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# CMS Manual System

## Pub. 100-8 Program Integrity

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Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
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### CHANGE REQUEST 2202

CHAPTERS	REVISED SECTIONS	NEW SECTIONS	DELETED SECTIONS
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Chapter 5	1.1.2	---	---
Chapter 5	---	1.1.2.1	---
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*Red italicized font identifies new material.*

**NEW/REVISED MATERIAL - EFFECTIVE DATE: October 15, 2002**

**IMPLEMENTATION DATE: October 15, 2002**

Section 1.1.1, Dispensing Orders, is being changed to Verbal Orders to provide guidance on the use of verbal orders.

Section 1.1.2, Detailed Written Orders, is being changed to Written Orders to remove references to “detailed written orders” and to include further guidance on the use of faxed, photocopied, electronic or original orders.

Section 1.1.2.1, Written Orders Prior to Delivery, is being added to show supplies for which the supplier must have received a written order signed and dated by the treating physician.

Section 1.1.4, CMN as the Written Order, is being revised to remove references to “detailed written orders” and to clarify CMS’s instructions for DMERC review of faxed, copied, or electronically maintained CMNs.

Section 1.1.5, Nurse Practitioner or Clinical Nurse Specialist Rules Concerning Orders, is being revised to remove references to “detailed written orders.”

Section 1.1.6, Physician Assistant Rules Concerning Orders, is being revised to remove references to “detailed written orders.”

Section 2.1, Supplier Documentation, is being revised to remove references to “detailed written orders” and to clarify CMS’s instructions for DMERC review of faxed, copied, or electronically maintained CMNs.

**Medicare contractors only: these instructions should be implemented within your current operating budget.**

# Medicare Program Integrity Manual

## Chapter 5 – Items and Services Having Special DMERC Review Considerations

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### ***1.1.1 – Verbal Orders - (Rev. 3, .09-27-02)***

*Except as noted in Chapter 5 Section 1.1.2.1, suppliers may dispense most items of DMEPOS based on a verbal order. This verbal dispensing order must include; a description of the item, the beneficiary's name, the physician's name and the start date of the order. Suppliers must maintain written documentation of the verbal order and this documentation must be available to the DMERC upon request.*

*If the supplier does not have an order from the treating physician before dispensing an item, the item is noncovered, and the supplier must not submit a claim for the item to the DMERC.*

*For items that are dispensed based on a verbal order, the supplier must obtain a written order that meets the requirements of this section.*

### ***1.1.2 –Written Orders - (Rev. 30, 09-27-02)***

*Written orders are acceptable for all transactions involving DMEPOS. Written orders may take the form of a photocopy, facsimile image, electronically maintained, or original "pen-and-ink" document.*

*All orders must clearly specify the start date of the order.*

*For items that are dispensed based on a verbal order, the supplier must obtain a written order that meets the requirements of this section.*

If the written order is for supplies that will be provided on a periodic basis, the written order should include appropriate information on the quantity used, frequency of change, and duration of need. (For example, an order for surgical dressings might specify one 4 x 4 hydrocolloid dressing that is changed 1-2 times per week for 1 month or until the ulcer heals.)

The written order must be sufficiently detailed, including all options or additional features that will be separately billed or that will require an upgraded code. The description can be either a narrative description (e.g., lightweight wheelchair base) or a brand name/model number.

If the order is for a rented item or if the coverage criteria in a policy specify length of need, the order must include the length of need.

If the supply is a drug, the order must specify the name of the drug, concentration (if applicable), dosage, frequency of administration, and duration of infusion (if applicable).

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

*A supplier must have a faxed, photocopied, electronic or pen & ink signed order in their records before they can submit a claim for payment to Medicare. When applicable a CMN must also be in their records before they can submit a claim for payment to Medicare*

*If the supplier does not have an order that has been both signed and dated by the treating physician, the item is noncovered, and the supplier must not submit a claim for the item to the DMERC. The supplier may not submit a claim based only on a verbal order.*

Medical necessity information (e.g., an ICD-9-CM diagnosis code, narrative description of the patient's condition, abilities, limitations, etc.) is NOT in itself considered to be part of the order although it may be put on the same document as the order.

