

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 443	Date: FEBRUARY 13, 2009
	Change Request 6296

Subject: Payment for Repair, Maintenance and Servicing of Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008

I. SUMMARY OF CHANGES: Section 144(b) of the MIPPA of 2008 repeals the transfer of ownership provision established by the Deficit Reduction Act (DRA) of 2005 for oxygen equipment and establishes new payment rules and supplier responsibilities after the 36 month cap. This transmittal provides additional instructions regarding repair, maintenance and servicing and repair of oxygen equipment resulting from implementation of section 144(b) of the MIPPA.

New / Revised Material

Effective Date: April 1, 2009

Implementation Date: April 6, 2009

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	Chapter / Section / Subsection / Title
N/A	

III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

SECTION B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

One-Time Notification

**Unless otherwise specified, the effective date is the date of service.*

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 443	Date: February 13, 2009	Change Request: 6296
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SUBJECT: Payment for Repair, Maintenance and Servicing of Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008

Effective Date: April 1, 2009

Implementation Date: April 6, 2009

I. GENERAL INFORMATION

A. Background:

Section 144(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) repeals the transfer of ownership provision established by the Deficit Reduction Act (DRA) of 2005 for oxygen equipment and establishes new payment rules and supplier responsibilities after the 36 month payment cap. Initial instructions related to implementation of these changes were issued as part of the January 2009 DMEPOS Fee Schedule Update CR 6297. This one-time update provides additional instructions regarding repair, maintenance and servicing and repair of oxygen equipment resulting from implementation of section 144(b) of the MIPPA.

B. Policy:

New HCPCS Codes for the Repair or Nonroutine Service of DME

In order to distinguish between the repair or nonroutine service of beneficiary-owned DME and oxygen equipment, the following two new “K” codes are being posted as part of the HCPCS Quarterly Update on January 7, 2009, and are effective for claims with dates of service on or after April 1, 2009:

K0739 Repair or Nonroutine Service for Durable Medical Equipment Other than Oxygen Equipment Requiring the Skill of a Technician, Labor Component, Per 15 Minutes

K0740 Repair or Nonroutine Service for Oxygen Equipment Requiring the Skill of a Technician, Labor Component, Per 15 Minutes

The existing E1340 HCPCS code (*Repair or Nonroutine Service for Durable Medical Equipment Requiring the Skill of a Technician, Labor Component, Per 15 Minutes*) will be made invalid for Medicare claims, effective April 1, 2009. Suppliers should use the new K0739 code on DME claims to bill for the labor associated with the reasonable and necessary repair of beneficiary-owned durable medical equipment. The new non-covered K0740 code should be used by suppliers to indicate the labor associated with the repair of stationary or portable oxygen equipment. The revised 2009 labor payment amounts for E1340, provided as part of CR 6297, map directly to the new K0739 code and shall be used to pay claims for code K0739 with dates of service on or after April 1, 2009.

Please note that the HCPCS codes listed as new codes in this CR are not yet final and are subject to change. The new codes are not be used for billing purposes until they are effective on April 1, 2009.

Maintenance and Servicing and Repair of Oxygen Equipment

Section 144(b) of MIPPA mandates payment for reasonable and necessary maintenance and servicing of oxygen equipment furnished after the 36-month rental cap. The 36-month cap applies to stationary and portable oxygen equipment furnished on or after January 1, 2006; therefore, the 36-month cap may end as early as January 1, 2009, for beneficiaries using oxygen equipment on a continuous basis since January 1, 2006. CMS has determined that, for services furnished during calendar year 2009, it is reasonable and necessary to make payment for periodic, in-home visits by suppliers to inspect certain oxygen equipment and provide general maintenance and servicing after the 36-month rental cap. These payments only apply to equipment falling under HCPCS codes E1390, E1391, E1392, and K0738, and only when the supplier physically makes an in-home visit to inspect the equipment and provide any necessary maintenance and servicing. Payment may be made every 6 months, beginning 6 months after the 36-month rental cap (as early as July 1, 2009, in some cases), and the allowed payment amount for each visit is equal to the 2009 fee for code E1340 (now K0739), multiplied by 2, for the State in which the in-home visit takes place.

Suppliers should use the HCPCS code for the equipment E1390, E1391, E1392, and/or K0738 along with the MS modifier in order to bill and receive payment for these maintenance and servicing visits. For example, if the supplier visits a beneficiary's home in Pennsylvania to perform the general maintenance and servicing on a portable concentrator, the supplier would enter E1392MS on the claim and the allowed payment amount would be equal to \$26.82 (\$13.41 x 2). If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a stationary concentrator (E1390 or E1391) and a transfilling unit (K0738), payment can be made for maintenance and servicing of both units (E1390MS or E1391MS, and K0738MS). If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a portable concentrator (E1392), payment can only be made for maintenance and servicing of the one unit/HCPCS code (E1392MS).

