

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-08 Medicare Program Integrity</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 641</b>	<b>Date: February 19, 2016</b>
	<b>Change Request 9524</b>

**SUBJECT: Proof of Delivery in Nursing Facilities**

**I. SUMMARY OF CHANGES:** The purpose of this change request (CR) is to inform the Durable Medical Equipment Medicare Administrative Contractors that they will no longer be using prospective billing as stated in Chapter 5 of Pub. 100-08 when reviewing proof of delivery of items delivered to a nursing facility.

**EFFECTIVE DATE: March 19, 2016**

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

**IMPLEMENTATION DATE: March 19, 2016**

*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.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
R	4/4.26.1 - Proof of Delivery and Delivery Methods
R	5/Table of Contents
R	5/5.2/5.2.8 - Refills of DMEPOS Items Provided on a Recurring Basis
D	5/5.2/5.2.9 - Refills of DMEPOS Items Provided on a Recurring Basis

**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

<b>Pub. 100-08</b>	<b>Transmittal: 641</b>	<b>Date: February 19, 2016</b>	<b>Change Request: 9524</b>
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**SUBJECT: Proof of Delivery in Nursing Facilities**

**EFFECTIVE DATE: March 19, 2016**

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## I. GENERAL INFORMATION

**A. Background:** Due to an increase in supplier complaints regarding how the proof of delivery is reviewed when a supply is delivered to a nursing facility, we are removing conflicting policy and clarifying current policy.

**B. Policy:** This CR does not involve any legislative or regulatory policies.

## 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	
9524.1	Contractors shall, when evaluating usage by the beneficiary to satisfy the proof of delivery requirements for items supplied in bulk, accept evidence that the patient utilized the supplied item.				X					
9524.2	Contractors shall continue to ensure that any bills for the DMEPOS item(s) are consistent with the order(s) written by the physician or other eligible practitioner.				X					
9524.2.1	Contractors shall refer questionable billing patterns or practices to the appropriate entity for additional enforcement.				X					

## III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility		
		A/B MAC	DME MAC	CEDI

		A	B	HHH		
	None					

**IV. SUPPORTING INFORMATION**

**Section A: Recommendations and supporting information associated with listed requirements:**

*"Should" denotes a recommendation.*

<b>X-Ref Requirement Number</b>	<b>Recommendations or other supporting information:</b>
	Contractors should not identify an exact match between the items ordered by the physician and delivered to the nursing facility with those utilized by the beneficiary.

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

**V. CONTACTS**

**Pre-Implementation Contact(s):** Debbie Skinner, 410-786-7480 or Debbie.Skinner@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 Program Integrity Manual

## Chapter 4 - Benefit Integrity

### 4.26.1 - Proof of Delivery and Delivery Methods

*(Rev.641, Issued: 02-19-16, Effective: 03-19-16, Implementation: 03-19-16)*

For the purpose of the delivery methods noted below, **designee** is defined as:

“Any person who can sign and accept the delivery of durable medical equipment on behalf of the beneficiary.”

Suppliers, their employees, or anyone else having a financial interest in the delivery of the item are prohibited from signing and accepting an item on behalf of a beneficiary (i.e., acting as a designee on behalf of the beneficiary). The relationship of the designee to the beneficiary should be noted on the delivery slip obtained by the supplier (i.e., spouse, neighbor). The signature of the designee should be legible. If the signature of the designee is not legible, the supplier/shipping service should note the name of the designee on the delivery slip.

Suppliers may deliver directly to the beneficiary or the designee. An example of proof of delivery to a beneficiary is having a signed delivery slip, and it is recommended that the delivery slip include: 1) The patient's name; 2) The quantity delivered; 3) A detailed description of the item being delivered; 4) The brand name; and 5) The serial number. The long description of the HCPCS code, for example, may be used as a means to provide a detailed description of the item being delivered; though suppliers are encouraged to include as much information as necessary to adequately describe the delivered item. The date of signature on the delivery slip must be the date that the DMEPOS item was received by the beneficiary or designee. In instances where the supplies are delivered directly by the supplier, the date the beneficiary received the DMEPOS supply shall be the date of service on the claim.