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#### ***1.1.2.1 – Written Orders Prior to Delivery – (Rev. 30, 09-27-02)***

*A written order prior to delivery is required for: pressure reducing pads, mattress overlays, mattresses, and beds; seat lift mechanisms; TENS units; and power operated vehicles. DMERCs may identify other items for which they will require a written order prior to delivery.*

*For these items, the supplier must have received a written order that has been both signed and dated by the treating physician and meets the requirements of Section 1.1.2 before dispensing the item.*

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#### **1.1.4 – CMN as the Written Order -- (Rev. 30, 09-27-02)**

When reviewing claims where the medical record contains a copied, faxed or electronically maintained CMN (any CMN created, modified, and stored via electronic means such as commercially available software packages and servers), the DMERC *must* accept the copied, faxed or electronic document as fulfilling the requirements for these documents.

*When a DMERC is investigating potentially fraudulent behavior by a supplier, it will be the supplier's responsibility to prove the authenticity/validity of the claim(s) under investigation. A DMERC may require the supplier to prove the authenticity/validity of the signature on the CMN or order, or any other questionable portion of the claim(s) under investigation.*

*Upon request by the DMERCs, suppliers must provide the CMN, in a format that the DMERCs can accept, in a timely manner. Upon medical review, the DMERCs should not deny claims solely because the CMN is faxed, copied, or electronic. The DMERC may request the supplier to download and print a hard copy of an electronic order or CMN if the DMERC cannot access it electronically.*

*For items that require a CMN, and for accessories, supplies, and drugs related to an item requiring a CMN, the CMN may serve as the written order IF the narrative description in Section C is sufficiently detailed (as described above). This applies to both hard copy and electronic orders and CMNs.*

A supplier must have a hard copied, faxed or electronic order or CMN in their records before they can submit a claim for payment to Medicare. Suppliers must ensure the security and integrity of electronically maintained CMNs are in accordance with any regulations published by CMS. DMERCs need not make any standard system changes to electronically accept e-CMN as CMS views e-CMN as a transaction between the physician and suppliers. Suppliers must continue to use current systems for transmitting claim information to the DMERC.

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### **1.1.5 – Nurse Practitioner or Clinical Nurse Specialist Rules Concerning Orders - (Rev. 30, 09-27-02)**

A nurse practitioner or clinical nurse specialist may give the dispensing order and *sign the written order in the following situations:*

- They are treating the beneficiary for the condition for which the item is needed;
- They are practicing independently of a physician;
- They bill Medicare for other covered services using their own provider number; and
- They are permitted to do all of the above in the state in which the services are rendered.

A nurse practitioner or clinical nurse specialist may complete Section B and sign Section D of a CMN if they meet all the criteria described above for signing orders.

### **1.1.6 – Physician Assistant Rules Concerning Orders and CMNs – (Rev. 30, 09-27-02)**

Physician assistants may provide the dispensing order and write and sign the *written order if they satisfy all the following requirements:*

- They meet the definition of physician assistant found in §1861(aa)(5)(A) of the Act and §2156(A) of the Medicare Carriers Manual;
- They are treating the beneficiary for the condition for which the item is needed;
- They are practicing under the supervision of a Doctor of Medicine or Doctor of Osteopathy;

- They have their own UPIN; and
- They are permitted to perform services in accordance with State law.

Physician assistants may complete Section B and sign Section D of a CMN if they meet all the criteria described above for signing orders.

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## **2.1 – Supplier Documentation - (Rev. 30, 09-27-02)**

Before submitting a claim to the DMERC, the supplier must have on file a dispensing *order, the written order, the CMN (if applicable), information from the treating* physician concerning the patient's diagnosis (if an ICD-9-CM code is required on the claim), and any information required for the use of specific modifiers or attestation statements as defined in certain DMERC policies. The supplier should also obtain as much documentation from the patient's medical record as they determine they need to assure themselves that coverage criterion for an item has been met. If the information in the patient's medical record does not adequately support the medical necessity for the item, the supplier is liable for the dollar amount involved unless a properly executed ABN of possible denial has been obtained.

Documentation must be maintained in the supplier's files for seven (7) years.

Suppliers are required to maintain proof of delivery documentation in their files. The proof of delivery requirements are outlined below according to the method of delivery. The three methods of delivery are:

- Supplier delivering directly to the beneficiary or authorized representative;
- Supplier utilizing a delivery/shipping service to deliver items; and
- Delivery of items to a nursing facility on behalf of the beneficiary.

Proof of delivery documentation must be available to the DMERC on request. All services that do not have appropriate proof of delivery from the supplier will be denied and overpayments will be requested. Suppliers who consistently do not provide documentation to support their services may be referred to the OIG for imposition of CMPs or Administrative Sanctions.