	n/a	n/a	n/a	n/a
1990	0.843	0.848	0.851	n/a	n/a	n/a	n/a
1991	0.805	0.810	0.813	n/a	n/a	n/a	n/a
1992	0.781	0.786	0.788	n/a	n/a	n/a	n/a
1993	0.758	0.763	0.765	0.971	n/a	n/a	n/a
1994	0.740	0.745	0.747	0.947	n/a	n/a	n/a
1995	0.718	0.723	0.725	0.919	n/a	n/a	n/a
1996	0.699	0.703	0.705	0.895	0.973	n/a	n/a
1997	0.683	0.687	0.689	0.875	0.951	n/a	n/a
1998	0.672	0.676	0.678	0.860	0.936	n/a	n/a
1999	0.659	0.663	0.665	0.844	0.918	n/a	n/a
2000	0.635	0.639	0.641	0.813	0.885	n/a	n/a
2001	0.615	0.619	0.621	0.788	0.857	n/a	n/a
2002	0.609	0.613	0.614	0.779	0.848	n/a	n/a
2003	0.596	0.600	0.602	0.763	0.830	n/a	n/a
2004	0.577	0.581	0.582	0.739	0.804	n/a	n/a
2005	0.563	0.567	0.568	0.721	0.784	n/a	n/a
2006	0.540	0.543	0.545	0.691	0.752	n/a	n/a
2007	0.525	0.529	0.530	0.673	0.732	n/a	n/a
2008	0.500	0.504	0.505	0.641	0.697	n/a	n/a
2009	0.508	0.511	0.512	0.650	0.707	n/a	n/a

2010	0.502	0.506	0.507	0.643	0.700	n/a	n/a
2011	0.485	0.488	0.490	0.621	0.676	n/a	n/a
2012	0.477	0.480	0.482	0.611	0.665	n/a	n/a
2013	0.469	0.472	0.473	0.600	0.653	n/a	0.983
2014	0.459	0.462	0.464	0.588	0.640	0.980	0.963
2015	0.459	0.462	0.463	0.588	0.639	0.978	0.962
2016	0.454	0.457	0.458	0.582	0.633	0.969	0.952
2017	0.447	0.450	0.451	0.572	0.623	0.953	0.937
2018	0.435	0.437	0.439	0.556	0.605	0.927	0.911

* Year price in effect

Payment Category Key:

- OX Oxygen & oxygen equipment (DME)
- CR Capped rental (DME)
- IN Inexpensive/routinely purchased (DME)
- FS Frequently serviced (DME)
- SU DME supplies
- PO Prosthetics & orthotics
- SD Surgical dressings
- OS Ostomy, tracheostomy, and urological supplies
- PE Parental and enteral nutrition
- TS Therapeutic Shoes
- SC Splints and Casts
- IL Intraocular Lenses inserted in a physician's office IN, FS, OS and SU category deflation factors=PO deflation factors

After deflation, the result must be increased by 1.7 percent and by the cumulative covered item update to complete the gap-filling (e.g., an additional .6 percent for a 2002 DME fee).

Note that when gap-filling for capped rental items, it is necessary to first gap-fill the purchase price then compute the base period fee schedule at 10 percent of the base period purchase price.

For used equipment, establish fee schedule amounts at 75 percent of the fee schedule amount for new equipment.

When gap-filling, for those DME MAC or Part B MAC areas where a sales tax was imposed in the base period, add the applicable sales tax, e.g., five percent, to the gap-filled amount where the gap-filled amount does not take into account the sales tax, e.g., where the gap-filled amount is computed from pre-tax price lists or from another DME MAC or Part B MAC area without a sales tax. Likewise, if the gap-filled amount is calculated from another DME MAC's or Part B MAC's fees where a sales tax is imposed, adjust the gap-filled amount to reflect the applicable local sales tax circumstances.

Contractors send their gap-fill information to CMS. After receiving the gap-filled base fees each year, CMS develops national fee schedule floors and ceilings and new fee schedule amounts for these codes and releases them as part of the July update file each year and during the quarterly updates.