



## Updated Special Fraud Alert

### Telemarketing by Durable Medical Equipment Suppliers

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Section 1834(a)(17)(A) of the Social Security Act prohibits suppliers of durable medical equipment (DME) from making unsolicited telephone calls to Medicare beneficiaries regarding the furnishing of a covered item, except in three specific situations: (i) the beneficiary has given written permission to the supplier to make contact by telephone; (ii) the contact is regarding a covered item that the supplier has already furnished the beneficiary; or (iii) the supplier has furnished at least one covered item to the beneficiary during the preceding 15 months. Section 1834(a)(17)(B) specifically prohibits payment to a supplier that knowingly submits a claim generated pursuant to a prohibited telephone solicitation. Accordingly, such claims for payment are false and violators are potentially subject to criminal, civil, and administrative penalties, including exclusion from Federal health care programs.

The Office of Inspector General (OIG) has received credible information that some DME suppliers continue to use independent marketing firms to make unsolicited telephone calls to Medicare beneficiaries to market DME, notwithstanding the clear statutory prohibition. Suppliers cannot do indirectly that which they are prohibited from doing directly. OIG has also been made aware of instances when DME suppliers, notwithstanding the clear statutory prohibition, contact Medicare beneficiaries by telephone based solely on treating physicians' preliminary written or verbal orders prescribing DME for the beneficiaries. A physician's preliminary written or verbal order is not a substitute for the requisite written consent of a Medicare beneficiary.

Except in the three specific circumstances described in the statute, section 1834(a)(17)(A) prohibits unsolicited telemarketing by a DME supplier to Medicare beneficiaries, whether contact with a beneficiary is made by the supplier directly or by another party on the DME supplier's behalf. Moreover, a DME supplier is responsible for verifying that marketing activities performed by third parties with which the supplier contracts or otherwise does business do not involve prohibited activity and that information purchased from such third parties was neither obtained, nor derived, from prohibited activity.

If a claim for payment is submitted for items or services generated by a prohibited solicitation, both the DME supplier and the telemarketer are potentially liable for criminal, civil, and administrative penalties for causing the filing of a false claim, as well as criminal and civil penalties for using interstate telephone calls in furtherance of schemes to defraud.

**WHAT TO DO IF YOU HAVE INFORMATION ABOUT FRAUD AND ABUSE INVOLVING MEDICARE OR MEDICAID PROGRAMS:**

If you have information about DME suppliers or telemarketers engaging in any of the activities described above, contact any of the regional offices of OIG, U.S. Department of Health and Human Services, at the following locations:

Regional Offices	States Served	Telephone
Boston	MA, CT, ME, NH, RI, VT	617-565-2664
New York	NY, NJ, PR, VI	212-264-1691
Philadelphia	PA, DE, DC, MD, VA, WV	215-861-4586
Atlanta	AL, GA, KY, NC, SC, TN, MS	404-562-7603
Chicago	IL, IN, MI, MN, OH, WI	312-353-2740
Dallas	TX, LA, AR, OK, NM	214-767-8406
Kansas City	MO, ND, SD, MT, KS, IA, CO, NE, UT, WY	816-426-4000
San Francisco	No. CA, OR, WA, ID, AK	415-437-7961
Los Angeles	So. CA, AZ, NV, HI	714-246-8302
Miami	FL	305-530-7756