

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 3593	Date: August 17, 2016
	Change Request 9579

Transmittal 3565, dated July 20, 2016, is being rescinded and replaced by Transmittal 3593, dated August 17, 2016, to revise BR 9579.9. All other information remains the same.

SUBJECT: Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP): Additional Instructions for the Implementation of Round 2 Recompete of the DMEPOS CBP and National Mail Order (NMO) Recompete

I. SUMMARY OF CHANGES: The purpose of this change request (CR) is to provide instructions for implementing changes to the Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program (CBP) regarding the clarification of the RB modifier for Medicare payment for the repair of parts furnished in Competitive Bidding Areas (CBAs) and clarification of grandfathering instructions for rentals of accessories and supplies.

EFFECTIVE DATE: October 1, 2016

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

IMPLEMENTATION DATE: October 3, 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.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	20/Table of Contents
N	20/50/50.5/Payment of a Part of a DMEPOS Item
R	36/Table of Contents
N	36/40.3.2/40.3.2.1/Payment for Capped Rental Items
N	36/40.3.2/40.3.2.2/Payment for Inexpensive or Routinely Purchased Items
R	36/40.8/Payment for Repair and Replacement of Beneficiary-Owned Equipment

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

Pub. 100-04	Transmittal: 3593	Date: August 17, 2016	Change Request: 9579
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EFFECTIVE DATE: October 1, 2016

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

IMPLEMENTATION DATE: October 3, 2016

I. GENERAL INFORMATION

A. Background: Section 302 of the Medicare Modernization Act of 2003 (MMA) established requirements for a new Competitive Bidding Program (CBP) for certain items of Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS). Under the program, DMEPOS suppliers compete to become Medicare contract suppliers by submitting bids to furnish certain items in competitive bidding areas, and the Centers for Medicare & Medicaid Services (CMS) awards contracts to enough suppliers to meet beneficiary demand for the bid items. The new, lower payment amounts resulting from the competition replace the Medicare DMEPOS fee schedule amounts for the bid items in these areas. All contract suppliers must comply with Medicare enrollment rules, be licensed and accredited, and meet financial standards. The program sets more appropriate payment amounts for DMEPOS items while ensuring continued access to quality items and services, which will result in reduced beneficiary out-of-pocket expenses and savings to taxpayers and the Medicare program.

During the DMEPOS National Competitive Bidding (NCB) program Round Two implementation discussions among CMS, the VMS shared system maintainer (GDIT), the Durable Medical Equipment Medicare Administrative Contractors (DME MACs), the Common Working File (CWF) maintainer, and the Competitive Bidding Implementation Contractor (CBIC), new requirements were identified. The purpose of this change request (CR) is to provide instructions for implementing the following changes to the DMEPOS CBP program:

1. Clarification of Medicare Payment for Repair Parts Furnished in Competitive Bidding Areas (CBAs)
2. Clarification of Grandfathering Instructions

B. Policy: This transmittal provides clarification of the RB modifier policy for a CBA. Repairs to certain medically necessary, beneficiary-owned equipment are covered when necessary to make the equipment serviceable. Labor to repair equipment is not subject to competitive bidding and is paid according to Medicare's general payment rules. This CR also provides a clarification of grandfathering instructions for rentals of accessories and supplies.

Clarification of Medicare Payment for Repair Parts Furnished in Competitive Bidding Areas

Under the Medicare DMEPOS CBP, repairs of beneficiary-owned items can be performed by any Medicare-enrolled supplier. Repairs to certain, medically necessary beneficiary-owned equipment are covered when necessary to make the equipment serviceable. Labor to repair equipment is not subject to competitive bidding and is paid according to Medicare's general payment rules.

CR 8181 Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) National Competitive Bidding (NCB): Using the "KY" Modifier to Bill for Accessories for Non-NCB Wheelchair Base Units,

(Transmittal 1184, February 8, 2013) implemented claims billing and processing instructions for wheelchair accessories furnished for use with non-competitively bid wheelchair base units for beneficiaries who permanently reside in competitive bid areas. This instruction implemented use of the KY modifier in certain instances. This instruction clarifies how payment is made for repair parts furnished in competitive bidding areas.

In accordance with 42 CFR 414.408(k)(1)(iii), payment for repair parts that are described by Healthcare Common Procedure Coding System (HCPCS) codes for competitive bidding items and are furnished in competitive bidding areas for use in repairing base equipment that are competitive bid items is made based on the single payment amount established for the HCPCS code. Payment for such repair parts that are furnished for use in repairing base equipment that are not competitive bidding items in the area is made in accordance with 42 CFR 414.408(k)(1)(ii), which provides that payment for the part is made based on the contractor's consideration of the item under 42 CFR 414.210(e). When making payment determinations for parts described by HCPCS codes for competitive bidding items furnished for use in repairing base equipment that are not competitive bidding items, contractors have discretion to use the single payment amounts for the item in establishing the Medicare allowed amount for the repair part.

