



March 18, 2020

The Honorable Seema Verma  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

**Re: Time Sensitive - Request for Flexibility in Providing DMEPOS to Ensure COVID-19 Patients Receive Appropriate In-Home Care**

Dear Administrator Verma:

The American Association for Homecare (AAHomecare) is writing to request that the Centers for Medicare and Medicaid Services (CMS) make certain accommodations regarding the provision of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), and home infusion therapy, to enable DMEPOS suppliers to assist patients during the COVID-19 emergency.

AAHomecare is the national organization representing DMEPOS suppliers, manufacturers, and other stakeholders in the homecare community. Our members are in patients' homes every day and are uniquely qualified to be able to assist during the COVID-19 pandemic.

DME providers serve millions of Medicare beneficiaries in their homes; and we expect that number to grow significantly with the spread of the COVID-19 virus. In fact, Medicare beneficiaries, both seniors and people with disabilities, are the most vulnerable to having serious health conditions for the COVID-19 virus. Our members supply home oxygen therapy, ventilator services, and other items and services that allow patients to be released from hospitals, nursing homes and other health care facilities to complete their recovery.

The current COVID-19 outbreak presents many challenges to our health care system. If the virus spreads and hospitals reach capacity, we will see an increased need for treatment of people at home for a number of health issues, including those directly related to COVID-19. Hospitals will need to be discharging increased numbers of patients into their homes to prevent exposure in the hospital setting and to free up resources and hospital beds. This will put a strain on the

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provision of DME Items and services, particularly for suppliers of home oxygen and ventilators. It is critical to have a strong, well-supported and financially viable DME infrastructure to allow patients to recover at home.

In order for DME suppliers to be able to accommodate the increased numbers of patients needing ventilator and home oxygen services, they need to make significant capital investments today. A substantial difficulty with this scenario is the pending Medicare DME competitive bidding program. Many DME suppliers may not win contracts, and as of January 1, 2021, will not be allowed to service beneficiaries in half of the United States. Therefore, it may not make practical financial sense for them to increase investments in capital equipment to serve COVID-19 patients, if those same suppliers won't be able to use that increased inventory starting in January 2021. As a result, we urge CMS to delay the competitive bidding program for at least one year. One area of particular concern is non-invasive ventilators (NIVs). These items come at a particularly high costs and NIVs were included in the 2021 competitive bidding program for the first time. As noted in all projections, NIVs are and will be an important part of caring for COVID-19 patients and now is not the time to have suppliers unable to make these investments, as DME suppliers will be necessary to supplement the work of hospitals by caring for COVID-19 patients at home.

In the short term, there are a number of "red tape" issues that CMS can alleviate today, to ensure that patients diagnosed with COVID-19 can access medically necessary home ventilator and home oxygen therapy services. Listed below are recommendations which will allow the DMEPOS industry to focus on current emergency patient situations. Some of these modifications can be made under CMS' authority to implement programmatic waivers based on Section 1135 of the Social Security Act. In addition, CMS's March 17, 2020 announcement yesterday of broadened access to Medicare telehealth services (CMS Telehealth policy) will also facilitate/expedite some provision of DMEPOS care. We are aware of additional waiver authorities that CMS can utilize to implement many of these policy changes.

Time is of the essence. The faster our members can be assured that these modifications can be accommodated, the faster many beneficiaries will have access to medically necessary home ventilation and oxygen therapy services. AAHomecare members stand ready to provide meaningful assistance to alleviate hospital overflow issues and enable beneficiaries to recover in their homes, the safest and most cost-effective place of care.

**1. AAHomecare requests that CMS cover and reimburse equipment, supplies, and services provided to patients with a confirmed COVID-19 diagnosis. CMS needs to provide coverage for short term oxygen for beneficiaries with acute conditions to ease hospital overflow issues.**

Current Medicare medical policy requirements require beneficiaries to have specific diagnoses in order for Medicare to cover and pay for respiratory equipment and medications. For example, Medicare generally requires that the beneficiary have a chronic pulmonary disease. AAHomecare strongly recommends that:

- *CMS allow coverage for short term oxygen for acute conditions* to allow patients to be either released from the emergency room or discharged from hospitals as these patients are high risk for COVID-19 or have already been diagnosed with COVID-19. This would significantly alleviate potential hospital overflow issues.
- *CMS allow coverage for all respiratory equipment, medications and supplies when a patient is diagnosed with COVID-19.*
- *CMS allow beneficiaries' oxygen saturation levels to be tested in the emergency room and other emergency triage facilities, and if they qualify, they can be discharged and treated at home with home oxygen therapy provided by a DMEPOS supplier.*

**2. AAHomecare requests that CMS reduce burdensome paperwork requirements by allowing the standard written order (SWO) and the test results confirming diagnosis of COVID-19 to meet the Medicare documentation requirements.**

