Due to the high volume of inquiries regarding ACA 6407 requirements, the DME MAC Provider Outreach Departments developed a “SUPPLIER FREQUENTLY ASKED QUESTIONS” document.

ACA 6407

1. Question: What is ACA 6407?
   Answer: “ACA” refers to the Affordable Care Act and “6407” is the specific section of the Act containing details of certain HCPCS codes which require a face-to-face (F2F) encounter with a physician and a valid, written order prior to delivery (WOPD). Suppliers should review the DME MAC Joint Publication titled “Face-to-Face Examination and Prescription Requirements Prior to the Delivery of Certain DME Items Specified in the Affordable Care Act – Revised” for a complete list of affected HCPCS codes.

2. Question: When will CMS enforce the F2F requirements and WOPD?
   Answer: Section 6407 of the ACA was implemented on 7/1/2013 and the DME MAC contractors began enforcement of the WOPD and NPI requirements for dates of services on or after 1/1/2014. Enforcement by the DME MACs, of the F2F requirement, has been postponed by CMS until a future date.

3. Question: What is the difference between “implementation” and “enforcement” regarding ACA 6407?
   Answer: Implementation is the date that the provisions of ACA 6407 became effective (7/1/2013). Enforcement is when DME MACs begin auditing claims to determine that suppliers are following the provisions of ACA 6407.

4. Question: Is the Comprehensive Error Rate Testing (CERT) contractor recognizing the delay in the enforcement of the F2F requirements?
   Answer: No. CERT has not been instructed by CMS to delay the enforcement of the F2F requirements; therefore, claims reviewed by the CERT contractor that are not compliant with the F2F requirements may result in denial or recoupment. If the CERT contractor denies for this reason, suppliers may submit a request for a redetermination.

5. Question: Do suppliers need to obtain a new F2F encounter every six months?
   Answer: No, there is no requirement under ACA 6407 that a supplier obtain documentation of a new F2F encounter on a periodic basis. A F2F encounter within 6 months prior to the prescription date is required for any order obtained on or after 7/1/2013.

6. Question: What if the policy has a requirement for a F2F encounter within 30-days for an item that is also on the ACA list? Must the F2F encounter be performed within the 30-days or within six months?
   Answer: If the LCD requires that a F2F encounter must be performed within 30-days then that requirement must still be met. The ACA F2F requirement does not replace any existing LCD timing requirements for F2F encounters. Suppliers must meet both the ACA requirements and any requirements outlined in the applicable LCD. In this example, by meeting the LCD requirement, the ACA requirement is automatically met.

7. Question: Does the ACA F2F requirement apply to orthotics and prosthetics?
   Answer: No. ACA 6407 applies to certain DME HCPCS only. Suppliers should review the DME MAC Joint Publication titled “Face-to-Face Examination and Prescription Requirements Prior to the Delivery of Certain DME Items Specified in the Affordable Care Act – Revised” for a complete list of affected HCPCS codes.

8. Question: Must the F2F encounter specifically mention the DME item being ordered?
Answer: No. However, in order for the ACA requirements to be met, the F2F encounter must address a medical condition that supports the item ordered.

9. **Question:** Does the F2F encounter with the physician need to specifically state the beneficiary was there for a F2F encounter for the specific DME item, or can the beneficiary have a visit and the physician's notes show physical limitations that justify the specific DME item?

**Answer:** In contrast to power mobility devices, items encompassed by the ACA 6407 requirements do not require that the F2F encounter specify that the visit was expressly for the purpose of documenting the need for the specific item of DME. However, as noted above, there must be sufficient documentation in the medical records to support the need for the item ordered.

10. **Question:** Can the F2F documentation be electronically signed by the physician?

**Answer:** CMS has published instructions to contractors allowing electronic signatures. CMS has not provided detailed guidance defining the format or contents of an electronic signature. CMS does allow contractors to authenticate electronic signatures. We recommend that when suppliers obtain electronic records that the electronic signatures are clearly identifiable and provide comparable information as is required for a non-electronic signature for the same document type. Refer to each LCD and the Supplier Manual for additional information regarding signatures.

### Written Orders Prior to Delivery/Face-to-Face

11. **Question:** What elements must be included on a WOPD for an item(s) associated with ACA F2F HCPCS code list?

**Answer:** The WOPD must include all required elements for a standard detailed written order and additionally must include the prescribing practitioner’s NPI number. The elements would need to include:

- Beneficiary’s name
- Physician’s name
- Date of the order and the start date if start date is different from the date of the order
- Detailed description of the item(s)
- The prescribing practitioner’s National Provider Identifier (NPI)

- The signature of the ordering practitioner
- Signature date

For any of the specified items provided on a periodic basis, including drugs, the written order must include, in addition to the above:

- Items(s) to be dispensed
- Dosage or concentration, if applicable
- Route of Administration, if applicable
- Frequency of use
- Duration of infusion, if applicable
- Quantity to be dispensed
- Number of refills, if applicable

12. **Question:** Can the WOPD and the F2F encounter be on the same document as long as it is in the medical record?

