

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 12645	Date: May 16, 2024
	Change Request 13617

SUBJECT: Update to Pub. 100-04 Medicare Claims Processing Manual, Chapter 23, Section 60.3 Gap-filling Durable Medical Equipment Prosthetics Orthotics Supplies (DMEPOS) Fees

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to update Pub. 100-04 Medicare Claims Processing Manual, Chapter 23, Section 60.3 Gap-filling DMEPOS Fees to include update factors for gap-filling purposes.

EFFECTIVE DATE: June 17, 2024

**Unless otherwise specified, the effective date is the date of service.*

IMPLEMENTATION DATE: June 17, 2024

Disclaimer for manual changes only: *The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	23/60/3/Gap-filling DMEPOS Fees

III. FUNDING:

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

Attachment - Business Requirements

Pub. 100-04	Transmittal: 12645	Date: May 16, 2024	Change Request: 13617
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I. GENERAL INFORMATION

A. Background: The purpose of this Change Request (CR) is to update Pub. 100-04 Medicare Claims Processing Manual, Chapter 23, Section 60.3 Gap-filling DMEPOS Fees to include update factors for gap-filling purposes.

B. Policy: The CR updates the manual to reflect current policy.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility							
		A/B MAC		D M E M A C	Shared- System Maintainers				Other
		A	B		F I S S	M C S	V M S	C W F	
13617.1	Contractors shall be aware of updates to Pub.100-04 Medicare Claims Processing Manual, Chapter 23, Section 60.3 Gap-filling DMEPOS Fees.		X		X				

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility				
		A/B MAC			D M E M A C	C E D I
		A	B	H H H		
13617.2	Medicare Learning Network® (MLN): CMS will develop and release national provider education content and market it through the MLN Connects® newsletter shortly after we issue the CR. MACs shall link to relevant		X		X	

Number	Requirement	Responsibility				
		A/B MAC			D M E	C E D I
		A	B	H H H	M A C	
	information on your website and follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1 for distributing the newsletter to providers. When you follow this manual section, you don't need to separately track and report MLN content releases. You may supplement with your local educational content after we release the newsletter.					

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):

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ATTACHMENTS: 0

Medicare Claims Processing Manual

Chapter 23 - Fee Schedule Administration and Coding Requirements

60.3 - Gap-filling DMEPOS Fees

(Rev.12645; Issued:05-16-24; Effective: 06-17-24; Implementation:06-17-24)

Gap-filling is used in establishing fee schedule amounts for new DMEPOS items or services that do not have a fee schedule pricing history. If a HCPCS code is new and describes items and services that have a fee schedule pricing history (classified and paid for previously under a different code, including codes for miscellaneous items, e.g., E1399, and including fee schedule amounts established by CMS or the MACs), the fee schedule amounts for the new code are established using the process included in section 60.3.1 of this manual.

All DMEPOS items and services subject to payment on a fee schedule basis as mandated by sections 1833(o)(2)(A), 1834(a), (h), and (i) of the Social Security and/or by regulations at 42 CFR 414.102 and 414.210 must have national fee schedule amounts established by CMS or interim local fee schedule amounts established by the MACs for use in paying claims for the items and services. Effective February 28, 2022, interim local fee schedule amounts established by the MACs for paying claims on an interim basis are considered a fee schedule pricing history for continuity of pricing purposes under §60.3.1 below for the time before national fee schedule amounts are established, but can be considered by CMS in developing national fee schedule amounts. Once national fee schedule amounts are established for an item or service, the national fee schedule amounts become the new fee schedule pricing history for the item or service for continuity of pricing purposes under §60.3.1 below. Local fee schedule amounts established by the MACs for use in paying claims prior to February 28, 2022 are considered a fee schedule pricing history for continuity of pricing purposes under §60.3.1 below.

The DME MACs or A/B MACs must establish fee schedule amounts for DMEPOS items and services billed using HCPCS codes for miscellaneous items not otherwise classified under the HCPCS (e.g., E1399, L2999, and L8699). Once the fee schedule amounts are established for DMEPOS items and services billed using HCPCS codes for miscellaneous items, these fee schedule amounts would only change when update factors are applied, to correct an error in the calculation of the fee schedule amounts, for based on program instructions.

For DME items, the DME MACs must apply the DME payment method depending on the DME class the item falls under (e.g., the item would be paid on a capped rental basis if it is expensive, not customized, not oxygen and oxygen equipment, and does not require frequent and substantial servicing in order to avoid risk to the patient).

National fee schedule amounts established by CMS and interim local fee schedule amounts established by the DME MACs and A/B MACs Part B shall be gap-filled for items for which charge data were unavailable during the fee schedule data base year using the fee schedule amounts for comparable equipment. Fee schedule amounts for new HCPCS codes for items and services without a fee schedule pricing history are established using existing fee schedule amounts for comparable items when items with existing fee schedule amounts are determined to be comparable to the new items and services. A comparison can be based on, but not limited to the following components: physical, mechanical, electrical, function and intended use, and additional attributes and features. When examining whether an item is comparable to another item, the analysis can be based on the items as a whole, its subcomponents, or a combination of items. A new product does not need to be comparable within each category, and there is no prioritization to the categories.

