CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (DHHS)
Transmittal 295	Date: OCTOBER 15, 2007
	Change Request 5758

SUBJECT: Durable Medical Equipment Medicare Administrative Contractors (DME MACs) - Discontinuance/Cancellation of the Use of a "WL" Modifier on Claims for the DeWall Posture Protector Orthotic Body Jacket HCPCS Code (L0430)

**I. SUMMARY OF CHANGES:** The purpose of this Change Request is to ensure that DME MACs comply with the settlement agreement in the DeWall Case in the processing of durable medical equipment (DME) claims for the Posture Protector Spinal Orthosis (HCPCS Code L0430). This instruction also notifies contractors to retire all use of the "WL" modifier.

New / Revised Material Effective Date: July 16, 2007

Implementation Date: November 16, 2007

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	
N/A		

#### III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

SECTION B: 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: One-Time Notification

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

## **Attachment – One-Time Notification**

Pub. 100-20 Transmittal: 295 Date: October 15, 2007 Change Request: 5758

SUBJECT: Durable Medical Equipment Medicare Administrative Contractors (DME MACS) – Discontinuance/Cancellation of the Use of a "WL" Modifier on Claims for the DeWall Posture Protector Orthotic Body Jacket (HCPCS Code L0430)

Effective Date: July 16, 2007

**Implementation Date:** November 16, 2007

#### I. GENERAL INFORMATION

- **Background:** On November 2, 2004, CMS entered into a settlement agreement ("Stipulation for Compromised Settlement") resolving the DeWall court case. The United States District Court for the District of Nebraska approved of the settlement and dismissed the DeWall case by Order dated November 3, 2004, (Filing 121). Among other items, the settlement agreement stipulates that "code L0430 be reinstated for a period of five years from the date of reinstatement, with no modifiers, as a HCPCS L code, with a descriptor that indicates that it describes only the Dewall Posture Protector." On January 1, 2005, the Centers for Medicare and Medicaid Services (CMS) reinstated code L0430 for the DeWall Posture Protector only, for a five-year period ending on December 31, 2009. By agreement of the parties, the five-year duration of the settlement agreement ending December 31, 2009, will be extended to August 1, 2012. On July 16, 2007, a Joint Signature Memorandum (JSM/TDL) was issued by CMS to all Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and the Statistical Analysis Durable Medical Equipment Regional Carrier (SADMERC) to reiterate the terms of this court order and ensure compliance with the stipulation to accept and process claims using the L0430 code, when the item furnished is a DeWall Posture Protector, without requiring any modifiers. This CR rescinds and replaces the requirement specified in Change Request (CR) 2711 to bill HCPCS code L0430 with the modifiers and instructs the contractors to retire the use of the "WL" modifier developed to identify claims for the DeWall product.
- **B.** Policy: In accordance with JSM/TDL 07469, DME MACs shall accept claims billed with HCPCS code L0430 with no modifier requirements for the DeWall Posture Protector Orthotic Body Jacket. This instruction rescinds Business Requirement 1 specified in Transmittal B-03-025 (CR 2711) issued on April 11, 2003.

### II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A	F I	C A R R I E	D M E R C	R H H I			Systemainers V M S	OTHER
5758.1	In accordance with JSM/TDL – 07469, DME MACs shall accept and process claims for the DeWall Posture Protector Spinal Orthosis, submitted using HCPCS code L0430, when the item furnished is a DeWall Posture		X								

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A /	M	F I	C A	D M	R H			Systemainers		OTHER
		B M	E M		R R I	E R C	H I	F I S	M C S	V M S	C W F	
		A C	A C		E R			S	5	5	•	
	Protector, without requiring any modifiers,											
	including the "KX" or "WL" modifiers.											
5758.2	DME MACs shall apply all other current		X									
	applicable Medicare edits to such claims.											
5758.3	Within 30 days of the issuance date of this		X									
	instruction, contractors shall retire all use of											
	the "WL" modifier.											

## III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)						ole				
		A /	D M	F I	C A	D M	R H			Syster ainers		OTHER
		В	Е		R R	E R C	H I	F I	M C	V M	C W	
		M A C	M A C		I E R	C		S S	S	S	F	
5758.4	A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within 1 week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.		X									

### IV. SUPPORTING INFORMATION

# A. For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" denotes a recommendation.

X-Ref	Recommendations or other supporting information:
Requirement	
Number	
5758.5	Business Requirement 5758.1 rescinds and replace Business Requirement 1, specified in

X-Ref	Recommendations or other supporting information:
Requirement	
Number	
	CR 2711, Transmittal B-03-025, issued on April 11, 2003

## B. For all other recommendations and supporting information, use this space:

#### V. CONTACTS

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Post-Implementation Contact(s): Susan Webster (<u>susan.webster@cms.hhs.gov</u>, 410-786-3384)

#### VI. FUNDING

# A. For Fiscal Intermediaries, Carriers, and the Durable Medical Equipment Regional Carrier (DMERC)

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

#### **B.** For Medicare Administrative Contractors (MAC)

The contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the Statement of Work (SOW). 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.