



Competitive Bidding - Frequently Asked Questions 12/10/2013

The following Q&A includes answers the Competitive Bidding Implementation Contractor provided to questions NHIA asked directly as well as FAQs obtained from Jurisdiction A

Billing for Denial

Will suppliers that do not win a bid in the Round 1 Re compete (R1R) continue to have the ability to bill Medicare Part B for denial for the HCPCS codes that are included in the EIP and supply category?

If the drug is statutorily noncovered—any supplier in the Competitive Bidding Area (CBA) can provide the EIP and drug, file a claim for denial to Medicare, receive a patient responsibility denial and file the claim to a secondary insurer.

If the beneficiary does not meet the medical necessity guidelines of the policy, a non-contract supplier may provide the services. They will need to file the claim as done today with the appropriate modifiers to obtain the favorable PR denials.

If the beneficiary does not meet coverage and we do not have the bid, what type of denial will we receive? We need to know in order to bill the secondary insurer.

If the beneficiary does not meet coverage criteria, you will receive a not reasonable and necessary denial or a noncovered denial depending on the item.

A supplier is providing Enteral therapy to a beneficiary in a competitive bid area, but supplier is not contracted. The Enteral therapy does not meet the coverage criteria under the Enteral benefit, so the supplier is billing Medicare for denial to move the claim to the patients secondary payor that will cover the Enteral therapy.

The system logic would 1) look at the product category first, then 2) look at the supplier contracted status.

Under the above situation, the supplier is non contracted to provide the product category, and would need to obtain an ABN and bill with the GA modifier in order to get a PR denial.

If the reason for denial was due to the Enteral Therapy being ordered for less than 90 days, therefore is statutorily non-covered, we would normally append a GY modifier and could give a voluntary ABN. Would we still get the PR denial under the above circumstances if in a CB area and a non contracted supplier?

Yes. Suppliers outside of a CBA would use the GY modifier for temporary conditions, but within a CBA you must follow the CBICs instructions first, which will give you the same end result, a PR denial.

If a beneficiary chooses to remain with a noncontract provider as they have a secondary insurance and the provider obtains a valid ABN, what remark code will we receive?

Either of the following remark codes will be on the remittance advice. Remember, if you obtain an ABN, a **PR (Patient Responsibility)** denial will replace the **CO (Contractual Obligation)**.

CO-96, N211, MA113, M114, M115 - This item is denied when provided to this patient by a noncontract or non demonstration supplier.

CO-96, N211, M114, M115 - This service was processed in accordance with rules and guidelines under the DME Competitive Bidding program or a Demonstration project. For more information regarding these projects, contact your local contractor.

Grandfathering

Can a home infusion pharmacy that chooses to grandfather continue to provide the drug and supplies after the EIP capped rental has capped and is transferred to the beneficiary?

The drugs are not part of the CBP; therefore, the pharmacy can continue to provide them. However, the supplies are subject to the CBP. Once the pump has capped and the title is transferred to the beneficiary, they must obtain the supplies from the contracted supplier.

The grandfathering fact sheet states that the original supplier and the contract supplier need to coordinate the pick-up of the old equipment and delivery of the new equipment so that there is no break in service for the beneficiary. Are they responsible to coordinate the non-competitively bidding items, i.e. the drug supply as well?

If the beneficiary is changing suppliers for the drugs, one would expect a transition to ensure there is no adverse reaction to the beneficiary. It would also depend on whether the contract supplier is a licensed pharmacy and can provide the drug supply.

How does the supplier notify CMS of their choice to grandfather?

The non-contracted suppliers are only required to notify their beneficiaries of their grandfathering decision. They are not required to notify CMS or CBIC. The DME MACs will know the item is grandfathered based on the prior rental history on file for the supplier and beneficiary.

Can a grandfathered supplier continue to provide the necessary accessories and supplies to the beneficiaries after the EIP caps?

No, once the EIP meets the cap, either in 10 or 13 months depending on the equipment type—capped rental or inexpensive routinely purchased—and the beneficiary owns the equipment, they must go to the contracted supplier for their supplies.

Will grandfathered suppliers be getting reimbursed the Single Price Amount (SPA) of the bid wins, or the standard fee schedule amount?

Grandfathered suppliers for oxygen and oxygen equipment will be reimbursed the SPA. Grandfathered suppliers for capped rental DME will be reimbursed the fee schedule for the rented item, and the single payment amount for supplies and accessories related to the item.

Do we have to submit the signed grandfather letter in order to bill a claim?

No, keep a copy of the letter and documentation of any response or communication resulting from the letter in the patient's file.

Are there special modifiers we will need to bill for grandfathering & competitive bid items after 07/01/13?

There are not any modifiers for grandfathering.

As a non-competitive bid supplier, are we automatically considered a grandfather supplier if the beneficiary continues with the rental of an item? If not, how do we register?

Suppliers must make every attempt to establish contact with a beneficiary to obtain his or her election decision whether it is through a telephone call, written notification, or in-person visit. As long as you've made a good faith effort to contact the beneficiary and it's documented in the beneficiary's file, you may continue to provide the rented DME/oxygen and oxygen equipment and be reimbursed by Medicare as a grandfathered supplier.

Is there any special modifier used to indicate the claim is for a grandfathered supplier?

No.

If a beneficiary does not respond to our grandfathering notification, what are our obligations?

