



## **AFFORDABLE CARE ACT 6407 – SUPPLIER FREQUENTLY ASKED QUESTIONS**

### **Joint DME MAC Article**

This FAQ is revised to update the criteria associated with the written order prior to delivery and face-to-face examination. While this document makes reference to “ACA 6407 requirements”, technically these requirements are found in the Social Security Act Section 1834(a)(11)(B) and its implementing regulation at 42 CFR 410.38. The CMS regulation contains the details for the face-to-face examination, written order prior to delivery and the list of items subject to these requirements.

### ***ACA 6407***

1. **Question:** What is ACA 6407?

**Answer:** “ACA” refers to the Affordable Care Act of 2012 and “6407” is the specific section of the Affordable Care Act which requires a F2F encounter with a physician and a valid written order prior to delivery. 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 Durable Medical Equipment Medicare Administrative Contractor HCPCS codes.

2. **Question:** When will CMS enforce the F2F requirements and 5EO?

**Answer:** Section 6407 of the ACA was implemented on 7/1/2013 and the DME MAC contractors began enforcement of the 5EO and NPI requirements for dates of services on or after 1/1/2014. Enforcement of the F2F requirements by the DME MACs 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 CERT contractor following the DME MAC delay in enforcement of the F2F requirements?

**Answer:** No. CERT has been instructed by CMS not to delay the enforcement of the F2F requirements. The CERT contractor operates under the rules of the IPERA and must enforce all coverage and payment rules mandated by CMS regulations. Consequently, 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.

### ***Face-to-Face Encounter***

5. **Question:** Do suppliers need to obtain a new F2F encounter every six months?

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**Answer:** No, there is no requirement under ACA 6407 that a supplier obtain a face-to-face encounter on a periodic basis. A F2F encounter within six months prior to the 5EO date is required for any order obtained on or after //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:** There is no 30-day F2F requirement. There are existing LCD requirements that require a physician encounter that must be performed for certification. The ACA F2F requirement does not replace any existing patient/physician encounters. Suppliers must meet both the ACA requirements and any certification requirements outlined in the applicable LCD. By meeting the LCD requirement, the ACA requirement is automatically met.

7. **Question:** Does the ACA F2F requirement apply to orthotics and prosthetics?

**Answer:** Not at this time. ACA 6407 (SSA Section 1834(a)(11)(B)) and the implementing regulation at 42 CFR 410.38 gives the secretary the authority to specify to which HCPCS codes the face-to-face requirement and written order prior to delivery apply. CMS did not include orthotics or prosthetic codes on the list of applicable HCPCS codes. 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 treating practitioner MD, DO or DPM, PA, NP or CNS 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 subject to 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 treating practitioner?

**Answer:** CMS has published instructions to contractors allowing electronic signatures (see [CMS IOM, Publication 100-08, Medicare Program Integrity Manual, Chapter 3, Section 3.3.2.4](#) ). 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 as electronic and meet the same date and credential standards as outlined in Chapter 3, Section 3.3.2.4. that are also required for a nonelectronic signature for the same document type. Refer to each LCD and the [supplier manual](#) for additional information regarding signatures.

### ***Five-Element Written Orders Prior to Delivery 5EO/Face-to-Face***

11. **Question:** What elements must be included on the 5EO for items associated with ACA 6407 HCPCS code list?

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Answer: ACA 6407 requires five specific elements that must be included on the order:

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- Beneficiary's name
- Item of DME ordered - this may be general – e.g., “hospital bed”– or may be more specific
- Signature of the prescribing practitioner
- Prescribing practitioner's NPI
- The date of the order

A date stamp or equivalent must be used to document the 5EO receipt date by the supplier

12. **Question:** What date should be used for the “date of the order” on the 5EO?

**Answer:** Use the date the supplier is contacted by the treating practitioner (for verbal orders) or the date entered by the treating practitioner (for written dispensing orders).

13. **Question:** What if the treating practitioner wants to specify additional elements on the 5EO?

**Answer:** Nothing prohibits the treating practitioner (or the supplier) from including additional elements on the 5EO. The five elements listed above are the minimum elements required.

14. **Question:** Some treating practitioners indicate a future date on which to start therapy. How is this handled?

**Answer:** In some cases, the treating practitioner may specify a future start date for therapy that is different from the date of the order. This start date does not impact the date of the order, DOS entered on the claim, Medicare-required forms (e.g., CMN, DIF) or refill/delivery timelines. As long as the supplier has a properly completed 5EO with a correctly determined prescription date, an item may be shipped or delivered on or after the date of the order.

15. **Question:** May the treating practitioner use a signature or date stamp on the 5EO?

**Answer:** Signature and date stamps are not allowed. Signatures must comply with the CMS signature requirements outlined in the [CMS IOM Publication 100-08, Medicare Program Integrity Manual, 3.3.2.4](#).

