Frequently Asked Questions on Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) 2015 Medicare Payment Final Rules (CMS-1614-F)

Adjusting DMEPOS Payment Amounts Using Competitive Bidding Information– 42 CFR 414.210(g)

1Q. Will the adjustments to the DMEPOS fee schedule amounts be phased in?

1A. Yes. The adjustments to the DMEPOS fee schedule amounts will be phased in as follows:

- January 1, 2016:
  50% unadjusted fee schedule amount/50% adjusted fee schedule amount
- July 1, 2016:
  100% adjusted fee schedule amount

2Q. When CMS uses competitive bidding information to adjust the DMEPOS fee schedule amounts in accordance with the methodologies established under this rule, would the bid limits for competitions under the competitive bidding program(s) that begin after the adjusted fee schedule amounts are implemented be based on the adjusted fee schedule amounts?

2A. Yes. This issue is discussed in the November 6, 2014, **Federal Register** at 79 FR 66232. The payment amounts that would be adjusted in accordance with sections 1834(a)(1)(F)(ii) and (iii) of the Act for DME, section 1834(h)(2)(H)(ii) of the Act for orthotics, and section 1842(s)(2)(B) of the Act for enteral nutrients, supplies, and equipment shall be used to limit bids submitted under future competitions and DMEPOS competitive bidding programs (CBPs) in accordance with regulations at § 414.414(f). Section 1847(b)(2)(A)(iii) of the Act prohibits the awarding of contracts under a CBP unless total payments made to contract suppliers in the competitive bidding area (CBA) are expected to be less than the payment amounts that would otherwise be made. In order to assure savings under a CBP, the fee schedule amount that would otherwise be paid is used to limit the amount a supplier may submit as their bid for furnishing the item in the CBA. The payment amounts that would be adjusted in accordance with sections

1834(a)(1)(F)(ii) and (iii) of the Act for DME, section 1834(h)(2)(H)(ii) of the Act for orthotics, and section 1842(s)(2)(B) of the Act for enteral nutrients, supplies, and equipment would be the payment amounts that would otherwise be made if payments for the items and services were not made through implementation of a CBP. Therefore, the adjusted fee schedule amounts would become the new bid limits.

3Q. In some cases, an accessory identified by a Healthcare Common Procedure Coding System (HCPCS) code that can be furnished for use in conjunction with different types of base equipment has been included in the competitive bidding program (CBP) for use with some but not all of the different types of base equipment that are furnished in conjunction with the accessory. Will the fee schedule amounts for the HCPCS code for the accessory be adjusted based on the single payment amounts (SPAs) established for the accessory for use with certain base equipment, and will the fee schedule amounts for the accessory that are adjusted based on the SPAs be used in paying all claims for the accessory, regardless of which type of base equipment the beneficiary is using in conjunction with the accessory?

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3A. While we had said in the rule that the fee schedule amounts for such accessories will be adjusted based on the methodologies set forth in the final rule, we are adopting a new policy that affects how section 414.210(g)(5) applies to wheelchair accessories used with group 3 complex rehabilitative power wheelchairs. Section 1847(a)(2)(A) of the Social Security Act provides the categories of items that are subject to the DMEPOS Competitive Bidding Program and excludes certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs). We now believe that this statutory exclusion should inform our implementation of section 1834(a)(1)(F) of the Act such that the fee schedule amounts for wheelchair accessories and back and seat cushions used in conjunction with group 3 complex rehabilitative power wheelchairs would not be adjusted based on the methodologies set forth in section 414.210(g)(5). Effective July 1, 2017, the fee schedule amounts for wheelchair accessories and back and seat cushions used in conjunction with group 3 power wheelchairs will be based on the unadjusted fee schedule amounts updated by the covered item update specified in section 1834(a)(14) of the Act. The fee schedule amounts for all other accessories used with different types of base equipment will continue to be calculated in accordance with the adjustment methodology set forth in 414.210(g)(5) of our regulations.

4Q. When will the rural area zip code file be available?

4A. The file is under development for use in establishing the 2016 DMEPOS fee schedule and will be available to the public some time in 2015.

5Q: How often will the list of zip codes that meet the definition of rural area be updated?

