DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

MLN Matters® Number: MM9968 | **Related Change Request (CR) #: CR 9968**

Related CR Release Date: February 10, 2017 | **Effective Date: July 1, 2016**

Related CR Transmittal #: R3716CP | **Implementation Date: July 3, 2017**

Extension of the Transition to the Fully Adjusted Durable Medical Equipment Prosthetics, Orthotics, and Supplies Payment Rates Under Section 16007 of the 21st Century Cures Act

Provider Types Affected

This MLN Matters® Article is intended for providers who bill Medicare Administrative Contractors (MACs) for Durable Medical Equipment Prosthetics, Orthotics, and Supplies (DMEPOS) and services provided to Medicare beneficiaries.

Provider Action Needed

Change Request (CR) 9968 provides instructions regarding the implementation of revised 2016 DMEPOS fee schedule amounts based on changes mandated by Section 16007 of the 21st Century Cures Act. These changes relate to the new Chapter 20, Section 20.6 (Phase-In for Competitive Bidding Rates in Areas Not in a Competitive Bid Area) of the "Medicare Claims Processing Manual," which is part of CR9968. Please make sure your billing staff is aware of these instructions.

Background

Effective January 1, 2017, legislation requires changes to the July and October 2016 fee schedule amounts for certain items. Section 1834(a)(1)(F)(ii) of the Social Security Act (the Act) mandates adjustments to the fee schedule amounts for certain DME items furnished on or after January 1, 2016, in areas that are not competitive bid areas, based on information from competitive bidding programs for DME.

Regulations at Section 414.210(g)(9) phased in these adjusted fees so that from January 1, 2016, through June 30, 2016, the fee schedule amount in non-bid areas was based on 50 percent of the adjusted payment amount established using competitive bidding information and 50 percent of the unadjusted fee schedule amount (the 2015 fee schedule amount updated by the 2016 covered item update). Beginning July 1, 2016, the fee schedule amounts for non-bid areas reverted to 100 percent of the adjusted payment amounts determined using competitive bidding information.

Section 16007 of the 21st Century Cures Act changes the 2016 fee schedule transition period so that payment based on 50 percent of the adjusted payment amount established using competitive bidding information and 50 percent of the unadjusted fee schedule amount extends from June 30, 2016, to December 31, 2016. Section 16007 also changes from July 1, 2016, to January 1, 2017, the date that payment based on 100 percent of the adjusted payment amounts in non-bid areas is effective.

To supplement Section 16007 for dates of service July 1, 2016, through December 31, 2016, the 50/50 blend fee schedules have been recalculated so that the adjusted portion of the payment blend utilizes July 1, 2016, adjusted fees. Also, the KE modifier fee schedules for items bid in the initial Round 1 Competitive Bidding Program (CBP) have been added back to the fee schedule file for this extended phase-in period. The KE modifier was added to the DMEPOS fee schedule file as part of the January 2009 fee schedule update and described items that were bid under the initial Round 1 CBP but were used with non-competitive bid base equipment. Suppliers should submit a request for reopening if their claim for dates of service between July 1, 2016, and December 31, 2016, should have been processed with the KE modifier.

The revised July 1, 2016, through December 31, 2016, DMEPOS and parenteral and enteral nutrition (PEN) fee schedule files will be made available to the DME MACs. The previously posted July 2016 and October 2016 DMEPOS and PEN public use files will be revised to reflect the new fee schedule amounts associated with the extension of the transition period. MACs will accept the KE modifier on the adjusted claims. In addition, for claims that the KE modifier would have been applicable to, the supplier may adjust the claim or notify MACs to adjust the claims **after** the mass adjustments for the 50/50 fee blend have been completed.

Your MAC will reprocess affected claims and adjust claims that were previously paid. The MACS will begin this claim adjustment process once the revised fee schedule files are available.

Additional Information

The official instruction, CR9968, issued to your MAC regarding this change is available at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2017Downloads/R3716CP.pdf**.

If you have any questions, please contact your MAC at their toll-free number. That number is available at **https://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/Medicare-FFS-Compliance-Programs/Review-Contractor-Directory-Interactive-Map/**.