

Durable Medical Equipment (DME)

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Today's Agenda

- Defining DME
- Accessing DME in Medicare
- Accessing DME in Medicaid
- Issues with Dual Eligibles
- Practice Tips
- Questions

Key Lessons

1. Doctors and other prescribers are the starting point to accessing DME.
2. Finding a supplier depends on the beneficiary's health coverage.
3. Dual eligibles may experience additional complications accessing DME given Medicaid's status as payer of last resort.
4. Appeals related to DME in Medicare and Medicaid are the same as any other covered service.

Defining Durable Medical Equipment (DME)

What is DME?

- DME must:
 - Have a usable life of at least three years
 - Be used for a medical reason
 - Be not useful to someone who is not sick or injured
 - Be needed for use in the home
 - This requirement does not apply in Medicaid as long as the equipment is needed for an individual to function in the community.

What is DME? (cont.)

- Discussions of DME can also include supplies.
- Some typical DME may include wheelchairs, ventilators, oxygen equipment, and traction equipment.

DME Utilization

- A 2012 study found that DME, in addition to home health, was disproportionately responsible for geographic variation among Original Medicare beneficiaries.
- DME is often targeted by regulators and policymakers who attempt reforms to limit fraud and abuse for these items, but many beneficiaries report experiencing difficulty getting and maintaining the DME they need in the current system.

Accessing DME in Medicare

DME and Medicare

- DME is covered under Medicare Part B unless it is prescribed for use in a skilled nursing facility.
- It must be prescribed by a Medicare-enrolled provider.
- Usually the prescription is sufficient to establish medical necessity.

DME and Medicare, Part 2

- Finding a supplier depends on the Medicare beneficiary's coverage.
 - Original Medicare: Beneficiaries will likely need to get supplies from competitive bidding suppliers. [A searchable CMS site](#) allows beneficiaries to search for particular products in specific geographic regions.
 - Medicare Advantage: Beneficiaries need to access a provider in network. Use the provider directory or call the plan directly.

DME and Medicare, Part 3

- Getting Approval
 - Original Medicare: Besides a few exceptions that require prior authorization, the supplier provides the DME and subsequently bills Medicare.
 - Medicare Advantage: Many DME items require a prior authorization from the MA plan before delivery.

Paying for DME in Medicare

- Original Medicare: The beneficiary pays 20 percent of the Medicare approved amount.
- Medicare Advantage: The MA plan establishes the co-insurance amount.
- Remember that if the beneficiary is a Qualified Medicare Beneficiary (QMB), improper billing protections apply. State protections may apply as well.

Accessing DME in Medicaid

DME and Medicaid

- The prescriber must be enrolled in Medicaid.
- Dual eligibles may face a problem because they may have Medicare providers who are not enrolled in Medicaid. States have workaround processes.

DME and Medicaid, Part 2

- Suppliers must be enrolled in the state Medicaid program. If the beneficiary is in a Medicaid managed care plan, the supplier must also be in-network.
- Medicaid programs usually issue a prior authorization before DME is delivered.
- Usually the beneficiary pays nothing, but some states may have a minor co-insurance.

Dual Eligibles and DME

Dual Eligibles and DME

- In addition to issues around Medicare providers not working with Medicaid, dual eligibles may encounter other problems.
- Medicaid is the payer of last resort.

Dual Eligibles and DME (cont.)

- Medicaid is the payer of last resort.
- Medicaid will only issue a final authorization for payment if:
 - The DME is not ever covered by Medicare.
 - If Medicare has denied coverage for the individual.
- Medicare does not review the claim until after the DME is delivered.
- These complications may present opportunities for advocacy.

Practice Tips

Understanding DME Requirements

- Mario's doctor is not sure what information she needs to supply to get DME for Mario.
- PRACTICE TIP:
 - Contact the DME supplier directly
 - DME suppliers are usually very familiar with both Medicare and Medicaid requirements for specific DME items

Finding a DME Supplier

- Elena is having trouble finding a DME supplier in her area who is willing to provide the DME she needs.
- PRACTICE TIP:
 - Original Medicare: Contact 1-800-Medicare for assistance finding a supplier
 - Medicare Advantage: Contact the MA plan. The MA plan has an obligation to ensure an in-network supplier is available.

Getting DME Repairs

- Roger needs repairs for his wheelchair and his supplier is not being helpful.
- PRACTICE TIP:
 - For a Medicare-covered item, the supplier MUST provide repair and maintenance.
 - It is always appropriate to ask for a loaner while repairs are completed.
 - [The CMS Outreach and Education page webpage](#) has more info on beneficiary protections.