Program instructions will be issued in the future regarding continuation of these payments for dates of service on or after January 1, 2010.

In the case of all oxygen equipment furnished after the 36-month rental cap, the supplier is responsible for performing any repairs or maintenance and servicing of the equipment that is necessary to ensure that the equipment is in good working order for the remainder of the reasonable useful lifetime of the equipment. This includes all parts and any labor that must be provided in order for the supplier-owned equipment to continue to function appropriately. Payment shall not be made for any parts, labor, pick-up, delivery fees, or repairs or maintenance and servicing of oxygen equipment, other than the maintenance and servicing payments described above. Hence, contractors shall deny claims with dates of service on or after April 1, 2009 for HCPCS code K0740 when this code is used to bill for repairs to oxygen equipment identified by HCPCS codes E0424, E0431, E0434, E0439, E1390, E1391, E1392, E1405, E1406, or K0738.

Contractors shall deny claims with dates of service on or after January 1, 2009 for replacement parts billed using E1399 and the RB modifier when the part is replaced in conjunction with the repair of oxygen equipment identified by HCPCS codes E0424, E0431, E0434, E0439, E1390, E1391, E1392, E1405, E1406, or K0738. In addition, payment shall not be made for loaner equipment furnished during periods when these repairs or maintenance and servicing services are performed since the equipment is not owned by the beneficiary and the loaner equipment policy only applies to beneficiary-owned DME equipment. Suppliers should be instructed not to bill K0462 when repairing supplier-owned oxygen equipment.

II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B	D M E	F I	C A R R I E R	R H R I	Shared-System Maintainers				OTHE R
							F I S S	M C S	V M S	C W F	
6296.1	Contractors shall deny claims with dates of service on or after April 1, 2009 for HCPCS code K0740.		X			X	X		X		
6296.2	Contractors shall deny claims with dates of service on or after January 1, 2009, for claims received on or after April 6, 2009, for replacement parts billed using E1399 and the RB modifier when the part is replaced in conjunction with the repair of oxygen equipment identified by HCPCS codes E0424, E0431, E0434, E0439, E1390, E1391, E1392, E1405, E1406, or K0738.		X			X					
6296.3	The HCPCS codes listed below are being posted to the HCPCS file on January 7, 2009, and shall be added to the CWF categories (in parentheses) as follows: K0739 (18,60) K0740 (18,60)									X	
6296.3.1	Contractors shall add the codes referenced in requirement 6296.3 to their systems for processing, effective April 1, 2009.	X	X		X	X					
6296.3.2	The administrative fields for the codes listed in requirement 6296.3 are as follows: <u>K0739</u> Short Desc: Repair/svc DME non-oxygen eq TOS: 9 Betos: D1E Pricing: 46 <u>K0740</u> Short Desc: Repair/svc oxygen equipment TOS: 9 Betos: D1C Pricing: 00		X			X					
6296.3.3	Contractors shall use the 2009 allowed payment amounts for code E1340 in Attachment A of CR 6297 to pay claims for code K0739 with dates of service on or after April 1, 2009.	X	X		X	X					
6296.3.4	Contractors shall end-date HCPCS code E1340, effective March 31, 2009.	X	X		X	X					
6296.4	The DME MACs and VMS shall make any policy and/or system changes needed to eliminate the DRA requirement that oxygen equipment ownership transfers to the beneficiary after the 36 month payment cap.		X					X			

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B M A C	D M E M A C	F I M A C	C A R I E R	R H I S S	Shared-System Maintainers				OTH ER
						F I S	M C S	V M S	C W F		
6296.5	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contactors shall post this article, or a direct link to this article on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X	X		X	X					

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
6296.1	The requirement in this instruction supersedes the requirements in CR5461.3 and CR5461.4 for oxygen equipment.
6296.2	The requirement in this instruction supersedes the requirements in CR5461.3, CR5461.5, and CR5461.6 for oxygen equipment.

Section B: For all other recommendations and supporting information, use this space: N/A

V. CONTACTS

Pre-Implementation Contact(s): Karen Jacobs (410)786-2173, Anita Greenberg (410)786-4601, and Chris Molling (410)786-6399

Post-Implementation Contact(s): Karen Jacobs (410)786-2173, Anita Greenberg (410)786-4601, and Chris Molling (410)786-6399

VI. FUNDING

Section A: For Carriers and *Regional Home Health Intermediaries (RHHIs)*:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: For *Medicare Administrative Contractors (MACs)*:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.