16. **Question:** The ACA 6407 does not apply to all DMEPOS and does not apply to various supplies and accessories. How should suppliers handle those items?

**Answer:** For non-ACA items and items that do not require a written order prior to delivery, a standard dispensing order and detailed written order are sufficient. For ACA 6407 items that are provided based on a 5EO, the supplier must obtain a detailed written order before submitting a claim for any associated options, accessories and/or supplies that are separately billed. 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.

17. **Question:** Can the 5EO and the F2F encounter be on the same document as long as it is in the medical record?

**Answer:** No. The F2F encounter and 5EO must be two separate documents. The face-to-face encounter must be documented in the pertinent portion of the medical record

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(for example, history, physical examination, diagnostic tests, summary of findings, diagnosis, etc.) and to provide other information as it may be appropriate).

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18. **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 5EO?

**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 six-months prior to the date of their prescription, and
- have documentation of the face-to-face examination that was conducted.

19. **Question:** Can the F2F encounter, 5EO and the delivery of the DME item all be completed in the same day?

**Answer:** Yes. However, the date stamp (or equivalent) indicating the date of receipt must clearly reflect that the 5EO was received prior to delivery of the item.

### ***Documenting a Receipt Date***

20. **Question:** Must the 5EO be date stamped by the supplier upon receipt?

**Answer:** A date stamp (or equivalent) is required which clearly indicates the supplier's date of receipt of the completed 5EO.

21. **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 22 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.

22. **Question:** Can a fax header be used to document receipt of the 5EO 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 5EO. 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 5EO 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.

### ***5EO - Corrections to Document***

23. **Question:** What happens if there is an error on the 5EO 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 (termed a 5EO for ACA 6407 items) was expanded by the Affordable Care Act Section 6407. Medicare policy stipulates that a 5EO that is

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missing an element is not “curable” by a provider (i.e., a provider cannot make corrections to a 5EO document) outlined below:

- I. If errors in the 5EO are found prior to delivery, the supplier has two options:
  - A. The 5EO may be properly amended following the guidance in the [CMS IOM Publication 100-08, Medicare Program Integrity Manual, Chapter 3, Section 3.3.2.5](#) ; or,
  - B. A new 5EO may be created and sent to the physician for signature and date.
- II. If errors in the 5EO 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 5EO 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 5EO is a statutory requirement, claims denied because of a defective 5EO result in a beneficiary liability determination. Suppliers are strongly encouraged to review their 5EO documentation carefully prior to delivery to ensure that all the requirement elements are present on the document.

24. **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.

### ***TABLE A: DME List of Specified Covered Items***

The DME list of specified covered items is as follows. The original list was at 77 FR 44798. This original list contains some codes (codes marked with an “\*”) that have been deleted or that were made not valid for Medicare while other codes (codes marked with an “\*\*”) have had narrative changes. Updates to the list will be made as CMS releases revisions.

Refer to the [Pricing, Data Analysis and Coding Contractor website](#) for information on coding.

HCPCS Code	Description
E0185	Gel or gel-like pressure mattress pad
E0188	Synthetic sheepskin pad
E0189	Lamb's wool sheepskin pad
E0194	Air fluidized bed
E0197	Air pressure pad for mattress standard length and width
E0198	Water pressure pad for mattress standard length and width
E0199	Dry pressure pad for mattress standard length and width
E0250	Hospital bed fixed height with any type of side rails, mattress
E0251	Hospital bed fixed height with any type side rails without mattress
E0255	Hospital bed variable height with any type side rails with mattress
E0256	Hospital bed variable height with any type side rails without mattress
E0260	Hospital bed semi-electric (Head and foot adjustment) with any type side rails with mattress
E0261	Hospital bed semi-electric (head and foot adjustment) with any type side rails without mattress