**Answer:** No. The F2F encounter and order must be two separate documents. The F2F must be incorporated into the medical record and the order would need to be a separate document from the medical record.

13. **Question:** If the beneficiary is in the hospital, can the attending physician conduct the F2F encounter and the beneficiary’s primary care physician complete the WOPD?

**Answer:** Yes. The treating practitioner that conducted the face-to-face examination does not need to be the prescriber for the DME item. However the prescriber must:

- Verify that the in-person visit occurred within the 6-months prior to the date of their prescription; and,
- Have documentation of the face-to-face examination that was conducted; and,
- Provide the DMEPOS supplier with copies of the in-person visit records.

14. **Question:** Can the F2F encounter, WOPD and the delivery of the DME item all be completed in the same day?

**Answer:** Yes. However, the date stamp (or similar) indicating the date of receipt of the documents must clearly reflect that the F2F and WOPD were received prior to delivery of the item.

### Documenting a Receipt Date

15. **Question:** Must the F2F encounter and WOPD be date stamped by the supplier upon receipt?
**Answer:** A date stamp (or similar) is required which clearly indicates the supplier’s date of receipt of both the F2F encounter and the completed WOPD with the prescribing physician’s signature and a signature date. It is recommended that both documents be separately date-stamped to avoid any confusion regarding the receipt date of these documents.

16. **Question:** Does every page of the F2F encounter need to be date stamped?

**Answer:** As long as it is clear that the record includes all pages, a single date stamp or similar is sufficient. When submitting the documentation for review, all pages need to be submitted to support the date stamp or similar.

17. **Question:** What methods are acceptable for documenting a receipt date?

**Answer:** The DME MACs do not specify what method may be used to indicate date of receipt; however, there must be some indicator or notation on the documents that they were received by the supplier within the required time period. Some commonly accepted methods are:

- Hardcopy date stamps
- Hand-written dates
- Facsimile headers and electronic receipt dates (see question 18 for additional information)

Regardless of the method used, it must be clear to contractor staff reviewing the claim that the date received meets the requirements in the applicable LCD.

18. **Question:** Can a fax header be used to document receipt of the WOPD and the F2F encounter prior to delivery, or must we use a date stamp?

**Answer:** We highly recommend the use of a date stamp to document receipt of the WOPD and F2F. If a fax date or equivalent is used, the information must be legible, it must be clear that the supplier is the one that received the order and F2F on the date listed. Possible ways to document this would be to also submit a copy of the fax cover sheet or the header listing the “to” and “from” sender names.

**Written Order Prior to Delivery - Corrections to Document**

19. **Question:** What happens if there is an error on the WOPD or the F2F document and it is not noticed until after the equipment is delivered to the beneficiary?

**Answer:** WOPD is a long-standing statutory requirement for certain items of DME. The list of items subject to WOPD was expanded by the Affordable Care Act Section 6407. Medicare policy stipulates that a WOPD that is missing an element is not “curable” by a provider (i.e., a provider cannot make corrections to a WOPD) except as outlined below.

I. If errors in the WOPD are found prior to delivery, the supplier has two options:

   A. The WOPD may be properly amended following the guidance in the Medicare Program Integrity Manual (Internet-Only Manual, Publication 100-08), Chapter 3, Section 3.3.2.5; or,

   B. A new WOPD may be created and sent to the physician for signature and date.

II. If errors in the WOPD are found after delivery of the item, the supplier has two options:

   A. If the error is discovered prior to claim submission, the original supplier may recover the delivered item(s), obtain a compliant, complete WOPD and then may redeliver the item(s) to the beneficiary; or,

   B. If the error is discovered after submitting a claim, the original supplier can recover their items and a new supplier must complete the transaction after complying with all requirements.

Because WOPD is a statutory requirement, claims denied because of a defective WOPD result in a beneficiary liability determination. Suppliers are strongly encouraged to review their WOPD documentation carefully prior to delivery to ensure that all the requirement elements are present on the document.

20. **Question:** Does Medicare consider a different location (with a different NPI or PTAN) another supplier?

**Answer:** Yes. A different location of the same company is considered a “new” supplier as that location operates and bills the Medicare program under a separate NPI/PTAN.

Joint DME MAC Articles

- Face-to-Face Examination and Prescription Requirements Prior to the Delivery of Certain DME Items Specified in the Affordable Care Act – Revised

- ACA 6407 Requirements – Corrections and Amendments To The Face-To-Face Visit And Written Order Prior To Delivery

- Face-To-Face Requirements for Orders Used to Obtain Medicare Payment on ACA Items

- ACA Requirement for Indicating Receipt Date of Documentation

- In-Person Visit Requirement for Section 6407 of the Affordable Care Act – Clarification

- Dear Physician Letter: Face-to-Face and Written Order Requirements for High Cost DME