

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 896	Date: May 6, 2011
	Change Request 7389

SUBJECT: Durable Medical Equipment National Competitive Bidding: Correction to Permit Payment for Certain Grandfathered Accessories and Supplies

I. SUMMARY OF CHANGES: This instruction will allow Medicare payment to be made to a non-contract, grandfathered supplier for furnishing certain purchased, covered grandfathered accessories or supplies furnished for use with capped rental equipment without the KY modifier.

EFFECTIVE DATE: October 1, 2011

IMPLEMENTATION DATE: October 3, 2011

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-

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	

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 within 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 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. ATTACHMENT:

One-Time Notification

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

Attachment – One-Time Notification

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SUBJECT: Durable Medical Equipment National Competitive Bidding: Correction to Permit Payment for Certain Grandfathered Accessories and Supplies

Effective Date: October 1, 2011

Implementation Date: October 3, 2011

I. GENERAL INFORMATION

A. Background: Under the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP) a beneficiary who obtains competitive bidding items in a designated Competitive Bidding Area (CBA) must obtain these items from a contract supplier, unless an exception applies. One exception is that a beneficiary may continue to obtain a capped rental item from a non-contract supplier if the beneficiary was receiving such rented item from the non-contract supplier when the CBP took effect in the CBA. Such non-contract supplier would be considered a “grandfathered supplier” with respect to such rented item and such beneficiary for the remainder of the particular item’s capped rental period. An additional exception relates to the foregoing scenario. That is, a beneficiary, who continues to obtain a capped rental competitive bidding item from a non-contract grandfathered supplier, may also obtain certain purchased, covered accessories or supplies furnished for use with such rented “grandfathered” capped rental equipment from the same non-contract grandfathered supplier. The purchased, covered accessories or supplies that are subject to this exception, identified by applicable HCPCS codes, are as follows:

- Continuous Positive Airway Pressure Devices, Respiratory Assistive Devices, and Related Supplies and Accessories – A4604, A7030, A7031, A7032, A7033, A7034, A7035, A7036, A7037, A7038, A7039, A7044, A7045, A7046, E0561, and E0562;
- Hospital Beds and Related Accessories – E0271, E0272, E0280, and E0310; and
- Walkers and Related Accessories – E0154, E0156, E0157 and E0158

Previously, non-contract grandfathered suppliers submitting claims for purchased, covered accessories or supplies under this exception were instructed that they must use the KY modifier on claims for such items with dates of service on or after January 1, 2011. As of the effective date of the Transmittal, use of the KY modifier is not required on such claims. Claims submitted with the KY modifier, and any HCPCS code other than those specified by a CR effective after the effective date of this Transmittal, will be denied. Any claim submitted after September 30, 2011 with the KY modifier will also be denied.

After the rental payment cap for the grandfathered equipment is reached, the beneficiary must obtain covered accessories and supplies only from a contract supplier. The supplier of the grandfathered equipment is no longer permitted to furnish the covered accessories and supplies once the rental payment cap is reached.

B. Policy: Medicare payment may be made to a non-contract, grandfathered supplier for furnishing certain purchased, covered accessories or supplies furnished for use with capped rental equipment, provided the non-contract supplier is also furnishing the capped rental equipment on a grandfathered basis. The purchased, covered accessories or supplies that are subject to this policy, identified by applicable HCPCS codes, are as follows:

- Continuous Positive Airway Pressure Devices, Respiratory Assistive Devices, and Related Supplies and Accessories – A4604, A7030, A7031, A7032, A7033, A7034, A7035, A7036, A7037, A7038, A7039, A7044, A7045, A7046, E0561, and E0562;
- Hospital Beds and Related Accessories – E0271, E0272, E0280, and E0310; and
- Walkers and Related Accessories – E0154, E0156, E0157 and E0158

The KY modifier shall not be annotated on claims for such HCPCS codes after September 30, 2011.

Once the rental payment cap is reached, Medicare payment will no longer be made to a non-contract, grandfathered supplier for furnishing such purchased accessories or supplies.

II. BUSINESS REQUIREMENTS TABLE

Use “Shall” to denote a mandatory requirement

Number	Requirement	Responsibility (place an “X” in each applicable column)									
		A / B M A C	D M M A C	F I M I E R	C A R I E R	R H H I	Shared-System Maintainers				OTH ER
						F I S S	M I S S	V M S	C M S	W F	
7389.1	The shared systems maintainer shall process and allow payment for grandfathered DMEPOS competitive bidding covered accessories or supplies furnished for use with grandfathered capped rental equipment.								X		
7389.1.1	The shared systems maintainer shall allow payment under 7389.1 only when the non-contract supplier is also furnishing the capped rental equipment on a grandfathered basis.								X		
7389.1.2	The shared systems maintainer shall only make payments during the rental period for the capped rental equipment, accessories and/or supplies.								X		
7389.1.3	The shared systems maintainer shall identify the accessories and supplies specified in 7389.1 by the following HCPCS codes : A4604, A7030, A7031, A7032, A7033, A7034, A7035, A7036, A7037, A7038, A7039, A7044, A7045, A7046, E0561, E0562, E0271, E0272, E0280, E0310, E0154, E0156, E0157 and E0158.								X		
7389.2	Once the rental cap for the grandfathered equipment is reached, the shared systems maintainer shall deny claims for these items when submitted by a non-contract supplier.		X						X		
7389.2.1	Medicare contractors shall assign group code CO (Contractual Obligation).		X						X		
7389.2.2	The shared systems maintainer shall use the following		X						X		

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			
F I S S	M C S						V M S	C W F		
	<p>denial messages:</p> <p>B20 – Procedure /service was partially or fully furnished by another provider.</p> <p>N211 – You may not appeal this decision.</p> <p>M115 – This item is denied when provided to this patient by a non-contract or non-demonstration supplier.</p> <p>MSN 8.72: This item must be provided by a contract supplier under the DMEPOS competitive bidding program. You should not be billed for this item or service. You do not have to pay this amount. There are no Medicare appeal rights related to this item.</p>									

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			
F I S S	M C S						V M S	C W F		
7389.3	<p>A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv.</p> <p>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</p>		X							

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R I E R	R H I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
	administering the Medicare program correctly.										

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:

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

V. CONTACTS

Pre-Implementation Contact(s): Angela Costello at angela.costello@cms.hhs.gov.

Post-Implementation Contact(s): Contact your Contracting Officer's Technical Representative (COTR) 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), include the following statement:*

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.