



KEY PROVIDER ISSUES IN HEALTH CARE REFORM

May 2010

DURABLE MEDICAL EQUIPMENT

The Patient Protection and Affordable Care Act of 2010 (PPACA) brings multiple changes for the durable medical equipment (DME) industry. The new law includes an excise sales tax, changes to pharmacy accreditations, an expansion of the Medicare competitive program and new requirements for doctors providing patients with DME.

Excise Tax on Medical Device Manufacturers and Importers (SEC. 9009)

The new health care reform law imposes a 2.3 percent excise tax on any sale occurring on or after January 1, 2013, of any "taxable medical device" by the manufacturer, producer or importer medical devices. A taxable medical device is any device that is intended for humans. The health reform law excludes eyeglasses, contact lenses, hearing aids, and certain other medical devices determined by the Secretary of the Treasury to be purchased by the general public at retail.

Exemption of Pharmacies from Medicare DME Accreditation (SEC. 3109)

The Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 required all Medicare DME, prosthetics, orthotics and supplies (DMEPOS) suppliers to meet certain quality standards to achieve accreditation on or after October 1, 2009. The new health care reform law exempts all pharmacies until January 1, 2011 from the accreditation criteria. Additionally, certain pharmacies will remain exempt until the Secretary of Health and Human Services (HHS) crafts an "alternative accreditation requirement" appropriate for pharmacies. This provision does not change or exempt pharmacies from accreditation requirements for participation in Medicare competitive bidding. In order to meet the accreditation exemption, pharmacies must meet the following requirements.

- DMEPOS billing must be less than 5 percent of pharmacy sales;
- The supplier must have been an enrolled DMEPOS supplier and have had no adverse actions for a period of at least 5 years;
- The supplier must submit all necessary supporting documentation to verify exemption criteria is met.

Competitive Bidding Expansion (SEC. 6410)

Under the DMEPOS competitive bidding program only approved suppliers are eligible to provide DEMPOS to Medicare beneficiaries in a given area. Payments to selected bidders are

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based on the median bid amount of selected suppliers' as opposed to the Medicare fee schedule. Through the expansion of the competitive bidding DMEPOS program in the new law, Medicare will continue to phase in the model across geographic areas and product categories. The new law requires the competitive bidding program to be expanded from 79 to 100 of the largest metropolitan statistical areas.

Payment for Standard Power-Driven Wheelchairs (SEC. 3167)

Prior to the new health care law, standard power-driven wheelchairs could be purchased with a lump-sum payment at the time the chair was supplied. Under the new health care law, this payment option for standard power-driven wheelchairs has been eliminated.

Face-to-Face Encounter by Physicians for DME (SEC. 6407)

The new law requires physicians, physician assistants, nurse practitioners, or clinical nurse specialist to certify that a face-to-face encounter occurred within the 6 months prior to the written order for DME and supplies.