

§ 414.404

42 CFR Ch. IV (10–1–24 Edition)

states, territories, and the District of Columbia where Medicare beneficiaries reside and can receive covered DMEPOS items and services.

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

Weighted bid means the item weight multiplied by the bid price submitted for that item.

[72 FR 18084, Apr. 10, 2007, as amended at 74 FR 2880, Jan. 16, 2009; 74 FR 62009, Nov. 25, 2009; 75 FR 73622, Nov. 29, 2010; 76 FR 70314, Nov. 10, 2011; 81 FR 77966, Nov. 4, 2016; 83 FR 21925, May 11, 2018; 83 FR 57072, Nov. 14, 2018; 86 FR 42422, Aug. 4, 2021; 88 FR 77875, Nov. 13, 2023]

§ 414.404 Scope and applicability.

(a) *Applicability.* Except as specified in paragraph (b) of this section, this subpart applies to all suppliers that furnish the items defined in § 414.402 to beneficiaries, including providers, physicians, treating practitioners, physical therapists, and occupational therapists that furnish such items under Medicare Part B.

(b) *Exceptions.* (1) Physicians, treating practitioners, and hospitals may furnish certain types of competitively bid durable medical equipment without submitting a bid and being awarded a contract under this subpart, provided that all of the following conditions are satisfied:

(i) The items furnished are limited to crutches, canes, walkers, folding manual wheelchairs, blood glucose monitors, and infusion pumps that are DME, and off-the-shelf (OTS) orthotics.

(ii) The items are furnished by the physician or treating practitioner to his or her own patients as part of his or her professional service or by a hospital to its own patients during an admission or on the date of discharge.

(iii) The items are billed under a billing number assigned to the hospital, physician, the treating practitioner (if possible), or a group practice to which the physician or treating practitioner has reassigned the right to receive Medicare payment.

(2) A physical therapist in private practice (as defined in § 410.60(c) of this chapter) or an occupational therapist

in private practice (as defined in § 410.59(c) of this chapter) may furnish competitively bid off-the-shelf orthotics without submitting a bid and being awarded a contract under this subpart, provided that the items are furnished only to the therapist's own patients as part of the physical or occupational therapy service.

(3) Payment for items furnished in accordance with paragraphs (b)(1) and (b)(2) of this section will be paid in accordance with § 414.408(a).

[72 FR 18084, Apr. 10, 2007, as amended at 74 FR 2880, Jan. 16, 2009; 75 FR 73623, Nov. 29, 2010; 76 FR 70314, Nov. 10, 2011]

§ 414.406 Implementation of programs.

(a) *Implementation contractor.* CMS designates one or more implementation contractors for the purpose of implementing this subpart.

(b) *Competitive bidding areas.* CMS designates through program instructions or by other means, such as the request for bids, each CBA in which a competitive bidding program may be implemented under this subpart.

(c) *Revisions to competitive bidding areas.* CMS may revise the CBAs designated under paragraph (b) of this section.

(d) *Competitively bid items.* CMS designates the items that are included in a competitive bidding program through program instructions or by other means

(e) *Claims processing.* The Durable Medical Equipment Medicare Administrative Contractor designated to process DMEPOS claims for a particular geographic region also processes claims for items furnished under a competitive bidding program in the same geographic region.

[71 FR 48409, Aug. 18, 2006, as amended at 72 FR 18085, Apr. 10, 2007]

§ 414.408 Payment rules.

(a) *Payment basis.* (1) The payment basis for an item furnished under a competitive bidding program is 80 percent of the single payment amount calculated for the item under § 414.416 for the CBA in which the beneficiary maintains a permanent residence.