



COMMISSIONER  
Chris Traylor

March 25, 2011

To: Nursing Facility Administrators, Social Workers, and Rehabilitation Therapy Staff  
Subject: Information Letter No. 11-40  
Marketing Practices of Durable Medical Equipment Suppliers in Medicaid Nursing Facilities

The Department of Aging and Disability Services (DADS) has identified a need to provide notification to facilities regarding durable medical equipment (DME) supplier activity related to the DADS customized power wheelchair (CPWC) program for qualified nursing facility (NF) residents, and the customized manual wheelchairs (CMWCs) provided through specialized services for Pre-Admission Screening and Resident Review (PASRR) eligible NF residents.

DADS has received reports of DME suppliers who have displayed a pattern of engaging in aggressive marketing methods to nursing facilities in Texas in regards to DADS CPWC program, a CMWC, and other DME available through DADS specialized services program.

**Note: For the purposes of this letter and from this point forward, the term “DADS DME” includes: a wheelchair provided through the DADS CPWC program; and a CMWC/DME provided through specialized services for a PASRR eligible NF resident.**

In response to this activity, DADS is notifying NF administrators, therapists and staff of the following policy and processes:

### **Roles and Responsibilities**

The NF:

- is the sole entity responsible for the initiation, coordination and submission of a request for authorization of DADS DME;
- bears financial responsibility for any amount paid by DADS for DADS DME;
- may have the full amount billed to DADS for DADS DME recouped from the facility if the authorization is found to have been based on inaccurate or falsified information;
- should address any questions relating to DADS DME directly to the designated DADS contact person in order to ensure accurate information is obtained; and
- is the only entity authorized to contact DADS to discuss the status of DADS DME.

DADS:

- does not contract directly with any DME supplier to provide DADS DME;
- does not maintain a contracted relationship with any DME supplier company for the purpose of dissemination of information or policy in regards to DADS DME; and
- will not provide general status information to any DME supplier company in regards to a DADS DME submission or a PASRR submission.

DME Supplier:

- may not act as the NF representative to contact DADS to discuss the status of DADS DME or status of a PASRR submission; and
- may only contact DADS to discuss information related to the supplier information portion of a DADS DME submission.

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### **Potential Unethical or Fraudulent Business Practices**

When NF staff believe a DME supply company representative to be engaging in - or encouraging others to engage in – any business practice that may be classified as unethical or fraudulent, NF staff must:

- inform their facility administrator about the business practice that was observed from the supplier representative;
- decline or discontinue any contact or business arrangements with the supplier; and
- immediately report any practice that could be classified as fraudulent or a misuse of state funds to the Health and Human Services Commission Office of the Inspector General
- Hotline - 1-800-436-6184.

Some examples of the unethical or fraudulent practices that have been reported to DADS include a DME supplier:

- encouraging facility staff or therapy staff to submit knowingly inaccurate information to DADS and the Texas Medicaid Healthcare Partnership (TMHP) for the purposes of acquiring authorization for DADS DME;
- representing him/herself as maintaining a contracted or business relationship directly with DADS (e.g., presenting business cards printed with DADS program information);
- engaging in aggressive sales or marketing tactics (e.g., independently arriving at a facility with no authorization from the facility administration in order to independently assess the residents needs for DADS DME);
- offering to pay a therapist or facility staff member a fee to perform a specific evaluation on a resident;
- offering to give a therapist or facility staff member any type of payment in exchange for ordering DADS DME from his/her company;
- offering to pay a percentage of the cost of the DADS DME back to the facility as incentive for choosing his/her company;
- attempting to represent DADS policy and eligibility information to facility staff or therapy staff for the purpose of securing business from the facility;
- independently obtaining a therapist evaluation or physician's attestation for the express purpose of requesting authorization of DADS DME; and
- submitting a request for DADS DME without the knowledge or consent of the designated NF contact person or the NF administration.

If you have any questions or need additional information, Sean Ivie, Lead Policy Analyst, serves as the lead staff on matters regarding CPWC, CMWC and other DME provided through specialized services, and can be reached by phone at (512) 438-5208 or by e-mail at [Sean.Ivie@dads.state.tx.us](mailto:Sean.Ivie@dads.state.tx.us). Jamie White, Policy Analyst, serves as the lead staff on matters regarding PASRR and can be reached at (512) 438-4481 or by e-mail at [Jamie.White@dads.state.tx.us](mailto:Jamie.White@dads.state.tx.us).

Sincerely,

*[signature on file]*

Geri Willems  
Manager  
MERP/PASRR