## MLN Matters

*Information for Medicare Fee-for-Service Health Care Professionals*

**News Flash** - *"Flu season is here! Medicare patients give many reasons for not getting their annual flu shot, including—"It causes the flu"; "I don't need it"; "It has side effects"; "It's not effective"; "I didn't think about it"; "I don't like needles!"* The fact is that every year in the United States, on average, about 36,000 people die from influenza. Greater than 90 percent of these deaths occur in individuals 65 years of age and older. You can help your Medicare patients overcome these odds and their personal barriers through patient education. Talk with your Medicare patients about the importance of getting their annual flu shot--and don't forget to immunize yourself and your staff. Protect yourself, your patients, and your family and friends. **Get Your Flu Shot – Not the Flu.** Remember - Influenza vaccination is a covered Part B benefit but the influenza vaccine is NOT a Part D covered drug. For more information about Medicare's coverage of flu vaccine and its administration as well as related educational resources for health care professions, please go to *http://www.cms.hhs.gov/MLNProducts/Downloads/flu_products.pdf* on the CMS website."

| | |
|---|---|
| MLN Matters Number: MM5771 | Related Change Request (CR) #: 5771 |
| Related CR Release Date: November 2, 2007 | Effective Date: May 23, 2008 |
| Related CR Transmittal #: R1368CP | Implementation Date: April 7, 2008 |

## Reporting a National Provider Identifier (NPI) and the "EY" Modifier on Claims for Durable Medical Equipment, Prosthetic, and Orthotic Supplies (DMEPOS) Items Dispensed without a Physician's Order to Obtain a Medicare Denial for Coordination of Benefits (COB)

### Provider Types Affected

Suppliers who bill for DMEPOS for Medicare beneficiaries and require a Medicare Denial for COB purposes

### Provider Action Needed

- For Coordination of Benefit purposes, DMEPOS suppliers should use the modifier EY (no physician or other licensed health care provider order for this item or service) on each line item on the claim and report their own name and National Provider Identifier (NPI) in the "Ordering/Referring Provider Name" fields on claims submitted on or after May 23, 2008 to secure a Medicare denial. Failure to include the EY modifier on all line items will result in return of your claim as unprocessable. On such returned claims, the Medicare

contractor will include Reason Code 4 to show that "The procedure code is inconsistent with the modifier used or a required modifier is missing."

- If you have obtained a physician's order for some, but not all, of the items provided to the Medicare beneficiary, submit a separate claim for the items dispensed without a physician's order.

## Background

Chapter 5, section 5.2.1 of the *Medicare Program Integrity Manual (PIM)* states that a supplier must have an order (prescription) from the treating physician prior to dispensing any DMEPOS item to a beneficiary and must keep the prescription for the item on file. However, although Medicare requires a physician's order for payment of all DMEPOS items, not all secondary insurers maintain a similar requirement.

The Centers for Medicare & Medicaid Services (CMS) instituted modifier "EY" (no physician or other licensed health care provider order for this item or service) to allow DMEPOS suppliers to submit claims to Medicare for items without a prescription. Since there is no physician or provider information to report on claims for these items, the "EY" modifier is used in conjunction with a surrogate Unique Physician Identification Number (UPIN) in the ordering/referring provider name fields of the claim. This protocol was adopted so that suppliers could obtain a Medicare denial that could be sent to a secondary insurer for COB purposes.

In accordance with the NPI final rule, when an identifier is reported on a claim for the ordering/referring provider, i.e., any provider that is not a billing, pay-to or rendering provider, that identifier must be an NPI (See 45 CFR Part 162, CMS-045-F). For Medicare purposes, this means that submission of an NPI for an ordering/referring provider is mandatory, effective May 23, 2008, and legacy numbers may not be reported on any claims sent to Medicare as of this date. Therefore, Medicare will discontinue the use of all surrogate values on claims with dates of service on or after May 23, 2008.

To assure prompt processing of your claims affected by this issue:

- Your name should be reported in item 17 and your NPI in 17b of the CMS-1500 claim form, version 08-05; or

- Your name and NPI should be reported in both the 2420E (ordering provider name) and 2420F (referring provider name) loops of the ASC X12N 837 professional claim format.

- Make sure the "EY" modifier is present on each line item on the claim.

## Additional Information

You may see the official instruction (CR5771) issued to your Medicare DME MAC by going to *http://www.cms.hhs.gov/Transmittals/downloads/R1368CP.pdf* on the CMS website.

If you have questions, please contact your Medicare DME MAC at their toll-free number, which may be found at *http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip* on the CMS website.