If the supplier utilizes a shipping service or mail order, an example of proof of delivery would include the service's tracking slip, and the supplier's own shipping invoice. If possible, the supplier's records should also include the delivery service's package identification number for that package sent to the beneficiary. The shipping service's tracking slip should reference each individual package, the delivery address, the corresponding package identification number given by the shipping service, and if possible, the date delivered. If a supplier utilizes a shipping service or mail order, suppliers shall use the shipping date as the date of service on the claim.

Suppliers may also utilize a return postage-paid delivery invoice from the beneficiary or designee as a form of proof of delivery. The descriptive information concerning the DMEPOS item (i.e., the patient's name, the quantity, detailed description, brand name, and serial number) as well as the required signatures from either the beneficiary or the beneficiary's designee should be included on this invoice as well.

For DMEPOS products that are supplied as refills to the original order, suppliers must contact the beneficiary prior to dispensing the refill. This shall be done to ensure that the refilled item is necessary and to confirm any changes/modifications to the order. Contact with the beneficiary or designee regarding refills shall take place no sooner than 14 calendar days prior to the delivery/shipping date. For subsequent deliveries of refills, the supplier shall deliver the DMEPOS product no sooner than 10 calendar days prior to the end of usage for the current product. This is regardless of which delivery method is utilized. DME MACs shall allow for the processing of claims for refills delivered/shipped prior to the beneficiary exhausting his/her supply.

For those patients that are residents of a nursing facility, upon request from the DME MAC, suppliers should obtain copies of the necessary documentation from the nursing facility to document proof of delivery or usage by the beneficiary (e.g., nurse's notes):

- *Contractors shall, when evaluating usage by the beneficiary to satisfy the proof of delivery requirements for items supplied in bulk, accept evidence that the patient utilized the supplied item (i.e., documentation generally supports that the amount ordered correlates with the amount provided and billed).*
- *For example, this could be demonstrated through documentation provided in the nursing notes or in the medication administration record indicating beneficiary receipt of the DMEPOS item or supply. Contractors are not required to identify an exact match between the items ordered by the physician and delivered to the nursing facility with those utilized by the beneficiary.*

*Contractors shall continue to ensure that any bills for the DMEPOS item(s) are consistent with the order(s) written by the physician or other eligible practitioner. Questionable billing patterns or practices shall be referred to the appropriate entity for additional enforcement.*

# Medicare Program Integrity Manual

## **Chapter 5 – Items and Services Having Special DME Review Considerations**

### **Table of Contents**

*(Rev.641, Issued: 02-19-16)*

#### Transmittals for Chapter 5

*5.2.8- Refills of DMEPOS Items Provided on a Recurring Basis*

**5.2.8 - Refills of DMEPOS Items Provided on a Recurring Basis  
(Rev.641, Issued: 02-19-16, Effective: 03-19-16, Implementation: 03-19-16)**

*This section applies to DME MACs, DME PSCs, and ZPICs.*

*For DMEPOS products that are supplied as refills to the original order, suppliers must contact the beneficiary prior to dispensing the refill and not automatically ship on a pre-determined basis, even if authorized by the beneficiary. This shall be done to ensure that the refilled item remains reasonable and necessary, existing supplies are approaching exhaustion, and to confirm any changes/modifications to the order. Contact with the beneficiary or designee regarding refills must take place no sooner than 14 calendar days prior to the delivery/shipping date. For delivery of refills, the supplier must deliver the DMEPOS product no sooner than 10 calendar days prior to the end of usage for the current product. This is regardless of which delivery method is utilized. DME MACs shall allow for the processing of claims for refills delivered/shipped prior to the beneficiary exhausting his/her supply.*