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## 42 C.F.R. § 414.408

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### Payment rules.

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- (a) *Payment basis.* (1) The payment basis for an item furnished under a competitive bidding program is 80 percent of the single payment amount calculated for the item under § 414.416 for the CBA in which the beneficiary maintains a permanent residence.
- (2) If an item that is included in a competitive bidding program is furnished to a beneficiary who does not maintain a permanent residence in a CBA, the payment basis for the item is 80 percent of the lesser of the actual charge for the item, or the applicable fee schedule amount for the item, as determined under subpart C or subpart D.
- (b) *No changes to the single payment amount.* The single payment amount calculated for each item under each competitive bidding program is paid for the duration of the competitive bidding program and will not be adjusted by any update factor.
- (c) *Payment on an assignment-related basis.* Payment for an item furnished under this subpart is made on an assignment-related basis.
- (d) *Applicability of advanced beneficiary notice.* Implementation of a program in accordance with this subpart does not preclude the use of an advanced beneficiary notice.
- (e) *Requirement to obtain competitively bid items from a contract supplier.* (1) *General rule.* Except as provided in paragraph (e)(2) of this section, all items that are included in a competitive bidding program must be furnished by a contract supplier for that program.
- (2) *Exceptions.* (i) A grandfathered supplier may furnish a grandfathered item to a beneficiary in accordance with paragraph (j) of this section.
- (ii) Medicare may make a secondary payment for an item furnished by a noncontract supplier that the beneficiary is required to use under his or her primary insurance policy. The provisions of this paragraph do not supersede Medicare secondary payer statutory and regulatory provisions, including the Medicare secondary payment rules located in §§ 411.32 and 411.33 of this subchapter, and payment will be calculated in accordance with those rules.
- (iii) If a beneficiary is outside of the CBA in which he or she maintains a permanent residence, he or she may obtain an item from a—
- (A) Contract supplier, if the beneficiary obtains the item in another CBA and the item is included in the competitive bidding program for that CBA; or
- (B) Supplier with a valid Medicare billing number, if the beneficiary obtains the item in an area that is not a CBA, or if the beneficiary obtains the item in another CBA but the item is not included in the competitive bidding program for that CBA.
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(iv) A physician, treating practitioner, physical therapist in private practice, occupational therapist in private practice, or hospital may furnish an item in accordance with § 414.404(b) of this subpart.

(3) Unless paragraph (e)(2) of this section applies:

(i) Medicare will not make payment for an item furnished in violation of paragraph (e)(1) of this section, and

(ii) A beneficiary has no financial liability to a noncontract supplier that furnishes an item included in the competitive bidding program for a CBA in violation of paragraph (e)(1) of this section, unless the beneficiary has signed an advanced beneficiary notice.

(4) CMS separately designates the Medicare billing number of all noncontract suppliers to monitor compliance with paragraphs (e)(1) and (e)(2) of this section.

(f) *Purchased equipment.* (1) The single payment amounts for new purchased durable medical equipment, including power wheelchairs that are purchased when the equipment is initially furnished and enteral nutrition equipment are calculated based on the bids submitted and accepted for these items. For contracts entered into beginning on or after January 1, 2011, payment on a lump sum purchase basis is only available for power wheelchairs classified as complex rehabilitative power wheelchairs.

(2) Payment for used purchased durable medical equipment and enteral nutrition equipment is made in an amount equal to 75 percent of the single payment amounts calculated for new purchased equipment under paragraph (f)(1) of this section.

(g) *Purchased supplies and orthotics.* The single payment amounts for the following purchased items are calculated based on the bids submitted and accepted for the following items:

(1) Supplies used in conjunction with durable medical equipment.

(2) Enteral nutrients.

(3) Enteral nutrition supplies.

(4) OTS orthotics.

(5) Lymphedema compression treatment items.

(h) *Rented equipment*—(1) *Capped rental DME.* Subject to the provisions of paragraph (h)(2) of this section, payment for capped rental durable medical equipment is made in an amount equal to 10 percent of the single payment amounts calculated for new durable medical equipment under paragraph (f)(1) of this section for each of the first 3 months, and 7.5 percent of the single payment amounts calculated for these items for each of the remaining months 4 through 13.

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