

<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 431</b>	<b>Date: August 31, 2012</b>
	<b>Change Request 7890</b>

**SUBJECT: Ordering and Certifying Documentation - Maintenance Requirements**

**I. SUMMARY OF CHANGES:** The purpose of this CR is to furnish instructions to contractors regarding the enforcement of 42 CFR 424.516(f)(1) and (f)(2).

**EFFECTIVE DATE: October 1, 2012**

**IMPLEMENTATION DATE: October 1, 2012**

*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	15/Table of Contents
R	15/15.18/Ordering and Certifying Documentation - Maintenance Requirements

**III. FUNDING:**

**For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:**

No additional funding will be provided by CMS; contractor activities are to be carried out with their operating budgets.

**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 obliged 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 Instructions**

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

# Attachment – Business Requirements

Pub. 100-08	Transmittal: 431	Date: August 31, 2012	Change Request: 7890
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**SUBJECT: Ordering and Certifying Documentation - Maintenance Requirements**

**Effective Date: October 1, 2012**

**Implementation Date: October 1, 2012**

## **I. GENERAL INFORMATION**

**A. Background:** Under 42 CFR § 424.516(f)(1), a provider or supplier that furnishes covered ordered items of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), clinical laboratory, imaging services, or covered ordered/certified home health services is required to:

- Maintain documentation (see next paragraph) for 7 years from the date of service; and
- Upon the request of CMS or a Medicare contractor, provide access to that documentation.

The documentation to be maintained includes written and electronic documents (including the National Provider Identifier (NPI) of the physician who ordered/certified the home health services and the NPI of the physician - or, when permitted, other eligible professional - who ordered items of DMEPOS or clinical laboratory or imaging services) relating to written orders and certifications and requests for payments for items of DMEPOS and clinical laboratory, imaging, and home health services.

In addition, under § 424.516(f)(2), a physician who orders/certifies home health services and the physician or, when permitted, other eligible professional who orders items of DMEPOS or clinical laboratory or imaging services is required to maintain the documentation described in the previous paragraph for 7 years from the date of service and to provide access to that documentation pursuant to a CMS or Medicare contractor request.

If the provider, supplier, physician or eligible professional (as applicable) fails to maintain this documentation or to furnish this documentation upon request, the contractor may revoke the party's Medicare billing privileges under § 424.535(a)(10).

**B. Policy:** Absent a CMS directive to the contrary, the contractor shall request the documentation described in subsection (A) if it has reason to believe that the provider, supplier, physician or eligible professional (hereinafter collectively referred to as "provider") is not maintaining the documentation in accordance with § 424.516(f)(1) or (2). Examples of when a request might be appropriate include, but are not limited to:

- The contractor has detected an unusually high number of denied claims involving the provider, or the Fraud Prevention System has otherwise generated an alert with respect to the provider.
- The provider has been the subject of a recent Zone Program Integrity Contractor referral.
- The provider maintains an elevated surety bond amount.

**NOTE:** Documentation cannot be requested for written orders and certifications dated prior to July 6, 2010.

## II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I  M A C	C A R I  I E R	R H  R I  S	Shared-System Maintainers				OTHER
					F I S S	M C S	V M S	C M W F			
7890.1	Absent a CMS directive to the contrary, the contractor shall request the documentation described in Pub. 100-08, chapter 15, section 15.18 if it has reason to believe that the provider, supplier, physician or eligible professional (hereinafter collectively referred to as "provider") is not maintaining the documentation in accordance with § 424.516(f)(1) or (2).	X		X	X	X					National Supplier Clearinghouse (NSC)
7890.2	In the situation described in business requirement 7890.1, the contractor shall prepare and send a request letter (using the appropriate model language and providing the necessary information) to the provider via mail.	X		X	X	X					NSC
7890.2.1	If the provider fails to respond to the letter within 30 calendar days of the contractor's request (i.e., a complete non-response), the contractor shall revoke the provider's Medicare billing privileges (using § 424.535(a)(10) as the basis) and impose a 1-year re-enrollment bar.	X		X	X	X					NSC
7890.2.2	If the provider timely furnishes documentation that the contractor nevertheless deems inadequate, the contractor shall send to the provider a developmental letter via mail, e-mail or fax that requests more sufficient documentation.	X		X	X	X					NSC
7890.2.2.1	If – in the situation described in business requirement 7890.2.2 - the provider fails to submit such documentation (either via a complete non-response or by submitting additional inadequate information), the contractor shall refer the matter - including the documentation submitted to date - to its Provider Enrollment Operations Group Business Function Lead (PEOG BFL).	X		X	X	X					NSC
7890.2.2.2	If – in the situation described in business requirement 7890.2.2 - the provider	X		X	X	X					NSC