The regulations at 414.210(e) also provide that payment for repair parts is made on a lump sum purchase basis. Therefore, effective October 1, 2016, all repair part claims billed with the RB modifier, whether within or outside a competitive bidding area, whether described by a HCPCS code that is a competitive bidding item or not, and whether described by a code for miscellaneous (not otherwise classified or specified) items or not, shall be paid on a lump sum purchase basis.

Additionally, CMS has become aware that wheelchair claims are being submitted with the following modifier combinations: the RB and KY; RB and KE; and RB and RR modifiers. If the claim is for a repair part, the following combinations are not valid, and the claim will be returned as unprocessable:

- RB and KY;
- RB and KE; and
- RB and RR.

Clarification of Grandfathering Instructions

Under the Medicare DMEPOS CBP, a beneficiary who obtains competitive bidding items in a designated CBA must obtain these items from a contract supplier, unless an exception applies. One exception is that a beneficiary may continue to obtain a DME rental item(s) from a non-contract supplier if the beneficiary was receiving the rented item(s) 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 period during which rental payments are made (e.g., for the remainder of the 13-month period of continuous use for a capped rental item). An additional exception relates to the foregoing scenario. That is, a beneficiary, who continues to obtain a rented, grandfathered competitive bidding item from a non-contract, grandfathered supplier, may also obtain certain covered accessories or supplies furnished for use with such rented "grandfathered" equipment from the same non-contract, grandfathered supplier for the remainder of the period during which rental payments are made (e.g., for the remainder of the 13-month period of continuous use for a capped rental item).

For rented, grandfathered equipment in the capped rental payment class (e.g., CPAP device or manual wheelchair), after the rental payment cap for the grandfathered equipment and after the rental payment cap on the accessory (when applicable, e.g., elevating leg rests) is reached, the beneficiary must obtain covered accessories and supplies (e.g., CPAP masks) 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 on the grandfathered equipment is reached, with the exception of completing the rental period for accessories when the first rental month began during the rental period for the grandfathered equipment (e.g.,

the addition of elevating leg rests during the third rental month for a grandfathered manual wheelchair). For rented, grandfathered equipment in the inexpensive or routinely purchased payment class, after the total payments for the rented, grandfathered equipment (e.g., folding walker) reach the purchase fee schedule amount for the grandfathered equipment, and after the rental payment cap on the accessory is reached (when applicable), the beneficiary must obtain covered accessories (e.g., seat attachment) and supplies 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 on the equipment is reached, with the exception of completing the rental period for accessories when the first rental month began during the rental period for the grandfathered equipment.

In all cases, payment for covered accessories and supplies used in conjunction with a grandfathered item is based on the single payment amount calculated for the item for the CBA in which the beneficiary maintains a permanent residence.

In summary, Medicare payment may be made to a non-contract, grandfathered supplier for furnishing certain covered accessories or supplies furnished for use with rented, grandfathered equipment, provided the non-contract supplier is also furnishing the rented equipment on a grandfathered basis. Once rental payments for the grandfathered equipment have ended, Medicare payment will no longer be made to a non-contract, grandfathered supplier for furnishing accessories or supplies with the exception of completing the rental period for rented accessories.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility									
		A/B MAC			D M E M A C S	Shared- System Maintainers				Other	
		A	B	H H H		F I S S	M C S	V M S	C W F		
9579.1	Contractors shall return as unprocessable any claims submitted with the RB and KE modifier combination.				X				X		
9579.2	Contractors shall return as unprocessable any claims submitted with the RB and RR modifier combination.				X				X		
9579.3	Contractors shall return as unprocessable any claims submitted with the RB and KY modifier combination.				X				X		
9579.4	Contractors shall pay the single payment amount (SPA) for repair parts (HCPCS codes billed with the RB modifier) that are competitive bidding items furnished in competitive bidding areas when determined to be reasonable and necessary for the repair of patient-owned DME that continues to be medically necessary. The patient-owned DME does not have to be a competitive bidding item in order for the contractor to use the SPA as the allowed payment amount for the part.				X				X		
9579.5	Contractors shall pay all claims for repair parts billed with the RB modifier, whether within or outside a				X				X		

Number	Requirement	Responsibility							
		A/B MAC		D M E M A C	Shared- System Maintainers				Other
		A	B		H H H	F I S S	M C S	V M S	
	that are furnished for use with non-bid wheelchair bases. This applies to any wheelchair accessory rental item that has the Business Rule G on the CBIC HCPCS file.								

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E M A C	C E D I
		A	B	H H H		
9579.10	MLN Article: A provider education article related to this instruction will be available at http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/ 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 sites and include information about it in a listserv message within 5 business days after receipt of the notification from CMS announcing the availability of the article. In addition, the provider education article shall be included in the contractor's 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.					