The current Medicare local coverage determinations (LCDs), policy articles and the Program Integrity Manual (PIM) speak to numerous documentation requirements for the provision of DMEPOS items. *AAHomecare recommends that CMS only require the SWO, oxygen saturation test results, and the positive COVID-19 test result to meet the Medicare documentation requirements throughout this COVID-19 crisis.* This would allow suppliers to obtain only this documentation from prescribers and focus on supplying the needed equipment and supplies to the patients, eliminating wasted time in multiple “back and forth” communications between the supplier and the prescriber. These same streamlined documentation requirements should apply to beneficiaries who present with non-COVID-19 acute respiratory conditions (e.g., pneumonia), to enable these patients to be cared for at home and minimize the potential for hospital overflow.

**3. AAHomecare requests that CMS waive the requirement for a face-to-face encounter where the prescriber does not have the ability to conduct a face-to-face encounter via telehealth on new setups and for the requirement for on-going documentation of continued medical need.**

To assist with social distancing and quarantining efforts, and facilitating primary care physicians' ability to focus on patients with COVID-19 experts, AAHomecare appreciates CMS' March 17, 2020 Telehealth announcement that allows clinicians to use telehealth to conduct the face-to-face encounter requirement for DMEPOS. There are, however, instances where telehealth (video) may not be available or feasible. In those instances where the prescriber has no ability to conduct a visit via telehealth, CMS should waive the requirement for the face-to-face encounter if the prescriber has no ability to do so. Alternatively, if there is no access to video calls, we request that CMS allow for verbal conversations during this crisis.

**4. AAHomecare requests CMS allow alternatives for proof of delivery requirements.**

To assist suppliers in obtaining proof of delivery of equipment and supplies, *AAHomecare requests that CMS allow flexibility of what constitutes valid proof of delivery documentation.* With the COVID-19 pandemic, patients do not want to allow delivery drivers access to their homes and physicians have requested drop off of nebulizers and other supplies to patients awaiting test results. Valid proof of delivery could be a technician acknowledging delivery to a home with a photograph of the item on the porch or some other method to validate receipt.

- 5. AAHomecare requests that CMS allow an extension of the expiration date of written orders for an additional nine months from the date orders currently expire, for recurring medical supply orders and on-going DME rental claims.**

Due to the COVID-19 pandemic, prescribers have minimized patient visits or closed completely. It will become increasingly difficult for DME supplier to obtain the written authorization to extend supply and other DME orders. *Allowing an extension of the validity of a current order an additional nine months will allow beneficiaries to continue to receive needed medical supplies and on-going rentals of their current equipment.* We recommend that suppliers also be allowed to perform repairs on wheelchairs for beneficiaries with a documented permanent mobility related disability, without the physician's confirmation of continued medical need.

- 6. AAHomecare recommends that ATP specialty evaluations required for certain power wheelchairs be allowed to be conducted via video participation.**

Medicare requires an assistive technology professional (ATP) to evaluate beneficiaries who are prescribed complex wheelchairs. In order to preserve the safety and health of both beneficiaries and the ATPs, Medicare should allow those evaluations to be performed via video wherever possible.

- 7. AAHomecare requests that CMS suspend the Medicare supplier standard related to minimum hours of operation and physical access to facilities during this COVID-19 pandemic as staffing levels are strained and there is a need for social distancing. AAHomecare also requests that CMS allow DME suppliers to utilize one or more cell phone numbers in lieu of a primary business telephone; and that CMS temporarily suspend site inspections to allow for DMEPOS employees to focus on increased patient care needs.**

The Medicare DMEPOS Supplier Standard 30 states, "A supplier must remain open to the public for a minimum of 30 hours per week except physicians (as defined in section 1848(j) (3) of the Act) or physical and occupational therapists or a DMEPOS supplier working with custom made orthotics and prosthetics."<sup>1</sup> AAHomecare requests this standard be suspended throughout the crisis situation to allow for staffing flexibility and social distancing.

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<sup>1</sup> 42 C.F.R. §424.57(c)(30)

Medicare DMEPOS Supplier Standard nine requires DMEPOS suppliers to maintain a primary business telephone; and that the exclusive use of a beeper, answering machine, answering service or cell phone during posted business hours is prohibited.<sup>2</sup> During this COVID-19 pandemic, we recommend that CMS allow DMEPOS suppliers to utilize any or all of these alternatives to a primary business telephone.

