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Healthcare Alert

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CMS DMEPOS moratorium has major impact on M&A and ownership changes

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CMS's new nationwide moratorium on DMEPOS "medical supply company" enrollments is an immediate M&A disruptor. Buyers, sellers, and sponsors must reassess transaction strategy now.



What's the impact?

- For the next six months, and potentially longer, any deal structure requiring a new Medicare enrollment number is effectively off the table. Asset purchases and any transaction triggering a change in majority interest now hit a hard regulatory wall; many deals cannot close as planned.
- Only change of information (COI)-eligible equity deals, carefully calibrated against the 36-month rule, can preserve Medicare billing without interruption.
- Expect delayed deal closings, renegotiated terms, distressed-sale dynamics, and stricter due diligence as buyers model moratorium scenarios extending past August 2026.

On **February 27, 2026**, the Centers for Medicare & Medicaid Services (CMS) imposed a **six-month nationwide temporary moratorium** on Medicare enrollment for new Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers falling within seven

specified “medical supply company” categories. This sweeping action, issued under the authority of the Social Security Act § 1866(j)(7) and 42 C.F.R. § 424.570, represents one of the most significant program-integrity interventions in the DMEPOS sector in recent years. It directly blocks not only brand-new supplier enrollments but also any Change in Majority Ownership (CIMO) transactions that would otherwise require a new initial enrollment application under the recently expanded 36-month rule (42 C.F.R. § 424.551, effective January 1, 2026).

The moratorium applies in **all 50 states, the District of Columbia, and U.S. territories** and is initially set to run through August 27, 2026, subject to six-month extensions announced by Federal Register notice. CMS may terminate the moratorium earlier if, in the agency’s view, fraud risks materially decline. Existing enrolled DMEPOS suppliers may continue billing Medicare without interruption, provided they do not seek to add new locations or undergo a CIMO that triggers a new enrollment. Applications received by National Provider Enrollment (NPE) contractors **before February 27, 2026**, are grandfathered in; those submitted on or after that date are denied.

This alert provides a concise yet comprehensive summary of the moratorium, the Medicare Change-of-Ownership (CHOW) and CIMO framework applicable to DMEPOS suppliers, a dedicated analysis of how transaction structure (asset sale vs. stock sale) determines whether new enrollment is required, and practical key takeaways for structuring deals during the moratorium.

Scope and mechanics of the moratorium

The moratorium targets DMEPOS suppliers whose principal business is furnishing medical supplies directly to beneficiaries or other providers, specifically those enrolling (or re-enrolling) under any of the following seven supplier types on Form CMS-855S:

- / Medical Supply Company
- / Medical Supply Company with Orthotics Personnel
- / Medical Supply Company with Pedorthic Personnel
- / Medical Supply Company with Prosthetics Personnel
- / Medical Supply Company with Prosthetic and Orthotic Personnel
- / Medical Supply Company with Registered Pharmacist
- / Medical Supply Company with Respiratory Therapist

Pure orthotic/prosthetic practitioners or other DMEPOS categories outside these seven appear to be exempt from the moratorium, based on CMS stakeholder guidance. New practice locations are treated as initial enrollments and therefore blocked. CMS has emphasized that attempts to circumvent the moratorium through misclassification, shell entities, or other artifices will be met with heightened screening, site visits, and potential 10-year re-enrollment bars plus OIG referral.

Notably, the moratorium **does apply** to CIMO-triggered new enrollments, despite the general regulatory exemption for “some changes in ownership.” Only non-CIMO ownership updates (Change of Information filings) are unaffected.

Background about CHOW/CIMO Process for DMEPOS suppliers

A DMEPOS supplier enrolls via Form CMS-855S and receives a Provider Transaction Access Number (PTAN). Unlike hospitals or SNFs (which can transfer a provider agreement under 42 C.F.R. § 489.18), DMEPOS CHOWs are governed primarily by the enrollment rules and the supplier standards at 42 C.F.R. § 424.57.

Two primary pathways exist.

CHANGE OF INFORMATION (COI)

Minor or non-majority ownership changes, indirect ownership shifts at the parent level, or stock purchases that do not alter the supplier’s legal entity or FEIN are reported as updates to the existing enrolment application (855S). The supplier continues under its current PTAN and billing privileges with no new accreditation survey required.

CHANGE IN MAJORITY OWNERSHIP (CIMO) TRIGGERING NEW INITIAL ENROLLMENT

Under the expanded 36-month rule (42 C.F.R. § 424.551), if an individual or organization acquires **more than 50% direct ownership interest** (via asset sale, stock transfer, merger, consolidation, or the cumulative effect of multiple transactions) within 36 months after the supplier’s initial enrollment or its most recent CIMO, the existing enrollment terminates. The buyer must submit a full new initial 855S application, undergo a fresh accreditation survey, meet all supplier standards, and receive a new PTAN. Medicare billing privileges do **not** transfer automatically.

