MEMORANDUM

Date: March 30, 2020

Subject: Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-1744-IFC)

On March 30, 2020 CMS published the interim final rule (IFR) titled, Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-1744-IFC). This IFR provides essential flexibilities for healthcare providers to service Medicare and Medicaid beneficiaries during this public health emergency (PHE). This effective March 31, 2020 and applicable March 1, 2020. Below are summaries of provisions that are relevant to DMEPOS industry.

Application of Certain National Coverage Determination and Local Coverage Determination Requirements During the PHE for the COVID-19 Pandemic

To limit in-person encounters during this PHE, CMS will eliminate face-to-face requirements that are required under national coverage determinations (NCDs) or local coverage determinations (LCDs) including articles.

Due to F2F encounter requirement for power mobility devices (PMD) are required by statute, this IFR’s elimination of F2F does not extend to PMDs. However, CMS regulation already permits telehealth for PMD and the added flexibilities for telehealth during this pandemic applies to PMD F2F requirements.

During this PHE, CMS will not require clinical indications for all respiratory, home anticoagulation management, and infusion pump under their respective NCDs and LCDs, including articles. Below are some of the policies that are included in this provision:

- **NCD 240.2 Home Oxygen.** NCD 240.4 Continuous Positive Airway Pressure for Obstructive Sleep Apnea.
- **LCD L33800 Respiratory Assist Devices (ventilators for home use).**
- **NCD 240.5 Intrapulmonary Percussive Ventilator.**
- **LCD L33797 Oxygen and Oxygen Equipment (for home use).**
- **NCD 190.11 Home Prothrombin Time/International Normalized Ratio (PT/INR) Monitoring for Anticoagulation Management.**
- **NCD 280.14 Infusion Pumps.**
- **LCD L33794 External Infusion Pumps.**

Due to staffing adjustments during this PHE, CMS will waive the specific practitioner type or physician specialty requirement and will allow for chief medical officer or equivalent to authorize the DMEPOS order when another physician specialty or other practitioner type orders the service.

Changes to Expand Workforce Capacity for Ordering Medicaid Home Health Nursing and Aide Services, Medical Equipment, Supplies and Appliances and Physical Therapy, Occupational Therapy or Speech Pathology and Audiology Services

To accommodate staffing adjustments, CMS will allow non-physician health care workers such as nurse
practitioners and physician assistants to order Medicaid home health services. This provision will expand the professionals that can order medical supplies, equipment, and other services.

**Advance Payments to Suppliers Furnishing Items and Services under Part B**

CMS announces making modifications to advance payment rules.

1. Revising the definition of advance payment from “advance payment as a conditional partial payment made by the carrier in response to a claim that it is unable to process within established time limits” to “conditional partial payment will be made by the “contractor” (not the carrier) except as provided in paragraph (j) of this section.” CMS is also changing the language to specifically address emergency situations.

2. Changing the advance payment from the current limit of no more than 80% of the anticipated payment for the claim to 100% of the anticipated payment for the claim. The anticipated payment is based on historical payment data to the supplier.

3. Adding criteria that suppliers in bankruptcy will not be eligible for advance payments. This is to ensure CMS will be able to recover advance payments later.