

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-08 Medicare Program Integrity	Centers for Medicare & Medicaid Services (CMS)
Transmittal 834	Date: October 12, 2018
	Change Request 10984

SUBJECT: Order Requirements When Prescribing Practitioner is Also the Supplier and is Permitted to Furnish Specific Items of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to clarify our requirements for a written order when the prescribing practitioner is also the supplier, and is permitted to furnish specific items of DMEPOS.

EFFECTIVE DATE: November 13, 2018

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

IMPLEMENTATION DATE: November 13, 2018 - Medicare Administrative Contractor Implementation; January 15, 2019 - Provider Education Only

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/revise 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	5/5.2/5.2.3/Detailed Written Orders

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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EFFECTIVE DATE: November 13, 2018

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I. GENERAL INFORMATION

A. Background: This CR clarifies our requirements for a written order when the prescribing practitioner is also the supplier, and is permitted to furnish specific items of DMEPOS. In those limited instances, a separate order is not required, but the medical record must still contain all of the required order elements. Please note that nothing in this policy affects the application of the Physician Self-Referral Law.

B. Policy: There are no legislative, statutory, or regulatory impact associated with this CR.

II. BUSINESS REQUIREMENTS TABLE

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

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
10984.1	Contractors shall look to the entirety of the medical record, in those limited instances in which the prescribing practitioner is also the supplier permitted to furnish specific DMEPOS, to fulfill the elements of the written order.				X					
10984.1.1	Contractors shall not expect the practitioner to write a separate order to himself/herself.				X					
10984.1.2	Contractors shall note that nothing in this policy affects the application of the Physician Self-Referral Law.				X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
10984.2	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:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Jennifer Phillips, 410-786-1023 or Jennifer.Phillips@cms.hhs.gov , Marissa Petto, 212-616-2354 or Marissa.Petto@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

5.2.3 – Detailed Written Orders

(Rev. 834; Issued: 10-12-18; Effective: 11-13-18; Implementation: 11-13-18)

A. General

All DMEPOS items other than those referenced in 42 CFR §§ 410.38(c)(4), 410.38(d), 410.38(e), 410.38(f), and 410.38(g)(2) require detailed written orders (DWO) prior to billing. Detailed written orders may take the form of a photocopy, facsimile image, electronically maintained, or original "pen-and-ink" document. (See Chapter 3, Section 3.3.2.4).

Someone other than the physician may complete the detailed description of the item. However, the treating physician/practitioner must review the detailed description and personally sign and date the order to indicate agreement.

The supplier shall have a detailed written order prior to submitting a claim. If a supplier does not have a faxed, photocopied, electronic or pen and ink dated detailed written order signed by the treating physician/practitioner in their records before they submit a claim to Medicare (i.e., if there is no order or only a verbal order), the claim will be denied. *An exception to the requirement for a written order applies in those limited instances in which the prescribing practitioner is also the supplier and is permitted to furnish specific items of DMEPOS and fulfill the role of the supplier in accordance with any applicable laws and policies. In such cases, a separate order is not required, but the medical record must still contain all of the required order elements. Please note that nothing in this policy affects the application of the Physician Self-referral Law.*

If the claim is for an item for which an order is required by statute (e.g., therapeutic shoes for diabetics, oral anticancer drugs, oral antiemetic drugs which are a replacement for intravenous antiemetic drugs), the claim will be denied as not meeting the benefit category and if the error cannot be cured, or where it can be cured it is not cured within the prescribed timeframe, there may be financial implications for the beneficiary (see Pub. 100-04, Chapter 30, for more information on limitation on liability). For all other items (except those listed in Section 5.2.4), if the supplier does not have a dated order that has been signed by the treating physician before billing the Medicare program, the item shall be denied as not reasonable and necessary.

B. Mandatory Documentation Requirements

1. Equipment and Supplies (other than drugs)

The detailed written order for non-drug DMEPOS shall include:

- Beneficiary name;
- A description of the item to include all items, options or additional features that are separately billed or require an upgraded code. The description can be either a general description (e.g., wheelchair or hospital bed), a brand name/model number, a HCPCS code, or a HCPCS code narrative;
 - For equipment - All options or accessories that will be separately billed or that will require an upgraded code (List each separately);
 - For supplies – All supplies that will be separately billed (List each separately), and for each include:
 - Frequency of use, if applicable
 - Quantity to be dispensed
- Date of the order;
- Physician/practitioner signature;

2. All Drugs Under DME Benefit

If the supply is a DME drug, the detailed written order shall include:

- Beneficiary name;
- The name of the drug;
- Dosage or Concentration (if applicable);
- Frequency of administration (if applicable);
- Duration of infusion (if applicable);
- Quantity to be dispensed;
- Number of refills;
- Date of the order;
- Physician/practitioner signature;

For “Date of the order”, use the dispensing order date, i.e., the date the supplier was contacted by the prescribing physician (for verbal orders) or the date entered by the prescribing physician (for written dispensing orders).

C. Other Suggested Documentation

Other additional documentation, though not required, that may support medical necessity of the item billed:

- Appropriate information on the quantity;
- Frequency of change;
- Route of administration;
- Duration of need.