Exceptions permitting continuation without new enrollment include death of an owner, pure internal corporate restructurings with identical ultimate owners, or changes in legal business form with no ownership change.

Transaction structuring

ASSET SALES VS. STOCK SALES — WHEN NEW ENROLLMENT IS (OR IS NOT) REQUIRED

DMEPOS suppliers must now analyze structure with heightened precision, because the moratorium renders any **new initial enrollment** unavailable for the foreseeable future. The distinction between asset and stock purchase is often outcome-determinative.

ASSET PURCHASE AGREEMENTS (APAS)

In a classic asset deal, the buyer (or its new subsidiary) acquires the operating assets, inventory, customer lists, and contracts of the DMEPOS business divesting from the seller's legal entity that is enrolled in government healthcare programs. These structures are legally preferable, because the buyer avoids successor liability for the seller's operation. However, this almost always requires the buyer to enroll as a **new supplier for Medicare benefits** because:

- / A new legal entity is typically formed to receive the assets.
- / Even if the buyer uses an existing entity, the transfer of the supplier business itself is likely treated as a new supplier location or new enrollment.
- / The transaction inherently triggers the CIMO rule if >50% ownership interest in the "business" changes hands.

Result under the moratorium: The buyer cannot obtain Medicare billing privileges for the acquired assets during the moratorium period. Deals structured as pure asset purchases are effectively frozen unless the buyer can operate without Medicare revenue or delay closing until the moratorium lifts.

STOCK PURCHASE AGREEMENTS (SPAS)/EQUITY PURCHASES

In a stock (or membership-interest) deal, the buyer acquires shares or membership interests in the **existing legal entity** that already holds the Medicare enrollment and contracts with third-party payors. Because the supplier's legal entity, FEIN, and PTAN remain unchanged:

- / The transaction is generally reportable as a **Change of Information (COI)** rather than a new initial enrollment.
- / The existing accreditation and supplier number continue uninterrupted.
- / **Critical caveat:** If the stock purchase results in a >50% direct ownership change (or the cumulative effect in any rolling 36-month period exceeds 50%) less than 36 months after the last enrollment of CIMO, the CIMO rule is still triggered, requiring a new initial enrollment application and fresh accreditation, **which the moratorium blocks**.

Result: A 100% stock purchase of a supplier, especially those whose last enrollment or CIMO was **more than 36 months ago**, can often close and continue Medicare operations without new enrollment. Partial acquisitions below the 50% threshold (on a direct-ownership, rolling-36-month basis) may also proceed as COI updates.

It should be noted, however, that in a stock or equity purchase of a DMEPOS supplier, the buyer acquires the existing legal entity holding the Medicare PTAN and enrollment, automatically assuming **all liabilities** (known, unknown, and contingent) — with no clean break from the seller's past conduct. This exposes the buyer to Medicare or other third-party payor overpayments, False Claims Act exposure, regulatory enforcement actions, employee claims, tax

liabilities, and other hidden risks that may surface years later. Unlike a well-structured asset purchase, which allows selective asset assumption and express disclaimer of most liabilities, stock deals transfer the full historical burden.

Takeaways

Although the CMS moratorium is designated as a temporary enrollment freeze, it marks a significant escalation in CMS's program-integrity posture toward DMEPOS suppliers. For the duration of the moratorium, any transaction that would trigger a new 855S application, including new entities, new locations, or CIMO-triggered enrollments under the expanded 36-month rule, cannot proceed. As a result, deal strategy should be reassessed with heightened scrutiny, prioritizing structures that preserve existing Medicare billing privileges and conducting detailed ownership history analyses to avoid inadvertent CIMO triggers. In the current moratorium environment, buyers are often forced to accept this heightened successor-liability risk to preserve uninterrupted Medicare billing privileges, making rigorous due diligence, larger escrows, and robust indemnification essential.

Parties may also consider other transaction structures, such as "lease-back" arrangements and management or subcontractor relationships, that may accomplish their business goals without triggering new enrollment.

Even routine restructurings or minority equity investments may require reevaluation in this environment. Until CMS lifts the moratorium, prospective DMEPOS supplier buyers, sellers, and investors should build enrollment-related risk into negotiations, diligence, documentation, and closing timelines, recognizing that CMS is signaling a sustained, more aggressive approach to DMEPOS supplier oversight.

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