5A: Changes to the list of zip codes designated as rural areas could occur whenever zip code areas and numbers are changed, whenever Metropolitan Statistical Areas (MSAs) are changed, or whenever low population density areas are excluded from an MSA(s) in the course of determining the boundaries of a competitive bidding area (CBA). The list of zip codes that meet the definition of rural area would be revised if one of these changes impacts the list of zip codes that are defined as rural areas. Any updates to the list of zip codes would most likely occur on a quarterly basis.

6Q. The final rule (79 FR 66258, Nov. 6, 2014) discusses **"**approximately half of the DMEPOS items" are furnished to Medicare patients "residing outside existing CBAs." Does this mean that approximately 50 percent of Medicare spending on DMEPOS is outside of Round 1 and Round 2 zones?

6A. Yes, this is a reasonable assumption based on the data available.

7Q: Which Single Payment Amounts (SPAs) will be used to calculate the adjusted fee schedule amounts for use in paying claims for dates of service January 1, 2016 through June 30, 2016?

7A: For most items, SPAs that went into effect on July 1, 2013, under Round 2 competitive bidding programs and/or SPAs that went into effect on January 1, 2014, under Round 1 competitive bidding programs will be used to make the

adjustment to the DMEPOS fee schedule amounts that take effect on January 1, 2016.

For items that were only included in the Round 1 competitive bidding programs from January 1, 2011 thru December 31, 2013, the SPAs from these programs, increased by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the 24-month period ending June 30, 2015, will be used for the fee schedule adjustments that take effect on January 1, 2016. These amounts will continue to be increased on an annual basis each January (e.g., January 1, 2017) based on the percentage change in the CPI-U for the 12-month period ending June 30 if the preceding year.

8Q: Which SPAs will be used to calculate the adjusted fee schedule amounts for use in paying claims for dates of service beginning July 1, 2016?

8A: For most items, SPAs that take effect on July 1, 2016, under Round 2 competitive bidding programs and/or SPAs that went into effect on January 1, 2014, under Round 1 competitive bidding programs will be used for the adjustments to the DMEPOS fee schedule amounts that take effect on July 1, 2016.

9Q: How often will the fee schedule amounts be adjusted to take into account new or revised SPAs after July 1, 2016?

9A: The fee schedule amounts are adjusted each time new SPAs are established or existing SPAs are revised based on new competitions. As a general rule, the adjustments to the fee schedule amounts based on new or revised SPAs would take effect on the date the new or revised SPAs take effect.

Payment Rules for Standard Power Wheelchairs and Continuous Positive Airway Pressure (CPAP) Devices and Under Certain Competitive Bidding Programs– 42 CFR 414.409

1Q. Is CMS required to phase in these special payment rules now that the regulation is final?

1A. No. Although a regulation has been updated to allow the phase in of the special payment rules in certain CBPs, decisions regarding whether or not these rules are phased in and when is at the discretion of CMS and the Secretary of Health and Human Services.

2Q. When will CBPs be phased in for standard power wheelchairs and/or Continuous Positive Airway Pressure (CPAP) devices using the special payment rules?

2A. The timeframe for when CBPs will be phased in for standard power wheelchairs and/or CPAP devices using the special payment rules has not been announced.

3Q. How many CBPs will be phased in for standard power wheelchairs and/or CPAP devices using the special payment rules?

3A. Two separate and distinct special payment rules will apply to certain CBPs. One rule would require payment on a continuous rental basis for standard power wheelchairs and CPAP devices. Under a continuous rental CBP, a bundled monthly payment amount will provide reimbursement for the wheelchair base, all related accessories, and all maintenance and servicing during the contract period for as long as medical necessity continues. The second rule related to standard power wheelchairs would make payment on a capped rental basis but with a requirement that a contract supplier provide any necessary maintenance and servicing of standard power wheelchairs furnished by the supplier during the contract period. The two special payment rules for power wheelchairs will not be implemented in the same CBP or Competitive Bidding Area (CBA). In accordance with the final rule (79 FR 66234), the special payment rules will be phased in no more than 12 CBAs in total. That is, the phase in of one or both of the special payment rules would not occur in more than 12 CBPs/CBAs combined. As a hypothetical example, if the first rule is implemented in 8 CBAs and the second rule is implemented in 4 CBAs, this totals to 12 CBAs; thus the phase in of the two special payment rules in additional CBAs in excess of these 12 would not be possible under the current regulation.

4Q. How will bid limits be established for competitions involving the special payment rules?