Examples of Attributes in Each Component Category

- Physical: Aesthetics, Design, Customized vs. Standard, Material, Portable, Size, Temperature Range/Tolerance, Weight
- Mechanical: Automated vs. Manual, Brittleness, Ductility, Durability, Elasticity, Fatigue, Flexibility, Hardness, Load Capacity, Flow-Control, Permeability, Strength
- Electrical: Capacitance, Conductivity, Dielectric Constant, Frequency, Generator, Impedance, Piezo-electric, Power, Power Source, Resistance
- Function and Intended Use: Function, Intended Use
- Additional Attributes and Features: “Smart”, Alarms, Constraints, Device Limitations, Disposable, Parts, Features, Invasive vs. Non-Invasive.

If unable to identify comparable item(s), other sources of pricing data can be used to calculate the gap-filled fee schedule amount for the new item. These sources include using supplier or commercial price lists with prices in effect during the fee schedule data base year. Data base “year” refers to the time period mandated by the statute and/or regulations from which Medicare allowed charge data is to be extracted in order to compute the fee schedule amounts for the various DMEPOS payment categories. For example, the fee schedule base year for inexpensive or routinely purchased durable medical equipment is the 12 month period ending June 30, 1987. Supplier price lists include catalogues and other retail price lists (such as internet retail prices) that provide information on commercial pricing for the item. Potential appropriate sources for such commercial pricing information can also include payments made by Medicare Advantage plans as well as verifiable information from supplier invoices and non-Medicare payer data (*e.g., fee schedule amounts comprised of the median of the commercial pricing information adjusted as described below*). DME MACs and A/B MACs shall gap-fill based on current instructions released each year for implementing and updating the payment amounts.

If the only available price information is from a period other than the base period, apply the deflation factors that are included in the current year implementation instructions against current pricing in order to approximate the base year price for gap-filling purposes.

The deflation factors for gap-filling purposes are *shown below*:

Year*	OX	CR	PO	SD	PE	SC	IL
1987	0.965	0.971	0.974	n/a	n/a	n/a	n/a
1988	0.928	0.934	0.936	n/a	n/a	n/a	n/a
1989	0.882	0.888	0.890	n/a	n/a	n/a	n/a
1990	0.843	0.848	0.851	n/a	n/a	n/a	n/a
1991	0.805	0.810	0.813	n/a	n/a	n/a	n/a
1992	0.781	0.786	0.788	n/a	n/a	n/a	n/a
1993	0.758	0.763	0.765	0.971	n/a	n/a	n/a
1994	0.740	0.745	0.747	0.947	n/a	n/a	n/a
1995	0.718	0.723	0.725	0.919	n/a	n/a	n/a
1996	0.699	0.703	0.705	0.895	0.973	n/a	n/a
1997	0.683	0.687	0.689	0.875	0.951	n/a	n/a

1998	0.672	0.676	0.678	0.860	0.936	n/a	n/a
1999	0.659	0.663	0.665	0.844	0.918	n/a	n/a
2000	0.635	0.639	0.641	0.813	0.885	n/a	n/a
2001	0.615	0.619	0.621	0.788	0.857	n/a	n/a
2002	0.609	0.613	0.614	0.779	0.848	n/a	n/a
2003	0.596	0.600	0.602	0.763	0.830	n/a	n/a
2004	0.577	0.581	0.582	0.739	0.804	n/a	n/a
2005	0.563	0.567	0.568	0.721	0.784	n/a	n/a
2006	0.540	0.543	0.545	0.691	0.752	n/a	n/a
2007	0.525	0.529	0.530	0.673	0.732	n/a	n/a
2008	0.500	0.504	0.505	0.641	0.697	n/a	n/a
2009	0.508	0.511	0.512	0.650	0.707	n/a	n/a
2010	0.502	0.506	0.507	0.643	0.700	n/a	n/a
2011	0.485	0.488	0.490	0.621	0.676	n/a	n/a
2012	0.477	0.480	0.482	0.611	0.665	n/a	n/a
2013	0.469	0.472	0.473	0.600	0.653	n/a	0.983
2014	0.459	0.462	0.464	0.588	0.640	0.980	0.963
2015	0.459	0.462	0.463	0.588	0.639	0.978	0.962
2016	0.454	0.457	0.458	0.582	0.633	0.969	0.952
2017	0.447	0.450	0.451	0.572	0.623	0.953	0.937
2018	0.435	0.437	0.439	0.556	0.605	0.927	0.911
2019	0.427	0.430	0.431	0.547	0.595	0.912	0.896
2020	0.425	0.427	0.429	0.544	0.592	0.906	0.891
2021	0.403	0.406	0.407	0.516	0.561	0.859	0.845
2022	0.370	0.372	0.373	0.473	0.515	0.788	0.774
2023	0.359	0.361	0.362	0.460	0.500	0.765	0.752

* Year price in effect

Payment Category Key:

- OX Oxygen & oxygen equipment (DME)
- CR Capped rental (DME)
- IN Inexpensive/routinely purchased (DME)
- FS Frequently serviced (DME)
- SU DME supplies
- PO Prosthetics & orthotics
- SD Surgical dressings
- OS Ostomy, tracheostomy, and urological supplies
- PE Parental and enteral nutrition
- TS Therapeutic Shoes
- SC Splints and Casts
- IL Intraocular Lenses inserted in a physician's office

IN, FS, OS and SU category deflation factors=PO deflation factors

After deflation, the result must be increased by 1.7 percent and by the *annual* update factors shown below.