If the beneficiary does not respond to the 30 day notification, try to follow up by a phone call. As long as you can show you made a good faith effort to reach the beneficiary, you can assume they wish to stay with you as their supplier.

With competitive bid, if a patient chooses to stay with a grandfathered supplier, can they then change to a contract supplier 4 months later?

Yes, a Medicare beneficiary may choose to switch to a contract supplier at any time during the rental period.

Beneficiary Notification

Do contract suppliers need to notify beneficiaries?

No, contract suppliers should not notify beneficiaries. The Supplier Standards prohibit a supplier from contacting a beneficiary unless the beneficiary has given written permission for the supplier to contact him or her if the supplier has already provided a covered item to the beneficiary and the supplier is calling the beneficiary about such covered item, or if the beneficiary has already received a covered item from the supplier in the 15 months. Otherwise, contact may represent a violation of the Medicare DMEPOS Supplier Standards and result in a breach of the competitive bidding contract.

Non-Contracted Suppliers

How should suppliers advise beneficiaries that do not understand the competitive bidding process?

Medicare beneficiaries may be referred to 1-800-MEDICARE for assistance with the Competitive Bidding Program.

Can a pharmacy bill for a covered DME drug only, without providing the pump if it does not win the external infusion pump (EIP) and supply bid?

Yes. The drugs administered via external infusion pumps are not included in the Competitive Bidding Program (CBP). Therefore, any supplier permitted under all applicable federal, state and local laws and regulations to dispense drugs may dispense and file claims for the drugs. The supplier must also be licensed by the state in which it is physically located. Additionally, the medical policy does not require the drug to be provided by the supplier providing the pump. Important note: A payable DIF for the base item (pump) must be on file for the drug claim to pay.

We are a noncontract supplier. Can we keep our Medicare advantage patients who convert to Medicare in the middle of a rental?

Beneficiaries who are enrolled in a Medicare Advantage plan at the time of implementation and later transition to Original Fee-for-Service Medicare are eligible for the grandfathering provision until the rental period ends or until medical necessity ceases.

What type of documentation is the non-contract supplier required to provide to the contract supplier?

The non-contract supplier is encouraged to provide all the medical documentation on file for that beneficiary.

Contracted Providers

Will a contract supplier pick up where the rental left off or will the new supplier start a new capped rental period?

If a Medicare beneficiary who is otherwise entitled to remain with a non-contract supplier, transitions to a contract supplier, the new contract supplier will receive:

- A new 13-month rental period for rented DME,
- The remaining number of months in the rental period or 10 months rental payments, whichever is greater, for oxygen and oxygen equipment, or
- The remaining number of rental payments until the point at which the total payments for the item equal 100 percent of the single payment amount for the purchase of the item.
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Patient wants to remain with non-contract winner. Can patient pay out of pocket? How does a provider record this? ABN?

If a non-contract supplier that furnishes a competitive bid item in a CBA obtains a signed Advance Beneficiary Notice of Noncoverage (ABN) indicating that the beneficiary was informed in writing prior to receiving the item or service that there would be no coverage due to the supplier's non-contract status, and the beneficiary agrees to be liable for all costs, the non-contract supplier may charge the beneficiary for the item or service. In this circumstance, non-contract suppliers cannot bill Medicare to receive payment for the item or service. A copy of the ABN should be kept in the patient's file.

Can a contract supplier refuse to furnish competitively bid items to beneficiaries within a competitive bidding area (CBA) once it has met the estimated capacity provided on its bid?

No. When bidding, each bidder must state its expected capacity to furnish the items in each product category for which it is submitting a bid. The estimated capacity is used during bid evaluation for the purpose of selecting a sufficient number of contract suppliers to meet demand for the product category

in the CBA. However, the projected capacity submitted by a bidder does not become a binding term of the contract because contract suppliers are required to furnish the items in their contract to all beneficiaries who maintain a permanent residence in the CBA, or who visit the CBA, and who request the items from them. (See Federal regulations at 42 CFR §414.422.)

The Request for Bids clearly indicates that a contract supplier must furnish competitively bid items to any beneficiary who maintains a permanent residence in or who visits a CBA and who requests those items from the contract supplier, starting on day one of the contract period. Furnishing medically necessary contract items to all beneficiaries throughout the CBA is also a term of the competitive bidding program contract.

Suppliers are not allowed to “pick and choose” which beneficiaries they will serve within a CBA. Furthermore, contract suppliers are required to provide beneficiaries with timely service in accordance with the quality standards. Refusing to furnish medically necessary competitively bid items to beneficiaries throughout the entire CBA is a breach of contract, and may lead to contract termination.

Sub-contracting

What is the role of the subcontractor in the intake and assessment process, if any?

Medicare guidelines only allow the subcontractor to sell equipment to the contracted supplier, deliver and setup, provide instructions, or repair the rented equipment. Any other function, i.e., home assessment, must be done by a contract supplier.

What type of liability does a subcontractor have for documentation if the DME MAC or Recovery Auditor performs an audit?

The contract supplier is purchasing the item from the subcontractor; therefore, the contract supplier is responsible for any documentation regarding the item.

Miscellaneous

If the beneficiary resides in a CBA, but they have a power of attorney that lives in a different CBA. Can a contract supplier service this beneficiary since they reside in the contract suppliers CBA?

Yes. Since the address on file is not in the suppliers competitive bid area, the **KT** modifier would need to be appended to indicate traveling beneficiary.