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
		M A C	M A C				F I S S	M C S	V M S	C W F	
	furnishes documentation that the contractor deems adequate, the contractor shall place the documentation and the documentation request letter(s) in the provider file.										
7890.3	The contractor shall follow the instructions in section 15.18 with respect to situations in which CMS directs the contractor to request documentation in a particular case.	X		X	X	X					NSC

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H I	Shared-System Maintainers				OTHER
		M A C	M A C				F I S S	M C S	V M S	C W F	
7890.4	A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X		X	X	X					NSC

#### IV. SUPPORTING INFORMATION

**Section A: For any recommendations and supporting information associated with listed requirements, use the box below: N/A**

*Use "Should" to denote a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:
	None

**Section B: For all other recommendations and supporting information, use this space: N/A**

#### V. CONTACTS

**Pre-Implementation Contact:**

Frank Whelan, (410) 786-1302, [frank.whelan@cms.hhs.gov](mailto:frank.whelan@cms.hhs.gov).

**Post-Implementation Contact:**

Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

#### VI. FUNDING

**Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**Section B: 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.

# Medicare Program Integrity Manual

## Chapter 15 - Medicare Enrollment

### Table of Contents

*(Rev.431, Issued: 08-31-12)*

15.18 – *Ordering and Certifying Documentation - Maintenance Requirements*

**15.18 – Ordering and Certifying Documentation - Maintenance Requirements**  
*(Rev. 431, Issued: 08-31-12, Effective: 10-01-12, Implementation, 10-01-12)*

*A. Background*

*Under 42 CFR § 424.516(f)(1), a provider or supplier that furnishes covered ordered items of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), clinical laboratory, imaging services, or covered ordered/certified home health services is required to:*

- *Maintain documentation (see next paragraph) for 7 years from the date of service, and*
- *Upon the request of CMS or a Medicare contractor, provide access to that documentation.*

*The documentation to be maintained includes written and electronic documents (including the National Provider Identifier (NPI) of the physician who ordered/certified the home health services and the NPI of the physician - or, when permitted, other eligible professional - who ordered items of DMEPOS or clinical laboratory or imaging services) relating to written orders and certifications and requests for payments for items of DMEPOS and clinical laboratory, imaging, and home health services.*

*In addition, under § 424.516(f)(2), a physician who orders/certifies home health services and the physician - or, when permitted, other eligible professional - who orders items of DMEPOS or clinical laboratory or imaging services is required to maintain the documentation described in the previous paragraph for 7 years from the date of service and to provide access to that documentation pursuant to a CMS or Medicare contractor request.*

*If the provider, supplier, physician or eligible professional (as applicable) fails to maintain this documentation or to furnish this documentation upon request, the contractor may revoke the party's Medicare billing privileges under § 424.535(a)(10).*

*B. Justification for Request for Documentation*

*Absent a CMS directive to the contrary, the contractor shall request the documentation described in subsection (A) if it has reason to believe that the provider, supplier, physician or eligible professional (hereinafter collectively referred to as "provider") is not maintaining the documentation in accordance with § 424.516(f)(1) or (2). Examples of when a request might be appropriate include, but are not limited to:*

- *The contractor has detected an unusually high number of denied claims involving the provider, or the Fraud Prevention System has generated an alert with respect to the provider.*
- *The provider has been the subject of a recent Zone Program Integrity Contractor referral.*

- *The provider maintains an elevated surety bond amount.*

*These are, of course, only examples of when a request could perhaps be warranted. Ultimately, the contractor would have to consider the surrounding circumstances of each case, including those involving situations not addressed in the aforementioned examples. The contractor may always contact its Provider Enrollment Operations Group Business Function Lead (PEOG BFL) if it is uncertain as to whether a particular documentation request should be made.*

**Note:** *Documentation cannot be requested for written orders and certifications dated prior to July 6, 2010.*

### *C. Process*

*If the contractor believes that a request for documentation is warranted, it shall prepare and send a request letter to the provider via mail. If the provider:*