4A. The regulations for establishing bid limits for competitions involving the special payment rules are located at 42 CFR 414.412(b). Additional preamble discussion can be found in the July 11, 2014 notice of proposed rule (79 FR 40295). Per section 42 CFR 414.412(b)(3), the bids submitted for standard power wheelchairs paid on a bundled, continuous monthly rental basis cannot exceed the average monthly payment for the bundle of items and services that would otherwise apply.

Per section 42 CFR 414.412(b)(4), the bids submitted for CPAP devices paid on a bundled, continuous monthly rental basis cannot exceed the 1993 fee schedule amounts for CPAP devices, increased by the annual fee schedule updates (i.e. up to the year in which the competition begins). See chart below. Medicare paid on a bundled, continuous monthly rental basis for CPAP devices from 1989 thru 1993.

BUNDLED CPAP RATES BY STATE (continued below)									
Year	Covered Item Update	Ceiling Amount[1]	GA	ID	KS	KY	MO	MS	NY
1993	Base	$122.25	$114.99	$115.48	$116.09	$115.57	$116.88	$118.39	$104.10
1994	3.0%	$125.92	$118.44	$118.94	$119.57	$119.04	$120.39	$121.94	$107.22
1995	2.5%	$129.07	$121.40	$121.91	$122.56	$122.02	$123.40	$124.99	$109.90
1996	3.0%	$132.94	$125.04	$125.57	$126.24	$125.68	$127.10	$128.74	$113.20
1997	2.8%	$136.66	$128.54	$129.09	$129.77	$129.20	$130.66	$132.34	$116.37
1998	0.0%	$136.66	$128.54	$129.09	$129.77	$129.20	$130.66	$132.34	$116.37
1999	0.0%	$136.66	$128.54	$129.09	$129.77	$129.20	$130.66	$132.34	$116.37
2000	0.0%	$136.66	$128.54	$129.09	$129.77	$129.20	$130.66	$132.34	$116.37
2001	3.7%	$141.72	$133.30	$133.87	$134.57	$133.98	$135.49	$137.24	$120.68
2002	0.6%	$142.57	$134.10	$134.67	$135.38	$134.78	$136.30	$138.06	$121.40
2003	1.1%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2004	0.0%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2005	0.0%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2006	0.0%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2007	0.0%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2008	0.0%	$143.28	$134.77	$135.34	$136.05	$135.45	$136.98	$138.75	$122.01
2009	-9.5%	$129.67	$121.97	$122.48	$123.13	$122.58	$123.97	$125.57	$110.42
2010	0.0%	$129.67	$121.97	$122.48	$123.13	$122.58	$123.97	$125.57	$110.42
2011	-0.1%	$129.54	$121.85	$122.36	$123.01	$122.46	$123.85	$125.44	$110.31
2012	2.4%	$132.65	$124.77	$125.30	$125.96	$125.40	$126.82	$128.45	$112.96
2013	0.8%	$133.71	$125.77	$126.30	$126.97	$126.40	$127.83	$129.48	$113.86
2014	1.0%	$135.05	$127.03	$127.56	$128.24	$127.66	$129.11	$130.77	$115.00
2015	1.5%	$137.08	$128.94	$129.47	$130.16	$129.57	$131.05	$132.73	$116.73

BUNDLED CPAP RATES BY STATE (continued)								
Year	Covered Item Update	OH	OR	TN	VA	WV	WY	Floor Amount[2]
1993	Base	$112.76	$113.76	$116.54	$110.33	$114.76	$104.53	$103.91
1994	3.0%	$116.14	$117.17	$120.04	$113.64	$118.20	$107.67	$107.03
1995	2.5%	$119.04	$120.10	$123.04	$116.48	$121.16	$110.36	$109.71
1996	3.0%	$122.61	$123.70	$126.73	$119.97	$124.79	$113.67	$113.00
1997	2.8%	$126.04	$127.16	$130.28	$123.33	$128.28	$116.85	$116.16
1998	0.0%	$126.04	$127.16	$130.28	$123.33	$128.28	$116.85	$116.16
1999	0.0%	$126.04	$127.16	$130.28	$123.33	$128.28	$116.85	$116.16
2000	0.0%	$126.04	$127.16	$130.28	$123.33	$128.28	$116.85	$116.16
2001	3.7%	$130.70	$131.86	$135.10	$127.89	$133.03	$121.17	$120.46
2002	0.6%	$131.48	$132.65	$135.91	$128.66	$133.83	$121.90	$121.18
2003	1.1%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2004	0.0%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2005	0.0%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2006	0.0%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2007	0.0%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2008	0.0%	$132.14	$133.31	$136.59	$129.30	$134.49	$122.50	$121.79
2009	-9.5%	$119.59	$120.65	$123.61	$117.02	$121.71	$110.86	$110.22
2010	0.0%	$119.59	$120.65	$123.61	$117.02	$121.71	$110.86	$110.22
2011	-0.1%	$119.47	$120.53	$123.49	$116.90	$121.59	$110.75	$110.11
2012	2.4%	$122.34	$123.42	$126.45	$119.71	$124.51	$113.41	$112.75
2013	0.8%	$123.32	$124.41	$127.46	$120.67	$125.51	$114.32	$113.65
2014	1.0%	$124.55	$125.65	$128.73	$121.88	$126.77	$115.46	$114.79
2015	1.5%	$126.42	$127.53	$130.66	$123.71	$128.67	$117.19	$116.51

