



***Via Electronic Submission: <https://www.regulations.gov/>***

February 22, 2016

William N. Parham, III  
Director, Paperwork Reduction Staff  
Centers for Medicare and Medicaid Services  
Office of Strategic Operations and Regulatory Affairs  
Division of Regulations Development  
Attention: Document Identifier/OMB Control Number 0938-NEW  
Room C4-26-05  
7500 Security Boulevard  
Baltimore, Maryland 21244-1850

**Re: Agency Information Collection Activities; Proposals, Submissions, and Approvals: CMS-10633 QIC Demonstration Evaluation Contractor (QDEC): Analyze Medicare Appeals to Conduct Formal Discussions and Re-Openings With Suppliers**

Dear Mr. Parham,

The American Association for Homecare (AAHomecare) is the national association representing the interests of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) providers. AAHomecare members include a cross section of manufacturers, suppliers, and other industry stakeholders that make or furnish DMEPOS items that beneficiaries use in their homes. Our members are proud to be part of the continuum of care that assures that Medicare beneficiaries receive cost effective, safe, and reliable home care products and services.

AAHomecare submits these comments in response to the Centers for Medicare and Medicaid Services' (CMS') request for information on the QIC Demonstration Evaluation Contractor (QDEC): Analyze Medicare Appeals to Conduct Formal Discussions and Re-Openings With Suppliers. Medicare has a five-level appeals system and the Qualified Independent Contractor (QIC) conducts Medicare's second level of appeals. Medicare's appeals system has been experiencing a historically high number of appeals with an average

processing time of over 877.2 days at the ALJ level in FY 2016.<sup>1</sup> CMS is requesting comments regarding the QIC's Demonstration on whether it has helped improve the understanding of the cause of appeal denials and if stakeholders believe the demonstration would improve the denial rate over time. AAHomecare supports CMS' effort to address the backlog and the evaluation of the effectiveness of the Demonstration. The Demonstration has been a positive experience for suppliers and we are in support of improving and expanding the program; however, in order for CMS to make a meaningful impact on a continued reduction in the appeal numbers, we believe CMS should have a more comprehensive approach that will require more than a discussion opportunity at the second level of the appeals process.

## **COMMENTS**

### Review MAC Denial Reasons

AAHomecare recommends CMS gather data on the type and volume of denials overturned at the QIC that are found to be an error on the part of the auditing or processing contractor. To improve the appeals backlog, education on claims processing must target both suppliers and contractors. The Demonstration is focused on educating suppliers, but in order to have a comprehensive approach on resolving the current appeals backlog, it is vital to involve the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) in the education process. In order to ensure there is consistency throughout the appeals process, DME MACs should be notified regularly when appeals are overturned due to an error in review of the documentation at the DME MAC. The Demonstration has been a useful opportunity for suppliers to receive education on coverage guidelines and this opportunity should also be available for DME MAC contractors that have incorrectly denied claims.

There is some concern in the industry that the two DME MACs in the Demonstration have denial rates on oxygen claims that differ substantially. AAHomecare encourages CMS to compare and contrast the overturn rates between the two DME MACs in the Demonstration to see if there are opportunities to educate the MACs on Local Coverage Determinations (LCDs) and other documentation requirements should be consistent across the DME MACs

### Reevaluate DME Coverage Policies

AAHomecare recommends CMS conduct a study on the complexities of the DME coverage policies. Due to the prescriptive language of the regulations for DMEPOS claims, auditing and processing contractors often overlook the intention of the regulation. For example, proof of delivery (POD) is one of the top denial reasons for DMEPOS claims. In many instances the reason for the denial is because the POD is signed the day before the date of service that was billed on the claim, or the relationship of the person signing the delivery ticket is not listed. The intention of the POD is to establish the fact that the patient has received the equipment and many times auditing contractors deny a claim or uphold an appeal because of the prescriptive requirements in LCDs, articles, and the Program Integrity Manual (PIM). AAHomecare recommends CMS evaluate policies that are disproportionately contributing to the appeals backlog and adjust the language to meet the intent of the requirement by allowing for some flexibility. For example, if the intent of the proof of delivery is to prove a beneficiary has received equipment or supplies, allow the date of service to be flexible, so long as the date of service falls on or after the delivery date, except in the

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<sup>1</sup> Department of Health and Human Services. Office of Medicare Hearings and Appeals. N.p., 18 Nov. 2016. Web. 1 Feb. 2017. <<https://www.hhs.gov/about/agencies/omha/about/current-workload/average-processing-time-by-fiscal-year/index.html>>.

instance of delivering to a hospital in anticipate of discharge, for these types of deliveries flexibility should be allowed dependent on the actual date of discharge. Allow suppliers to submit other types of proof with an audit that demonstrates the beneficiary received the goods or services. To assist with determining regulations that need to be evaluated, CMS should track the volume and types of technical denials that are overturned at the QIC.

#### Discussion at First Level of Appeals

To avoid more claims moving up through the appeals process, AAHomecare recommends CMS institute a discussion opportunity at the first level of appeal. Affording suppliers the opportunity to speak directly with the nurse reviewer that is auditing the claim will not only be an educational opportunity for both suppliers and contractors, but it will also be economical for the program as a whole. It will reduce wait times, reduce administrative costs, and will give suppliers the opportunity to speak directly with the reviewer that is evaluating the documentation. Due to the complexity of the PIM, LCDs, articles, and National Coverage Determinations (NCDs), it is often difficult for reviewers to read through information submitted by different suppliers and be sure they are able to identify the different pieces of documentation. Although the Demonstration at the second level of appeals has been a positive experience for suppliers, we believe instituting a discussion at the first level of appeal will enable CMS to significantly reduce the backlog at Office of Medicare Hearings and Appeals (OMHA).

#### Wording in The Notice Should Be Clarified

The notice for the comment request states:

*"...and (3) support CMS in assessing the QIC's effectiveness in meeting a number of criteria established by CMS, including how satisfied participating suppliers were with the formal telephone discussion process."*

The term "participating suppliers" can be referred to Medicare participation status, which may confuse some readers. We recommend to change the sentence to read:

*"...and (3) support CMS in assessing the QIC's effectiveness in meeting a number of criteria established by CMS, including how satisfied suppliers participating in the formal telephone discussion process were."*

#### **CONCLUSION**

The QIC Demonstration has been an important, effective program in improving the appeals process. AAHomecare appreciates CMS' efforts to evaluate the program and AAHomecare supports CMS' efforts to continue to improve and evaluate the program. We believe there are opportunities to expand the program and reexamine difficult and complex requirements. AAHomecare appreciates the opportunity to submit these comments. We are available to discuss them in greater detail at your convenience.

Sincerely,



Kimberley S. Brummett, MBA  
Vice President of Regulatory Affairs