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
	N/A

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

V. CONTACTS

Pre-Implementation Contact(s): Bobbett Plummer, bobbett.plummer@cms.hhs.gov , Diana Motsiopoulos, diana.motsiopoulos@cms.hhs.gov , Karen Jacobs, karen.jacobs@cms.hhs.gov (Policy Contact)

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 Claims Processing Manual

Chapter 20 - Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

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(Rev. 3593, Issued: 08-17-16)

50.5 – Payment of a Part of a DMEPOS Item

50.5 – Payment of a Part of a DMEPOS Item
(Rev. 3593, Issued: 08-17-16, Effective: 10-01-16, Implementation: 10-03-16)

The RB modifier is used on a DMEPOS claim to denote the replacement of a part of a DMEPOS item (base equipment/device) furnished as part of the service of repairing the DMEPOS item (base equipment/device). All repair part claims billed with the RB modifier, whether within or outside a competitive bidding area, shall be paid on a lump sum purchase basis.

Payment for repair parts that are described by HCPCS codes for competitive bidding items and are furnished in competitive bidding areas for use in repairing base equipment that are competitive bid items is made based on the single payment amount established for the HCPCS code. Payment for such repair parts that are furnished for use in repairing base equipment that are not competitive bidding items in the area is made in accordance with 42 CFR 414.408(k)(1)(ii), which provides that payment for the part is made based on the contractor's consideration of the item under 42 CFR 414.210(e). When making payment determinations for parts described by HCPCS codes for competitive bidding items furnished for use in repairing base equipment that are not competitive bidding items, contractors have discretion to use the single payment amounts for the item in establishing the Medicare allowed amount for the repair part.

Medicare Claims Processing Manual

Chapter 36 – Competitive Bidding

Table of Contents *(Rev. 3593, Issued: 08-17-16)*

40.3.2.1 – Payment for Capped Rental Items

*40.3.2.2 – Payment for Inexpensive or Routinely Purchased
Items*

40.3.2.1 – Payment for Capped Rental Items

(Rev. 3593, Issued: 08-17-16, Effective: 10-01-16, Implementation: 10-03-16)

For rented, grandfathered equipment in the capped rental payment class (e.g., CPAP device or manual wheelchair), after the rental payment cap for the grandfathered equipment and after the rental payment cap on the accessory (when applicable, e.g., elevating leg rests) is reached, the beneficiary must obtain covered accessories and supplies (e.g., CPAP masks) 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 on the grandfathered equipment is reached, with the exception of completing the rental period for accessories whose first month rental began during the rental period for the grandfathered equipment (e.g., the addition of elevating leg rests during the third rental month for a grandfathered manual wheelchair).

40.3.2.2 – Payment for Inexpensive or Routinely Purchased Items

(Rev. 3593, Issued: 08-17-16, Effective: 10-01-16, Implementation: 10-03-16)

For rented, grandfathered equipment in the inexpensive or routinely purchased payment class, after the total payments for the rented, grandfathered equipment (e.g., folding walker) reach the purchase fee schedule amount for the grandfathered equipment and after the rental payment cap on the accessory (when applicable), the beneficiary must obtain covered accessories (e.g., seat attachment) 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 capped rental payment cap on the equipment is reached, with the exception of completing the rental period for accessories whose first month rental began during the rental period for the grandfathered equipment.

40.8 – Payment for Repair and Replacement of Beneficiary-Owned Equipment

(Rev. 3593, Issued: 08-17-16, Effective: 10-01-16, Implementation: 10-03-16)

Beneficiaries who maintain a permanent residence in a CBA may go to any Medicare-enrolled supplier (contract or noncontract supplier) for the maintenance or repair of beneficiary-owned equipment, including parts that need to be replaced in order to make the equipment serviceable. Labor to repair equipment is not subject to competitive bidding and, therefore, will be paid in accordance with Medicare's general payment rules. Payment for replacement parts that are part of the competitive bidding program for the area in which the beneficiary resides is based on the single payment amount for that replacement part in the CBA in which the beneficiary lives. Payment is not made for parts and labor covered under a manufacturer's or supplier's warranty.

Beneficiaries must obtain replacements of beneficiary-owned competitively bid items that are part of the competitive bidding program for the areas in which the beneficiary resides from a contract supplier unless the item is a replacement part or accessory that is replaced as part of the service of repairing beneficiary-owned base equipment (e.g., wheelchair, walker, hospital bed, continuous positive pressure airway device, oxygen concentrator, etc.). All base equipment that is replaced in its entirety because of a change in the beneficiary's medical condition or because the base equipment the beneficiary was using was either lost, stolen, irreparably damaged, or used beyond the equipment's reasonable useful lifetime (see section 110.2.C of chapter 15 of the Benefit Policy Manual) must be obtained from a contract supplier in order to receive Medicare payment. The contract supplier is not required to replace an entire competitively bid item with the same make and model as the previous item unless a physician or treating practitioner prescribes that make and model. (See section 30.4 of this chapter.)

If beneficiary-owned oxygen equipment or capped rental DME that is a competitively bid item for the CBA in which the beneficiary maintains a permanent residence has to be replaced prior to end of its reasonable useful lifetime, then the replacement item must be furnished by the supplier (contract or noncontract supplier) that transferred ownership of the item to the beneficiary.

Payment for replacement of items that are part of the competitive bidding program for the area in which the beneficiary resides is based on the single payment amount for that item.

For additional information regarding payment of a part of a DMEPOS Item, please see Pub. 100-04 chapter 20, section 50.5.