[1]Ceiling: AL, AZ, CT, IL, IN, ME, MD, MA, MI, MT, NV, NH, NM, ND, OK, RI, SC, SD, UT, VT, WA, WI
[2]Floor: AR, CA, CO, DE, DC, FL, IA, LA, MN, NE, NJ, NC, PA, TX

5Q: How long would the contract periods be for competitive bidding programs phased in using the special payment rules at 42 CFR 414.409?

5A: No more than 3 years as mandated by section 1847(b)(3)(B) of the Social Security Act.

6Q: What are the specific items included in the standard power wheelchair and CPAP bundled rates?

6A: In accordance with regulations at 42 CFR 414.412(b)(4), the bids submitted for CPAP devices paid in accordance with the special continuous rental payment

rule cannot exceed the 1993 fee schedule amounts for the CPAP device, increased by the covered item fee schedule update factors. The 1993 fee schedule amounts for CPAP devices were for the continuous rental of the equipment and included payment for all related accessories. Therefore, the items included in the bundled, continuous, monthly rental payment rate for CPAP devices would include the CPAP equipment and all related accessories, as was the case prior to 1994.

For standard power wheelchairs, the items included in any competitions where the standard power wheelchairs are paid in accordance with the special continuous rental payment rule would be specified by no later than the time the competitions are announced.

7Q: In the competitive bidding programs using a bundled, continuous rental basis, does the supplier have to provide maintenance, servicing and repairs for the reasonable useful lifetime of the item?

7A: No, the beneficiary can change suppliers. Suppliers must keep the item in good working for each month the supplier furnishes the item to the beneficiary.

8Q: How is the cost of maintenance, servicing and repairs incorporated under the two separate special payment rules?

8A: The cost of maintenance, servicing and repairs is included in the supplier bids used in calculating the single payment amounts.

9Q: In the competitive bidding programs using a bundled, continuous rental basis, what happens if the contract period ends and the contracts are not re-competed or the patient moves out of the CBA to an area where the special payment rules do not apply?

9A: The payment method would revert to the DMEPOS fee schedule developed under the standard payment rules and a new capped rental period of continuous use would begin the item assuming medical necessity for the CPAP device or power wheelchair is established based on new medical necessity documentation.

Definition of Minimal Self-Adjustment of Orthotics under Competitive Bidding

1Q. CMS proposed a revision to the definition of “minimal self-adjustment” at 42 CFR 414.402 of the Federal regulations, specifically to expand on the part of the definition related to individuals who have specialized training that enables them to furnish orthotics beyond those that require minimal self-adjustment (e.g., custom fitted orthotics). This proposed revision was not finalized. Does this mean that the guidance regarding which individuals have specialized training that enables them to furnish custom fitted orthotics is not valid?

1A. No. The guidance regarding which individuals have specialized training that enables them to furnish custom fitted orthotics remains in effect. Although the regulation was not updated to reflect this guidance, it remains in effect under the Durable Medical Equipment Medicare Administrative Contractor (DME MAC) articles discussing when orthotics can be considered custom fitted and coded using HCPCS codes specific to custom fitted orthotics. The DME MACs have discretion to define what constitutes custom fitting for accurate coding and payment of claims. It also remains in effect under Appendix C of the DMEPOS Quality Standards related to specialized training necessary for furnishing custom fitted orthotics.