

**MOA MEMBERS**  
**FROM SUE A. WEINGARTNER, EXECUTIVE DIRECTOR**  
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## **SURETY BOND INFORMATION**

The AOA is getting numerous calls and emails regarding optometrists and surety bonds. Optometrists are not subject to the surety bond requirement.

The surety bond requirement for DME suppliers traces back to a 1997 federal law that CMS has finally implemented. The AOA and others successfully explained to CMS that the surety bond requirement was not intended to apply to physicians (including ODs). In January 2009, CMS published the final regulations and agreed with us that physicians who supply DME do not need to obtain a surety bond.

There are two exceptions. First, CMS does not want DME supply companies to elude the rule by naming a physician as a figurehead, so CMS cautions that the exemption applies only to physicians who supply DME to their patients. When a patient comes into an optometrist's practice for care, a doctor-patient relationship is probably established.

Second, since opticians are not physicians, opticians still need a surety bond. If an optometrist employs an optician and the optician has a DME supplier number, then the entire practice might need to obtain a surety bond. We think these two carve outs will not subject many ODs to the surety bond requirement.

The bottom line is that all or nearly all ODs who supply post-cataract eyeglasses to their Medicare patients do not need to obtain a surety bond. A new DME supplier enrollment form has a section on surety bonds and includes an option for the OD to check a box that they are exempt from this requirement. If CMS, the National Supplier Clearinghouse (Palmetto) or your DME contractor insists that an OD must obtain a surety bond, then please let us know about that situation.

[http://www.magnetmail.net/images/clients/AOA\\_/attach/wor0903S11.pdf](http://www.magnetmail.net/images/clients/AOA_/attach/wor0903S11.pdf)

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