HCPCS Code	Description
E0265	Hospital bed total electric (head, foot and height adjustments) with any type side rails with mattress
E0266	Hospital bed total electric (head, foot and height adjustments) with any type side rails without mattress
E0290	Hospital bed fixed height without rails with mattress
E0291	Hospital bed fixed height without rail without mattress
E0292	Hospital bed variable height without rail without mattress
E0293	Hospital bed variable height without rail with mattress
E0294	Hospital bed semi-electric (head and foot adjustment) without rail with mattress
E0295	Hospital bed semi-electric (head and foot adjustment) without rail without mattress
E0296	Hospital bed total electric (head, foot and height adjustments) without rail with mattress
E0297	Hospital bed total electric (head, foot and height adjustments) without rail without mattress
E0300	Pediatric crib, hospital grade, fully enclosed
E0301	Hospital bed Heavy Duty extra wide, with weight capacity 350-600 lbs with any type of rail, without mattress
E0302	Hospital bed Heavy Duty extra wide, with weight capacity greater than 600 lbs with any type of rail, without mattress
E0303	Hospital bed Heavy Duty extra wide, with weight capacity 350-600 lbs with any type of rail, with mattress
E0304	Hospital bed Heavy Duty extra wide, with weight capacity greater than 600 lbs with any type of rail, with mattress
E0424	Stationary compressed gas Oxygen System rental; includes contents, regulator, nebulizer, cannula or mask and tubing
E0431	Portable gaseous oxygen system rental includes portable container, regulator, flowmeter, humidifier, cannula or mask, and tubing
E0433	Portable liquid oxygen system
E0434	Portable liquid oxygen system, rental; includes portable container, supply reservoir, humidifier, flowmeter, refill adaptor, content gauge, cannula or mask, and tubing
E0439	Stationary liquid oxygen system rental, includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing
E0441	Oxygen contents, gaseous (one month supply)
E0442	Oxygen contents, liquid (one month supply)
E0443	Portable Oxygen contents, gas (one month supply)
E0444	Portable oxygen contents, liquid (one month supply)
E0450*	Volume control ventilator without pressure support used with invasive interface
E0460*	Negative pressure ventilator portable or stationary
E0461*	Volume control ventilator without pressure support node for a noninvasive interface
E0462	Rocking bed with or without side rail
E0463*	Pressure support ventilator with volume control mode used for invasive surfaces
E0464*	Pressure support vent with volume control mode used for noninvasive surfaces
E0470	Respiratory assist device, bi-level pressure capability, without backup rate used noninvasive interface
E0471	Respiratory assist device, bi-level pressure capability, with backup rate for a non-invasive interface
E0472	Respiratory assist device, bi-level pressure capability, with backup rate for invasive interface
E0480	Percussor electric/pneumatic home model
E0482	Cough stimulating device, alternating positive and negative airway pressure
E0483	High Frequency chest wall oscillation air pulse generator system
E0484	Oscillatory positive expiratory device, nonelectric

HCPCS Code	Description
E0575	Nebulizer with compressor
E0575	Nebulizer, ultrasonic, large volume
E0580	Nebulizer, durable, glass or autoclavable plastic, bottle type for use with regulator or flowmeter
E0585	Nebulizer with compressor and heater
E0601	Continuous airway pressure device
E0607	Home blood glucose monitor
E0627	Seat lift mechanism incorporated lift-chair
E0628	Separate Seat lift mechanism for patient owned furniture electric
E0629	Separate seat lift mechanism for patient owned furniture nonelectric
E0636	Multi positional patient support system, with integrated lift, patient accessible controls
E0650	Pneumatic compressor non-segmental home model
E0651	Pneumatic compressor segmental home model without calibrated gradient pressure
E0652	Pneumatic compressor segmental home model with calibrated gradient pressure
E0655	Nonsegmental pneumatic appliance for use with pneumatic compressor on half arm
E0656	Nonsegmental pneumatic appliance for use with pneumatic compressor on trunk
E0657	Nonsegmental pneumatic appliance for use with pneumatic compressor chest
E0660	Nonsegmental pneumatic appliance for use with pneumatic compressor on full leg
E0665	Nonsegmental pneumatic appliance for use with pneumatic compressor on full arm
E0666	Nonsegmental pneumatic appliance for use with pneumatic compressor on half leg
E0667	Segmental pneumatic appliance for use with pneumatic compressor on full-leg
E0668	Segmental pneumatic appliance for use with pneumatic compressor on full arm
E0669	Segmental pneumatic appliance for use with pneumatic compressor on half leg
E0671	Segmental gradient pressure pneumatic appliance full leg
E0672	Segmental gradient pressure pneumatic appliance full arm
E0673	Segmental gradient pressure pneumatic appliance half leg
E0675	Pneumatic compression device, high pressure, rapid inflation/deflation cycle, for arterial insufficiency
E0692	Ultraviolet light therapy system panel treatment four-foot panel
E0693	Ultraviolet light therapy system panel treatment six-foot panel
E0694	Ultraviolet multidirectional light therapy system in six-foot cabinet
E0720	Transcutaneous electrical nerve stimulation, two lead, local stimulation
E0730	Transcutaneous electrical nerve stimulation, four or more leads, for multiple nerve stimulation
E0731	Form fitting conductive garment for delivery of transcutaneous electrical nerve stimulator (TENS) or NMES
E0740	Incontinence treatment system, pelvic floor stimulator, monitor, sensor, and/or trainer
E0744	Neuromuscular stimulator for scoliosis
E0745	Neuromuscular stimulator electric shock unit
E0747	Osteogenesis stimulator, electrical, noninvasive, other than spine application.
E0748	Osteogenesis stimulator, electrical, noninvasive, spinal application
E0749	Osteogenesis stimulator, electrical, surgically implanted
E0760	Osteogenesis stimulator, low intensity ultrasound, noninvasive
E0762	Transcutaneous electrical joint stimulation system including all accessories
E0764	Functional neuromuscular stimulator, transcutaneous stimulations of muscles of ambulation with computer controls
E0765	FDA-approved nerve stimulator for treatment of nausea and vomiting

