

(2) In the case of an individual who is at high risk for colorectal cancer, payment may be made for a screening barium enema examination performed after at least 23 months have passed following the month in which the last screening barium enema or the last screening colonoscopy was performed.

[62 FR 59100, Oct. 31, 1997, as amended at 66 FR 55329, Nov. 1, 2001; 67 FR 80040, Dec. 31, 2002; 77 FR 69362, Nov. 16, 2012; 78 FR 74811, Dec. 10, 2013; 79 FR 68002, Nov. 13, 2014]

**§ 410.38 Durable medical equipment, prosthetics, orthotics and supplies (DMEPOS): Scope and conditions.**

(a) *General scope.* Medicare Part B pays for durable medical equipment, including ventilators, oxygen equipment, hospital beds, and wheelchairs, if the equipment is used in the patient's home or in an institution that is used as a home.

(b) *Institutions that may not qualify as the patient's home.* An institution that is used as a home may not be a hospital or a CAH or a SNF as defined in sections 1861(e)(1), 1861(mm)(1) and 1819(a)(1) of the Act, respectively.

(c) *Definitions.* As used in this section:

(1) *Physician* has the same meaning as in section 1861(r)(1) of the Act.

(2) *Treating practitioner* means physician as defined in section 1861(r)(1) of the Act, or physician assistant, nurse practitioner, or clinical nurse specialist, as those terms are defined in section 1861(aa)(5) of the Act.

(3) *DMEPOS supplier* means an entity with a valid Medicare supplier number, including an entity that furnishes items through the mail.

(4) *Written Order/Prescription* is a written communication from a treating practitioner that documents the need for a beneficiary to be provided an item of DMEPOS.

(5) *Face-to-face encounter* is an in-person or telehealth encounter between the treating practitioner and the beneficiary.

(6) *Power mobility device (PMD)* means a covered item of durable medical equipment that is in a class of wheelchairs that includes a power wheelchair (a four-wheeled motorized vehicle whose steering is operated by an electronic device or a joystick to control

direction and turning) or a power-operated vehicle (a three or four-wheeled motorized scooter that is operated by a tiller) that a beneficiary uses in the home.

(7) *Master List of DMEPOS items Potentially Subject to Face-To-Face Encounter and Written Orders Prior to Delivery and/or Prior Authorization Requirements, also referred to as "Master List,"* are items of DMEPOS that CMS has identified in accordance with sections 1834(a)(11)(B) and 1834(a)(15) of the Act. The criteria for this list are specified in § 414.234 of this chapter. The Master List shall serve as a library of DMEPOS items from which items may be selected for inclusion on Required Face-to-Face Encounter and Written Order Prior to Delivery List and/or the Required Prior Authorization List.

(8) *Required Face-to-Face Encounter and Written Order Prior to Delivery List* is a list of DMEPOS items selected from the Master List and subject to the requirements of a Face-to-Face Encounter and Written Order Prior to Delivery. The list of items is published in the FEDERAL REGISTER and posted on the CMS website. The list is effective no less than 60 days following its publication. When selecting items from the Master List, CMS may consider factors such as operational limitations, item utilization, cost-benefit analysis, emerging trends, vulnerabilities identified in official agency reports, or other analysis.

(d) *Conditions of Payment.* The requirements described in this paragraph (d) are conditions of payment applicable to DMEPOS items.

(1) *Written Order/Prescription.* All DMEPOS items require a written order/prescription for Medicare payment. Medicare Contractors shall consider the totality of the medical records when reviewing for compliance with standardized written order/prescription elements.

(i) *Elements.* A written order/prescription must include the following elements:

(A) Beneficiary Name or Medicare Beneficiary Identifier (MBI).

(B) General Description of the item.

(C) Quantity to be dispensed, if applicable.

(D) Order Date.

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(E) Treating Practitioner Name or National Provider Identifier (NPI).

(F) Treating Practitioner Signature.

(ii) *Timing of the Written Order/Prescription.*

(A) For PMDs and other DMEPOS items selected for inclusion on the Required Face-to-Face Encounter and Written Order Prior to Delivery List, the written order/prescription must be communicated to the supplier prior to delivery.

(B) For all other DMEPOS, the written order/prescription must be communicated to the supplier prior to claim submission.

(2) *Items Requiring a Face-to-Face Encounter.* For PMDs and other DMEPOS items selected for inclusion on the Required Face-to-Face Encounter and Written Order Prior to Delivery List, the treating practitioner must document and communicate to the DMEPOS supplier that the treating practitioner has had a face-to-face encounter with the beneficiary within the 6 months preceding the date of the written order/prescription.

(i) The encounter must be used for the purpose of gathering subjective and objective information associated with diagnosing, treating, or managing a clinical condition for which the DMEPOS is ordered.

(ii) If it is a telehealth encounter, the requirements of §§ 410.78 and 414.65 of this chapter must be met.

(3) *Documentation:* A supplier must maintain the written order/prescription and the supporting documentation provided by the treating practitioner and make them available to CMS and its agents upon request.

(i) Upon request by CMS or its agents, a supplier must submit additional documentation to CMS or its agents to support and/or substantiate the medical necessity for the DMEPOS item.

(ii) The face-to-face encounter must be documented in the pertinent portion of the medical record (for example, history, physical examination, diagnostic tests, summary of findings, progress notes, treatment plans or other sources of information that may be appropriate). The supporting documentation must include subjective and objective beneficiary specific information used

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for diagnosing, treating, or managing a clinical condition for which the DMEPOS is ordered.

(e) *Suspension of face-to-face encounter and written order prior to delivery requirements.* CMS may suspend face-to-face encounter and written order prior to delivery requirements generally or for a particular item or items at any time and without undertaking rule-making, except those items for which inclusion on the Master List was statutorily imposed.

[51 FR 41339, Nov. 14, 1986, as amended at 57 FR 57688, Dec. 7, 1992; 58 FR 30668, May 26, 1993; 70 FR 50946, Aug. 26, 2005; 71 FR 17030, Apr. 5, 2006; 77 FR 69362, Nov. 16, 2012; 84 FR 60802, Nov. 8, 2019]

### § 410.39 Prostate cancer screening tests: Conditions for and limitations on coverage.

(a) *Definitions.* As used in this section, the following definitions apply:

(1) *Prostate cancer screening tests* means any of the following procedures furnished to an individual for the purpose of early detection of prostate cancer:

(i) A screening digital rectal examination.

(ii) A screening prostate-specific antigen blood test.

(iii) For years beginning after 2002, other procedures CMS finds appropriate for the purpose of early detection of prostate cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, and other factors CMS considers appropriate.

(2) *A screening digital rectal examination* means a clinical examination of an individual's prostate for nodules or other abnormalities of the prostate.

(3) *A screening prostate-specific antigen blood test* means a test that measures the level of prostate-specific antigen in an individual's blood.

(4) A physician for purposes of this provision means a doctor of medicine or osteopathy (as defined in section 1861(r)(1) of the Act) who is fully knowledgeable about the beneficiary, and who would be responsible for explaining the results of the screening examination or test.

(5) A physician assistant, nurse practitioner, clinical nurse specialist, or