DMEPOS Fee Schedule Update Factors for Gap-Filling Purposes
(Updates applied to 1986/87 base year amounts unless otherwise noted)

Update factors mandated by sections 1834(a)(14), 1834(h)(1)(E), 1834(h)(4)(A), 1834(i)(1)(B), and 1842(s)(1)(B) of the Social Security Act

Year	Class III DME	Other DME, Ostomy, Tracheostomy, and Urological Supplies	Parenteral and Enteral Nutrition¹	Surgical Dressings²	Prosthetics, Orthotics, and Other Prosthetic Devices³
1989	1.7%	1.7%	n/a	n/a	1.7%
1990	0.0%	0.0%	n/a	n/a	0.0%
1991	3.7%	3.7%	n/a	n/a	0.0%
1992	3.7%	3.7%	n/a	n/a	4.7%
1993	3.1%	3.1%	n/a	3.1%	3.1%
1994	3.0%	3.0%	n/a	3.0%	0.0%
1995	2.5%	2.5%	n/a	2.5%	0.0%
1996	3.0%	3.0%	n/a	3.0%	3.0%
1997	2.8%	2.8%	n/a	2.8%	2.8%
1998	0.0%	0.0%	n/a	0.0%	1.0%
1999	0.0%	0.0%	n/a	0.0%	1.0%
2000	0.0%	0.0%	n/a	0.0%	1.0%
2001	3.7%	3.7%	n/a	3.7%	3.7%
2002	0.0%	0.0%	0.0%	0.0%	1.0%
2003	1.1%	1.1%	1.1%	1.1%	1.1%
2004	2.1%	0.0%	2.1%	0.0%	0.0%
2005	3.3%	0.0%	3.3%	0.0%	0.0%
2006	2.5%	0.0%	2.5%	0.0%	0.0%
2007	0.0%	0.0%	4.3%	0.0%	4.3%
2008	2.7%	0.0%	2.7%	0.0%	2.7%
2009	5.0%	5.0%	5.0%	5.0%	5.0%
2010	0.0%	0.0%	0.0%	0.0%	0.0%
2011	-0.1%	-0.1%	-0.1%	-0.1%	-0.1%
2012	2.4%	2.4%	2.4%	2.4%	2.4%
2013	0.8%	0.8%	0.8%	0.8%	0.8%
2014	1.0%	1.0%	1.0%	1.0%	1.0%
2015	1.5%	1.5%	1.5%	1.5%	1.5%
2016	-0.4%	-0.4%	-0.4%	-0.4%	-0.4%
2017	0.7%	0.7%	0.7%	0.7%	0.7%
2018	1.1%	1.1%	1.1%	1.1%	1.1%
2019	2.3%	2.3%	2.3%	2.3%	2.3%
2020	0.9%	0.9%	0.9%	0.9%	0.9%
2021	0.2%	0.2%	0.2%	0.2%	0.2%
2022	5.1%	5.1%	5.1%	5.1%	5.1%

2023	8.7%	8.7%	8.7%	8.7%	8.7%
2024	2.6%	2.6%	2.6%	2.6%	2.6%

¹ Base Year is 1995

² Base Year is 1992

³ Artificial legs, arms, and eyes (prosthetics); leg, arm, back, and neck braces (orthotics); and all other prosthetic devices other than ostomy, tracheostomy, and urological supplies, parenteral and enteral nutrition, and intraocular lenses inserted in a physician's office

Note that when gap-filling for capped rental items, it is necessary to first gap-fill the purchase price *and* then compute the base period fee schedule at 10 percent of the base period purchase price.

For used equipment, establish fee schedule amounts at 75 percent of the fee schedule amount for new equipment.

Gap-filling is not used in establishing fee schedule amounts for new lymphedema compression treatment items that do not have a fee schedule pricing history. Additional information on payment for lymphedema compression treatment items is available at Pub. 100-04 Medicare Claims Processing Manual, Chapter 20, Section 181.1 Payment Policy for Lymphedema Compression Treatment Items.

If within 5 years of establishing fee schedule amounts using supplier or commercial prices, the supplier or commercial prices decrease by less than 15 percent, CMS can make a one-time adjustment to the fee schedule amounts using the new prices. The new supplier or commercial prices would be used to establish the new fee schedule amounts in the same way that the older prices were used, including application of the deflation formula of this section.