

**Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies
(DMEPOS) Competitive Bidding Program
Proposed Grandfathering Provisions -- 2010 Physician Fee Schedule and other
Revisions to Part B Notice of Proposed Rulemaking (NPRM) (1413-P)
FACT SHEET**

Background:

The Social Security Act requires a grandfathering process for rented durable medical equipment (DME) and oxygen and oxygen equipment furnished by noncontract suppliers prior to the time a competitive bidding program goes into effect; this process was included in the April 10, 2007 final rule (72 FR 17992) for the Medicare DMEPOS competitive bidding program. In 2008, the Centers for Medicare & Medicaid Services (CMS) published sub-regulatory guidance in the Medicare Claims Processing Internet Only Manual (IOM) to establish guidelines for noncontract suppliers to notify beneficiaries of the grandfathering options.

Proposed revisions to the current rule:

In this NPRM, we are proposing to revise the definition of a grandfathered item and to include in regulations a grandfathering notification process.

Grandfathered Item:

We are revising the definition of a grandfathered item to include all rented items within a product category. Thus, if a supplier chooses to become a grandfathered supplier for any item in a product category, it must agree to be a grandfathered supplier for all items it is renting in that product category at the time the competitive bidding program goes into effect rather than making separate grandfathering choices for each individual Health Care Common Procedure Coding System (HCPCS) code.

Notification Process:

We are requiring that noncontract suppliers provide notification concerning whether or not they intend to become grandfathered suppliers. Noncontract suppliers that choose to grandfather must notify CMS and the beneficiaries they serve of their choice through a formal process. If the beneficiary does not accept the supplier's offer to be a grandfathered supplier, the supplier must provide 2 additional notifications to the beneficiary prior to picking up the equipment. Noncontract suppliers that choose not to grandfather must notify beneficiaries of their choice not to grandfather and provide 2 additional notices prior to picking up the equipment. The chart below highlights the notification requirements.

Required Notifications for Suppliers

Notification – Supplier	Number of Days Required Notice
<u>Written</u> Notification to CMS by those noncontract suppliers that choose to grandfather	30 business days before the start date of the Competitive Bidding Program
<u>Written</u> Notification to Beneficiaries by all noncontract suppliers	30 business days before the start date of the Competitive Bidding Program
<u>Phone Call</u> Notification to Beneficiaries by noncontract supplier if either beneficiary or supplier chooses not to use grandfathering	10 business days before picking up the equipment.
<u>Phone Call</u> Notification to Beneficiaries by noncontract supplier if either beneficiary or supplier chooses not to use grandfathering	2 business days prior to picking up the equipment.