



What Suppliers Need to Know About Orders for DMEPOS Items

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PROVIDER TYPES AFFECTED

This MLN Matters Special Edition Article is intended for suppliers billing Durable Medical Equipment (DME) MACs for Durable Medical Equipment Prosthetics, Orthotics Supplies (DMEPOS) provided to Medicare beneficiaries.

WHAT YOU NEED TO KNOW

SE 18009 provides important information about orders for DMEPOS items, to include those from telemarketers and/or telemedicine companies. You and your staff should be aware of these requirements.

BACKGROUND

As noted in the Medicare Program Integrity Manual, Chapter 5 (Items and Services Having Special DME Review Considerations), before you dispense any DMEPOS item to a beneficiary, you need to have an order from the treating physician.

Verbal or Preliminary Written Orders

Suppliers may dispense most items of DMEPOS based on a verbal order or a preliminary written order from the treating physician/practitioner.

Detailed Written Orders Required Before Claim Submission

A detailed written order may be a photocopy, facsimile image, electronic, or pen-and-ink original document. For all items, the supplier shall have a detailed written order prior to submitting a claim.

1. It needs to have a description of the item to include all options or additional features that will be separately billed, or that will require an upgraded code. The description can be either a general description (for example, "wheelchair or hospital bed"), a brand name/model number, a HCPCS code or HCPCS code narrative.

2. It must include the beneficiary name, the date of the order, and the physician/practitioner signature.
3. If it is for a drug provided under the DME benefit, it must also specify the name of the drug, dosage or concentration (if applicable), frequency of administration (if applicable), duration of infusion (if applicable), quantity to be dispensed, and number of refills.

A nurse practitioner or clinical nurse specialist may give the dispensing order and sign the detailed written order when:

- They meet the definition of nurse practitioner or clinical nurse specialist found in §1861(aa)(5)(A) and §1861(aa)(5)(B), respectively.
- 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
- They are permitted to do all of the above in the State in which the services are rendered.

Similarly, physician assistants may provide the dispensing order and write and sign the detailed written order when:

- They meet the definition of physician assistant found in §1861(aa)(5)(A) of the Social Security Act
- 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 National Provider Identifier (NPI)
- They are permitted to perform services in accordance with State law.

Please note that someone other than the physician/practitioner 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.

Items Requiring an Order Before Delivery

While many items of DMEPOS can be dispensed based on a verbal order or preliminary written order from the treating physician/practitioner, there are certain items that statutorily require a written order prior to dispensing/delivery and are subject to face-to-face requirements.

1. Items identified by the Secretary as “Specified Covered Items” (meeting one of the three following criteria):
 - a) Any item described by a Healthcare Common Procedure Coding System (HCPCS) code for the following types of durable medical equipment:
 - Transcutaneous electrical nerve stimulation (TENS) unit

- Rollabout chair
 - Oxygen and respiratory equipment
 - Hospital beds and accessories
 - Cervical traction
- b) Any item of durable medical equipment that appears on the DMEPOS Fee Schedule with a price ceiling at or greater than \$1,000
- c) Any other item of durable medical equipment that CMS adds to the list of Specified Covered Items through the notice and comment rulemaking process.

A link to the Specific Covered Items that are subject to face-to-face encounter and written order prior delivery requirements may be found here:

<https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Medical-Review/FacetoFaceEncounterRequirementforCertainDurableMedicalEquipment.html>.

For such specified items, we would expect:

- A written order prior to dispensing/delivery comprised of:
 - The beneficiary name,
 - Item of DME ordered,
 - Signature of prescribing practitioner,
 - The prescribing practitioner NPI, and
 - Date of the order.
 - A face-to-face encounter having occurred during the 6 months prior to the written order.
2. Power mobility devices including:
- a) Power wheelchairs (defined as four-wheeled motorized vehicle whose steering is operated by an electronic device or a joystick to control direction and turning) or
 - b) Power-operated vehicles (defined as three or four-wheeled motorized scooter that is operated by a tiller) that a beneficiary uses in the home.

For such power mobility devices, we would expect:

- A written order prior to dispensing/delivery comprised of
 - The beneficiary name,
 - The date of the face-to-face examination,
 - The diagnoses and conditions that the PMD is expected to modify,
 - A description of the item (for example, a narrative description of the specific type of PMD),
 - The length of need,
 - The physician or treating practitioner's signature, and
 - The date the prescription was written.

- The written order must be signed and dated by the physician or treating practitioner who performed a face-to-face examination. The order and report of the face-to-face examination must be received by the supplier within 45 days of the date of examination.

Note- The face-to-face examination requirement does not apply when only accessories for power mobility devices are being ordered.

Remember that if you do not have an order meeting the requirements and timeframes specified above, your MAC will consider the item to be non-covered, and your claim will be denied.

Orders From Telemarketers and Telemedicine Companies

Section 1834(a)(17)(A) of the Social Security Act imposes a payment prohibition on DMEPOS suppliers that make unsolicited phone calls to Medicare beneficiaries regarding furnishing covered DMEPOS items. This prohibition is subject to several exceptions, such as a beneficiary providing a DMEPOS supplier with written permission to initiate contact regarding the furnishing of a covered DMEPOS item. In addition, violation of the above provision can result in a possible exclusion from the Medicare program. Also, the provision on unsolicited telephone contacts also is a DMEPOS supplier enrollment standard set forth at 42 C.F.R. 424.57(c)(11). The DMEPOS supplier is responsible for verifying whether marketing activities performed by themselves OR a third party under contract with the DMEPOS supplier, comply with the Federal statutes regulation cited above. If a claim for payment is submitted for items or services generated by a prohibited solicitation, both the DMEPOS supplier and the telemarketer may be potentially liable for criminal, civil and/or administrative penalties for filing a false claim.

It is worth noting that any contact between an ordering practitioner and a beneficiary related to an order for a DMEPOS item does not constitute a telehealth service. Federal regulations at 42 C.F.R. 410.78 define what constitutes a clinical encounter between a beneficiary and ordering physician that would be covered by Medicare.

Potential Fraud, Waste, Abuse, and Mismanagement

If you have concerns, the Office of the Inspector General (OIG) Hotline accepts tips and complaints from all sources about potential fraud, waste, abuse, and mismanagement in Department of Health and Human Services' programs.

Phone: 1-800-HHS-TIPS (1-800-447-8477); TTY: 1-800-377-4950
Mail: U.S. Department of Health and Human Services
Office of Inspector General
ATTN: OIG HOTLINE OPERATIONS
P.O. Box 23489
Washington, DC 20026

For more information about OIG advisory opinions on existing or proposed business arrangements, visit <https://oig.hhs.gov/compliance/advisory-opinions/index.asp>. Medicare beneficiaries may call 1-800-MEDICARE (1-800-633-4227) and visit <https://www.medicare.gov/forms-help-resources/help-fight-medicare-fraud> if they have questions or concerns about potential fraud, waste, or abuse.

ADDITIONAL INFORMATION

If you have questions, your MACs may have more information. Find their website at <http://go.cms.gov/MAC-website-list>.

DOCUMENT HISTORY

Date of Change	Description
December 18, 2018	Initial article released.

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