



## Affordable Care Act Requirements and Durable Medical Equipment

**Length: 12:04**

**Date Recorded: 3.08.16**

Hello and welcome to another edition of Medicare Minute MD. I'm Dr. Robert Hoover, medical director at CGS Administrators, the Jurisdiction C DME MAC. Today I'm going to talk about legislation that impacts your documentation for Medicare beneficiaries receiving certain items of durable medical equipment or DME.

The Affordable Care Act changed many aspects of healthcare, including Medicare. One section in particular impacts physicians and other allied health professionals serving Medicare beneficiaries. Section 6407 of the ACA requires that for certain items of DME, you must provide a written order to the DME supplier before they can deliver the item of DME to the beneficiary. In addition, you must conduct an in-person, face-to-face encounter with the beneficiary within 6 months prior to writing the order. These requirements went into effect for any new orders written on or after July 1, 2013.

Let's talk about these requirements in more detail.

Section 6407 of the Affordable Care Act established a rule requiring a face-to-face encounter with the Medicare beneficiary (including the use of Medicare-approved methods of telehealth) as a condition of payment for certain items of DME. In addition, these items of DME must have a written order prior to delivery.

The major provisions of this rule include:

1. A physician, physician assistant, nurse practitioner, or clinical nurse specialist must document that they have had a face-to-face examination with a beneficiary in the six (6) months prior to the written order for the items of DME.
2. This face-to-face examination must document that the beneficiary was evaluated or treated for a condition that supports the item or items of DME ordered.

3. There are 155 items covered under the face-to-face requirement and the list is updated annually by CMS. The criteria used to select the 155 covered items were:
- Items of DME with a price ceiling of at least \$1000 on DMEPOS Fee Schedule; or,
  - Items of DME that were the subject of an Office of Inspector General report since the year 2000; or,
  - Items of DME in the Program Integrity Manual Chapter 5.2.3.1, currently requiring a written order prior to delivery; or,
  - Items of DME that historically have been the target of fraud, waste or abuse.

Note that power wheelchairs are not on this list because they are already subject to a different statutory requirement for a face-to-face visit.

In addition, you may recall that the original ACA legislation required that a physician co-sign the face-to-face documentation for examinations conducted by physician assistants, nurse practitioners and clinical nurse specialists. Moreover, physicians were allowed to bill a specific G-code for this review and co-signature.

The ACA legislation was modified in early 2015 by the Medicare Access and CHIP Reauthorization Act. This law removed the requirement for the physician co-signature on nurse practitioner, physician assistant or clinical nurse specialist notes and as a result, also eliminated the ability of the physician to bill the additional G-code for this work.

So let's dig a little deeper into some of the face-to-face requirements.

As I mentioned, the physician, nurse practitioner, physician assistant or clinical nurse specialist must have a face-to-face examination with the beneficiary in the six (6) months prior to the date of the written order for the specified items of DME.

This face-to-face requirement includes examinations conducted via the Centers for Medicare & Medicaid Services (CMS)-approved use of telehealth examinations.

For prescribing any item of DME on the ACA list, which we'll talk about in a minute, the exam must:

1. Be conducted in-person with the beneficiary within the six (6) months prior to the date of the prescription.
2. This exam must document that the beneficiary was evaluated or treated for a condi-

tion that supports the need for the item or items of DME ordered.

3. Include sufficient medical information to demonstrate that the applicable coverage criteria are met. Refer to the applicable Local Coverage Determination for information about the medical necessity criteria for the item or items being ordered. Note that many of the DME MAC policies are not “diagnosis driven” but rather depend on the specific documentation in your records detailing the need for the item ordered. In other words, just having a diagnosis in the record is often not sufficient evidence of coverage.

4. Provide evidence of the face-to-face examination and the prescription for the item or items to the DME supplier before the item can be delivered.

The treating practitioner that conducted the face-to-face examination does not need to be the prescriber for the DME item; however, if you are the prescriber but did not perform the face-to-face exam, you must:

- o Verify that the in-person visit occurred within the 6-months prior to the date of their prescription; and,
- o Have documentation of the face-to-face examination that was conducted.

I’ll come back in a bit and summarize some of these key points but now let’s move on to the written order requirement of the ACA.

The second requirement contained in ACA 6407 is the mandate for a written order prior to delivery for any of the 155 items of DME on the ACA list. Recall that I said that the written order prior to delivery is required for any new order written on or after July 1, 2013. So what triggers a new order in Medicare?

On your screen now you’ll see the situations when Medicare requires that you write a new prescription:

- For all claims for purchases or initial rentals
- When there is a change in the order for the accessory, supply, drug, etc.
- On a regular basis (even if there is no change in the order) but only if it is so specified in the documentation section of a particular medical policy

- When an item is replaced
- When there is a change in the supplier
- When required by state law

So in any of these situations requiring a new order, it triggers the ACA requirements if the item is on the list. That means a written order prior to delivery and the associated face-to-face exam within 6 months prior to the order.

The written order also has specific elements that are required. The written order must include, at a minimum, the following elements:

Slide narrative:

1. The beneficiary's name,
2. The item of DME ordered,
3. The prescribing practitioner's National Provider Identifier (NPI),
4. The signature of the ordering practitioner and
5. The date of the order.

It is important to note that the ACA requirements for a face-to-face examination and written order prior to delivery only apply items of DME on the list and do not apply to any associated supplies for the DME. As a result, you may see some orders for supplies only that do not require your NPI.

Although not required, my recommendation is to put your NPI on any orders for Medicare beneficiaries to avoid back and forth paperwork with the DME supplier.

So you've heard me mention this "list" of ACA items. What's on the list? On your screen now are shown some of the more commonly prescribed items on the ACA list. Things like...

Blood Glucose Monitors  
Portable Oxygen Equipment  
Nebulizer Compressors  
CPAP and Bilevel Respiratory Devices  
Hospital Beds & Mattresses  
Pressure Reducing Support Surfaces

Lymphedema Pumps  
TENS units  
Manual Wheelchairs  
Osteogenesis Stimulators  
Infusion Pumps  
Speech Generating Devices

Congress added a lot of stuff with the ACA and I've covered a lot of that information here so let's summarize and hit some of the important date and timing requirements we've just discussed.

Here are the key points of ACA Section 6407:

1. You must perform an in-person, face-to-face examination with the beneficiary.
2. The face-to-face exam must document a condition that requires treatment with the item of DME ordered.
3. The exam must have taken place within the 6 months prior to writing the order for the DME.
4. The order for the DME has specific elements that must be on the order, including your NPI.
5. The supplier of the DME must have the written order and evidence of your face-to-face exam in their possession prior to dispensing the item of DME.

I mentioned a lot of timing and date issues in those requirements. Let's go over those as they're shown on your screen now:

- The date of the face-to-face exam must be on or before the date of the written order (prescription)
- The face-to-face exam may be no older than 6 months prior to the prescription date.
- The date of the face-to-face exam must be on or before the date of delivery for the item(s) prescribed.
- The date of the written order must be on or before the date of delivery.

That does it for this edition of Medicare Minute MD. As with all of CGS' educational offerings, this is only a summary of certain policy requirements. I encourage you to read the applicable LCDs and related Policy Articles for a complete description of the coverage, coding and documentation requirements.

Thank you for watching and have a nice day.