HCPCS Code	Description
E0782	Infusion pump, implantable, nonprogrammable
E0783	Infusion pump, implantable, programmable
E0784	External ambulatory infusion pump
E0786	Implantable programmable infusion pump, replacement
E0840	Tract frame attach to headboard, cervical traction
E0849	Traction equipment cervical, free-standing stand/frame, pneumatic, applying traction force to other than mandible
E0850	Traction stand, free standing, cervical traction
E0855	Cervical traction equipment not requiring additional stand or frame
E0856	Cervical traction device, cervical collar with inflatable air bladder
E0958**	Manual wheelchair accessory, one-arm drive attachment
E0959**	Manual wheelchair accessory-adapter for amputee
E0960**	Manual wheelchair accessory, shoulder harness/strap
E0961**	Manual wheelchair accessory wheel lock brake extension handle
E0966**	Manual wheelchair accessory, headrest extension
E0967**	Manual wheelchair accessory, hand rim with projections
E0968*	Commode seat, wheelchair
E0969*	Narrowing device wheelchair
E0971**	Manual wheelchair accessory anti-tipping device
E0973**	Manual wheelchair accessory, adjustable height, detachable armrest
E0974**	Manual wheelchair accessory anti-rollback device
E0978*	Manual wheelchair accessory positioning belt/safety belt/ pelvic strap
E0980*	Manual wheelchair accessory safety vest
E0981**	Manual wheelchair accessory seat upholstery, replacement only
E0982**	Manual wheelchair accessory, back upholstery, replacement only
E0983**	Manual wheelchair accessory power add on to convert manual wheelchair to motorized wheelchair, joystick control
E0984**	Manual wheelchair accessory power add on to convert manual wheelchair to motorized wheelchair, tiller control
E0985	Wheelchair accessory, seat lift mechanism
E0986**	Manual wheelchair accessory, push activated power assist
E0990**	Manual wheelchair accessory, elevating leg rest
E0992**	Manual wheelchair accessory, elevating leg rest solid seat insert
E0994*	Arm rest
E1014	Reclining back, addition to pediatric size wheelchair
E1015	Shock absorber for manual wheelchair
E1020	Residual limb support system for wheelchair
E1028**	Wheelchair accessory, manual swing away, retractable or removable mounting hardware for joystick, other control interface or positioning accessory
E1029**	Wheelchair accessory, ventilator tray
E1030**	Wheelchair accessory, ventilator tray, gimbaled
E1031	Rollabout chair, any and all types with castors 5" or greater
E1035**	Multipositional patient transfer system with integrated seat operated by care giver
E1036**	Patient transfer system
E1037	Transport chair, pediatric size
E1038**	Transport chair, adult size up to 300lb
E1039**	Transport chair, adult size heavy duty >300lb

HCPCS Code	Description
E1226*	Manual, Adult size wheelchair includes tilt in space
E1227*	Special height arm for wheelchair
E1228*	Special back height for wheelchair
E1232	Wheelchair, pediatric size, tilt-in-space, folding, adjustable with seating system
E1233**	Wheelchair, pediatric size, tilt-in-space, folding, adjustable without seating system
E1234	Wheelchair, pediatric size, tilt-in-space, folding, adjustable without seating system
E1235	Wheelchair, pediatric size, rigid, adjustable, with seating system
E1236	Wheelchair, pediatric size, folding, adjustable, with seating system
E1237	Wheelchair, pediatric size, rigid, adjustable, without seating system
E1238	Wheelchair, pediatric size, folding, adjustable, without seating system
E1296*	Special sized wheelchair seat height
E1297*	Special sized wheelchair seat depth by upholstery
E1298*	Special sized wheelchair seat depth and/or width by construction
E1310**	Whirlpool nonportable
E2502**	Speech generating devices prerecord messages between 8 and 20 Minutes
E2506**	Speech generating devices prerecord messages over 40 minutes
E2508**	Speech generating devices message through spelling, manual type
E2510**	Speech generating devices synthesized with multiple message methods
E2227**	Rigid pediatric wheelchair adjustable
K0001	Standard wheelchair
K0002	Standard hemi (low seat) wheelchair
K0003	Lightweight wheelchair
K0004	High strength ltwt wheelchair
K0005	Ultra-lightweight wheelchair
K0006	Heavy duty wheelchair
K0007	Extra heavy duty wheelchair
K0009	Other manual wheelchair/base
K0606**	AED garment with electronic analysis
K0730	Controlled dose inhalation drug delivery system

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