AAHomecare also recommends that CMS suspend National Supplier Clearinghouse (NSC) site inspections of DME suppliers for compliance with the Medicare DMEPOS supplier standards to allow DME suppliers to focus on providing DMEPOS items and services to an expanded population of beneficiaries with needs for respiratory equipment and supplies.<sup>3</sup>

**8. AAHomecare requests that CMS prioritize the provision of personal protective equipment (PPE) for DMEPOS suppliers who are providing DMEPOS to COVID-19 patients in their homes.**

PPE includes masks and gloves for DMEPOS supplier employees who are entering the homes of beneficiaries. There is already widespread unavailability of these items throughout the health care system. These PPE items are essential to protect DMEPOS employees, and allow them to continue to provide necessary services to beneficiaries in their homes. If PPE items are not available to DMEPOS employees, they cannot continue to provide home ventilation and oxygen services to beneficiaries in their homes.

**9. AAHomecare requests that DMEPOS suppliers be categorized as “essential services” to allow delivery to quarantined areas.**

Many patients who require DMEPOS need the services in order to continue with their activities of daily living. Moreover, it is critical for patients that are prescribed respiratory equipment to continue to receive supplier services. Due to the importance of keeping patients healthy within their home, AAHomecare requests that DMEPOS suppliers be categorized as “essential services.”

**10. AAHomecare asks that the in home assessment can be conducted through alternate means such as a telephone call with the beneficiary or previous documentation of the assessment.**

Medicare requires DME suppliers furnishing mobility devices, both power and manual, to conduct an in-home assessment to ensure that the device can be used in the beneficiary’s home. Consistent with the desire to “social distance,” and with CMS’ March 17, 2020 Telehealth announcement, we recommend that CMS allow that home assessment to be conducted via a phone call with the beneficiary and/or the caregiver or a video assessment if feasible.

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<sup>2</sup> *Id* at §424.57(c)(9).

<sup>3</sup> *Id* at §424.57(c)(8).

**11. AAHomecare requests that CMS suspend all audits from DME MACs, RAC, and SMRC contractors to allow DMEPOS suppliers to focus on their emergency activities.**

As the crisis unfolds, it is imperative that DMEPOS suppliers stay focused on emergency operating procedures and taking care of the increasing number of beneficiaries with health care needs in their homes. In so doing, setting aside those activities that are not patient care focused will allow suppliers to focus on activities that relate to patient care and safety for employees. In addition, suppliers often need to communicate with the prescribing physicians and obtain medical records from that physician. It will be very difficult for suppliers to reach physicians and obtain necessary documentation to respond to many audit requirements.

**12. AAHomecare requests that CMS allow on-going equipment rental and supply provision to be paid to DMEPOS suppliers when patients are admitted and the hospital requests that patients bring their own equipment and supplies due to potential hospital shortages.**

As the strain on hospitals and their resources continues to grow, it is imperative that patients can utilize the equipment and supplies they have in their homes rather than rely on the hospitals ability to provide. We therefore recommend that in the event of an audit based on “place of service,” the DME MACs, RACs, and other audit entities allow for payment of DMEPOS claims when the place of service indicated on the claim is not listed as the patient’s home or the supplier was not aware the patient entered a hospital taking their equipment or supplies and a future hospital claim crosses the date of service during this COVID-19 pandemic.

**13. AAHomecare requests that CMS continue the extension of the current 50/50 blended payment methodology for DME items and services provided in rural areas at least through December 31, 2021.**

Medicare payment policy needs to recognize the particular challenges and costs for caring for patients who are spread out over a wider geographical area, and often have less access to hospitals and other clinicians. Continuation of the current 50/50 payment rates in rural areas an additional year, at least through December 31, 2021 would allow HME providers to effectively serve beneficiaries in these communities and reduce stress on other components of the health care infrastructure in this COVID-19 emergency.

We appreciate your prompt attention to these issues. Many of our members are already implementing these types of measures to ensure that beneficiaries are able to access appropriate medical care in their homes. Communities across the nation are dealing with a rapidly accelerating crisis that will test our health care systems like never before. DME suppliers are in a unique position to provide home ventilation and oxygen therapy that can make a significant difference in alleviating hospital overloads, and facilitate the ability of beneficiaries to recover in their homes, the safest and most cost-effective site of care: the home.

These policy recommendations will both allow our industry to make the strongest possible contribution in both directly supporting patients impacted by COVID-19, while also reducing the need for hospitalizations and clinical interventions for seniors, individuals with chronic conditions and other vulnerable patient cohorts. The DME community has a long record of providing compassionate and effective care under challenging conditions and we are again ready to do our part to protect our nation in this unprecedented emergency.

On behalf of the American Association for Homecare, I thank you for all of the efforts CMS is making related to access to medically necessary equipment, supplies and medication for beneficiaries during the COVID-19 outbreak. AAHomecare welcomes the opportunity to discuss any of the requests outlined above. Please let me know if there is any other information we can provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Ryan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Tom Ryan  
CEO

Cc: Demetrios Kouzoukas, Principal Deputy Administrator and Director of Center for Medicare  
Kimberly Brandt, Principal Deputy Administrator for Operations