- *Fails to respond within 30 calendar days of the contractor's request (i.e., a complete non-response), the contractor shall revoke the provider's Medicare billing privileges, using § 424.535(a)(10) as the basis. Prior approval from the contractor's PEOG BFL is not necessary. A 1-year re-enrollment bar shall be imposed.*
- *Timely furnishes documentation that the contractor nevertheless deems inadequate, the contractor shall send a developmental letter via mail, e-mail or fax to the provider that requests more sufficient documentation. If the provider fails to submit such documentation (either via a complete non-response or by submitting additional inadequate documentation), the contractor shall refer the matter (including the documentation submitted to date) to its PEOG BFL. PEOG will determine whether a revocation is warranted and will notify the contractor via e-mail of its decision.*
- *Furnishes documentation that the contractor deems adequate, the contractor need not take further action other than to place the documentation and the documentation request letter(s) in the provider file.*

### *D. Additional Guidance*

*The contractor shall also abide by the following:*

1. *When preparing the letter referred to in (C)(1) above, the contractor shall use the appropriate model language in (E) or (F) below. Note, however, that while the letters request copies of orders, the contractor has the discretion to ask for different or additional documentation (e.g., documentation that supports the legitimacy of a particular service or the payment of a particular claim). Copies of orders need not be requested in every situation. As alluded to in (B) above, the contractor would have to examine the facts of each case in determining the type(s) of documentation to be requested.*

2. *There may be situations in which CMS directs the contractor to request documentation in a particular case. The contractor shall follow the instructions in this section 15.18 with respect to doing so.*
3. *The contractor shall contact its PEOG BFL if it has questions as to whether particular submitted documentation is adequate or legitimate – specifically, whether it falls within the category of documentation described in section (A) above.*

*E. Model Language for § 424.516(f)(1) Situations*

*The contractor shall use the model language below if it is requesting documentation from a provider or supplier furnishing the items or services addressed in § 424.516(f)(1).*

*“Dear Provider/Supplier:*

*Under 42 CFR § 424.516(f)(1), a provider or supplier that furnishes covered ordered items of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS), clinical laboratory, imaging services, or covered ordered/certified home health services is required to:*

- *Maintain documentation for 7 years from the date of service, and*
- *Upon the request of CMS or a Medicare contractor, provide access to that documentation.*

*The documentation to be maintained includes written and electronic documents (including the National Provider Identifier (NPI) of the physician who ordered/certified the home health services and the NPI of the physician - or, when permitted, other eligible professional - who ordered items of DMEPOS or clinical laboratory or imaging services) relating to written orders and certifications and requests for payments for items of DMEPOS and clinical laboratory, imaging, and home health services.*

*Consistent with § 424.516(f)(1), please mail to us copies of the orders for the items or services that were furnished to the following beneficiaries on the dates specified:*

*(Contractors shall insert the beneficiaries’ names (up to 5 may be listed, unless CMS specifies otherwise), appropriate identification information, and the dates on which the provider or supplier furnished the items/services in question. The contractor has the discretion to determine the cases/services that are included in this documentation request as well as the type(s) of documentation to be requested.)*

*The documentation must be received at the following address no later than 30 calendar days after the date of this letter:*

*(Cite appropriate address)*

*Failure to timely submit this documentation may result in the revocation of your Medicare billing privileges pursuant to 42 CFR § 424.535(a)(10).”*

*F. Model Language for § 424.516(f)(2) Situations*

*The contractor shall use the model language below if it is requesting documentation from a provider or supplier furnishing the items or services addressed in § 424.516(f)(2).*

*“Dear Physician/Professional:*

*Under 42 CFR § 424.516(f)(2), a physician who orders/certifies home health services and the physician - or, when permitted, other eligible professional - who orders items of DMEPOS or clinical laboratory or imaging services is required to maintain documentation for 7 years from the date of service and to provide access to that documentation pursuant to a CMS or Medicare contractor request. The documentation to be maintained includes written and electronic documents relating to written orders and certifications and requests for payments for items of DMEPOS and clinical laboratory, imaging, and home health services.*

*Consistent with § 424.516(f)(2), please mail to us copies of the orders for items or services that you issued for the following beneficiaries on the dates specified:*

*(Contractors shall insert the beneficiaries’ names (up to 5 may be listed, unless CMS specifies otherwise), appropriate identification information, and the dates on which the orders were made. The contractor has the discretion to determine the cases/services that are included in this documentation request as well as the type(s) of documentation to be requested.)*

*The documentation must be received at the following address no later than 30 calendar days after the date of this letter:*

*(Cite appropriate address)*

*Failure to timely submit this documentation may result in the revocation of your Medicare billing privileges pursuant to 42 CFR § 424.535(a)(10).” (For individuals enrolled via the Form CMS-855O, the contractor shall instead use the following language: “Failure to timely submit this documentation may result in the revocation of your Form CMS-855O enrollment.”)*