CMS Response to Public Comments Received for CMS-855S

The Centers for Medicare and Medicaid Services (CMS) received comments for CMS-10526 from one organization. CMS acknowledges receipt of these comments. However, these comments were submitted to the incorrect docket. CMS did receive comments from a relevant association related to CMS-855S. This is the reconciliation of the comments.

Comment:

The Centers for Medicare and Medicaid Services (CMS) received several comments from an association that uses the CMS-855S (Medicare Enrollment Application - Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Suppliers).

Response:

CMS appreciates the suggestions, concerns and questions expressed by this commenter. Each bulleted item will be addressed individually.

Comment:

1) The association "*...generally approves of CMS the 855S forms to standardize the information suppliers submit to demonstrate that they are eligible to enroll in Medicare.*"

Response:

CMS strives to standardize enrollment information as much information as possible given the several different types of providers and suppliers. CMS appreciates your recognition of this.

Comment:

2) The association "*...reiterates its previous recommendation that CMS closely monitor suppliers enrolling in Medicare for the first time. Suppliers...that have no previous history with the program should have random onsite inspections over the course of their first five years as Medicare suppliers.*"

Response:

CMS, in accordance with 42 C.F.R. section 424.57(c)(8) requires all new DMEPOS suppliers complete and pass an unannounced site inspection prior to enrollment into the Medicare program. In addition, ad hoc site investigations are performed based on supplier type and current fraud indicators. All DMEPOS suppliers are required to resubmit all of their Medicare enrollment information every three years for revalidation as required by 42 C.F.R. section 424.57(e).

Comment:

3) *"Section 3D adds "and Repairs" to Related Accessories for Standard Manual and Power Wheelchairs, but this verbiage wasn't added to any other DME product. Including "and repairs" for standard manual and power wheelchairs creates a new designation that could have unintended consequences for suppliers and beneficiaries. One unintended consequence we foresee is the potential decrease the number of suppliers willing to furnish standard manual and power wheelchairs. The new language creates an inference that suppliers that furnish these wheelchairs also have an obligation to repair them if they furnish anything other than a base chair without any accessories, e.g., elevated leg rests, anti-tippers, in addition to the chair."*

Response:

CMS does not believe such an inference is being made. CMS believes the distinction between the standard manual and power wheelchairs, and the additional choice of accessories and repairs to the standard manual and power wheelchairs gives the supplier the freedom to more accurately report the products and services being rendered.

Comment:

4) The association *"...understands that suppliers must "repair or replace" equipment they rent... When the rental payments cap and supplier transfer ownership of the chair to the beneficiary, the supplier is no longer bound to repair the beneficiary's wheelchair."* The association *"...suggests that CMS clarify how the Agency will apply the new verbiage to suppliers for beneficiary owned wheelchairs."*

Response:

CMS understands that the wheelchair, at some point, may transfer ownership from the supplier to the beneficiary due to the rental cap. The added designation of "and repairs" to the wheelchair categories allows those suppliers who only repair manual and/or power wheelchairs and/or accessories to be accredited without having to provide the actual wheelchair. When a supplier checks one or both of these categories (manual or power) under products and services, accreditation categories allow for many scenarios of providing the wheelchairs and repairing the wheelchairs and/or their accessories, without regard to wheelchair ownership.

Comment:

5) *"Further, depending on how CMS depends to apply the new language, suppliers might need to update and resubmit their CMS-855S forms to ensure their NSC records are accurate. ... if the suppliers PECOS file does not correspond to the claim he submits, implemented, the supplier's repair claims could be denied,"*

Response:

CMS thanks the commenter for pointing out the importance of correct enrollment information as it pertains to PECOS and claims reimbursement. However, the current and revised CMS-855S includes a list of required supplier standards. 42 C.F.R. section 424.57 (c)(6) states a supplier must notify beneficiaries of warranty coverage and honor all warranties under applicable state law and repair or replace free of charge Medicare covered items that are under warranty. In addition, 42 C.F.R. section 424.57 (c)(14) states a supplier must maintain and replace at no charge or repair directly or through a service contract with another company Medicare-covered items it has rented to beneficiaries. Medicare beneficiaries also are informed under the capped rental rule that once a wheelchair is not covered by the above two standards, they may contact any supplier they wish to repair or replace wheelchairs and/or accessories, (e.g., a comparison similar to contacting any plumber they wish for a leaky pipe). As every DMEPOS supplier is required to revalidate its enrollment information every three years (or sooner if there are special initiatives being implemented), CMS does not feel the additional language would require a change of enrollment information be submitted by the supplier until such a time as the supplier is submitting a change of enrollment information for another category or the supplier revalidates its enrollment information. At the time of an additional change of enrollment information or revalidation, the supplier can then update the products and services, if necessary, as they pertain to wheelchairs.

Comment:

6) *"We also request that CMS clarify whether the agency will direct DMEPOS accrediting bodies to examine the repair processes of suppliers once the new 855S form goes into effect?"*

Response:

The additional products and services breakdown of wheelchair categories was requested by DMEPOS accrediting bodies. CMS is not planning on directing the accreditors to examine the repair processes as a result of the revisions in the CMS-

855S. However, the accreditors currently examine the repair processes of suppliers as part of their accreditation requirements.

Comment:

7) *"CMS should also clarify why the Agency did not include similar language under the Complex Rehab related accessories category. We do not understand the rationale for treating Complex Rehab related accessories differently from Standard Manual and Power Wheelchairs related accessories."*

Response:

We received no comments requesting to do so.

Comment:

8) *"We have similar concerns and questions about the new language added to the Support Surfaces designation. The form adds "New" and "Used" as descriptors in this category. It is unclear how suppliers apply the support surfaces designation to their businesses given the addition of this verbiage. We request that CMS clarify how suppliers should apply this new designation."*

Response:

CMS thanks the commenter for pointing out this additional descriptor. "Support Surfaces: Pressure Reducing Beds/Mattresses/Overlays/Pads" was revised into two distinct categories (new and used) because CMS has determined a need to provide a breakout between new and used to solve a recent issue with competitive bidding. In competitive bidding, some suppliers only offer new items and therefore do not need a germicidal license required by some states for used Support Surfaces: Pressure Reducing Beds/Mattresses/Overlays/Pads. The current CMS-855S does not provide the distinction between new and used Support Surfaces: Pressure Reducing Beds/Mattresses/Overlays/Pads and therefore CMS cannot determine the suppliers who require the germicidal license because they are providing used Support Surfaces: Pressure Reducing Beds/Mattresses/Overlays/Pads.

Comment:

9) Regarding "Support Surfaces: Pressure Reducing Beds/Mattresses /Overlays/Pads" *"For example, with Medicaid, the delivery ticket has to indicate that the equipment is new at the time that is first delivered and if not, it has to be picked up and new equipment delivered when the item reaches the purchase amount. For fee schedule purposes, New (NU) modifier is defined as the purchase of an item that has*

never been used and the Used (UE) modifier is the purchase of an item that has been previously used. Do the same definitions apply to the 855S, or are the terms applied differently, such as with Medicaid, since there is no descriptor of Rental (RR) or does this mean the supplier provides both new and used equipment and there is no correlation to claims for validation?"

Response:

This revised CMS-855S form does not change any existing definition or the application of any existing definitions to the form.