Filing a Complaint

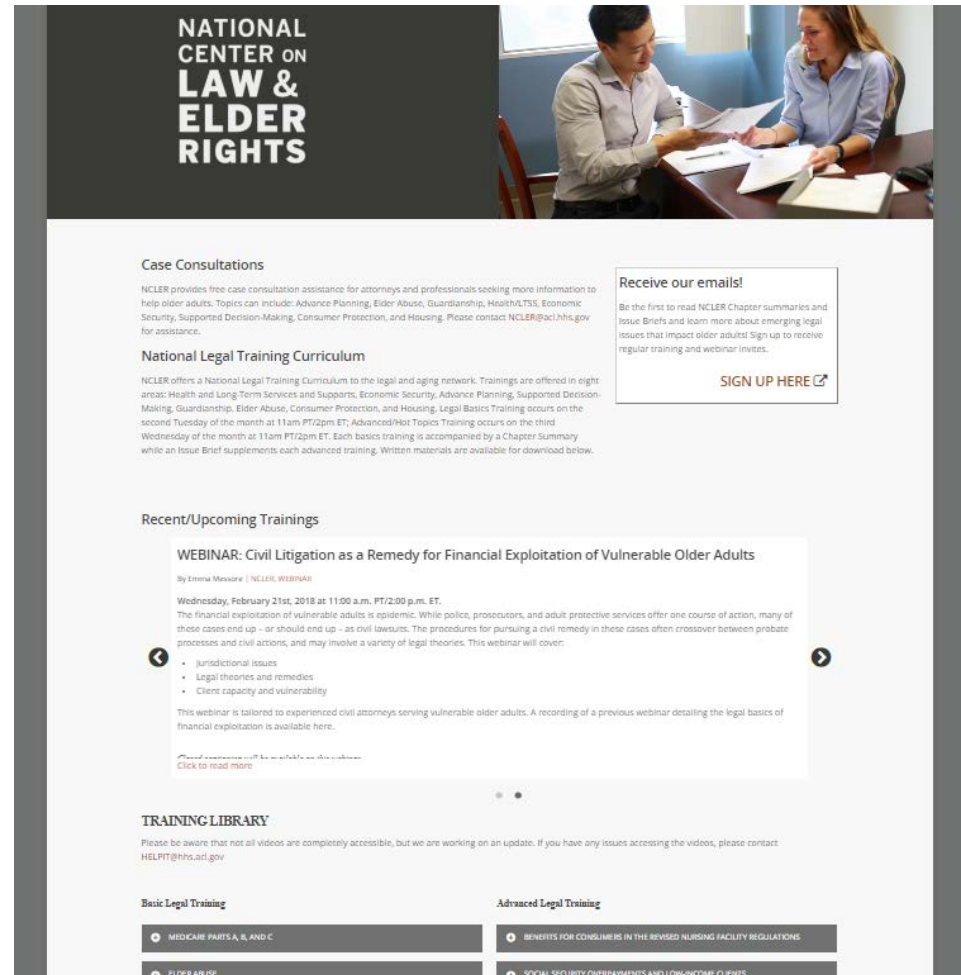
- Sonja's Medicare DME supplier is not assisting her with adjustments to her DME. She urgently needs assistance and has hit a brick wall. She also wants to complain about rudeness of the supplier's staff and their constant failure to return her calls.
- PRACTICE TIP:
- Sonja can call 1-800-Medicare and ask that her complaint be forwarded to the Competitive Acquisitions Ombudsman.
 - Medicare Advantage: Sonja should first contact the plan, ask for assistance, and let them know she plans to file a formal complaint.

Appealing a Coverage Denial

- Eduardo was denied coverage for DME that his doctor ordered.
- PRACTICE TIP:
 - Follow the appeals processes as you would with any other covered service.
 - Original Medicare: Start with the Medicare Administrative Contractor (MAC).
 - Medicare Advantage: First letter of appeal is with the MA Plan.
 - Medicaid: Follow state Medicaid appeals rules for Medicaid denials.

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National Legal Training Curriculum
NCLER offers a National Legal Training Curriculum to the legal and aging network. Trainings are offered in eight areas: Health and Long-Term Services and Supports, Economic Security, Advance Planning, Supported Decision-Making, Guardianship, Elder Abuse, Consumer Protection, and Housing. Legal Basics Training occurs on the second Tuesday of the month at 11 am PT/2pm ET; Advanced/Hot Topics Training occurs on the third Wednesday of the month at 11am PT/2pm ET. Each basics training is accompanied by a Chapter Summary while an Issue Brief supplements each advanced training. Written materials are available for download below.

Recent/Upcoming Trainings

WEBINAR: Civil Litigation as a Remedy for Financial Exploitation of Vulnerable Older Adults
By *Internal Measure* | [NCLER Webinar](#)
Wednesday, February 21st, 2018 at 11:00 a.m. PT/2:00 p.m. ET.
The financial exploitation of vulnerable adults is epidemic. While police, prosecutors, and adult protective services offer one course of action, many of these cases end up – or should end up – as civil lawsuits. The procedures for pursuing a civil remedy in these cases often crossover between probate processes and civil actions, and may involve a variety of legal theories. This webinar will cover:

- Jurisdictional issues
- Legal theories and remedies
- Client capacity and vulnerability

This webinar is tailored to experienced civil attorneys serving vulnerable older adults. A recording of a previous webinar detailing the legal basics of financial exploitation is available here.

[Click to read more](#)

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- ELDER ABUSE

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- BENEFITS FOR CONSUMERS IN THE REVISED NURSING FACILITY REGULATIONS
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