

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-04 Medicare Claims Processing	Centers for Medicare & Medicaid Services (CMS)
Transmittal 1177	Date: FEBRUARY 2, 2007
	Change Request 5461

SUBJECT: DME - Changes in Maintenance and Servicing Due to Deficit Reduction Act Legislation for Capped Rentals and Oxygen Equipment

I. SUMMARY OF CHANGES: This Change Request instructs contractors regarding how maintenance and servicing should be handled for capped rental items and for oxygen equipment.

New / Revised Material

Effective Date: January 1, 2006

Implementation Date: July 2, 2007

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:

No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2007 operating budgets.

IV. ATTACHMENTS:

One-Time Notification

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

Attachment – One-Time Notification

Pub. 100-04	Transmittal: 1177	Date: February 2, 2007	Change Request: 5461
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SUBJECT: DME - Changes in Maintenance and Servicing Due to Deficit Reduction Act Legislation for Capped Rentals and Oxygen Equipment

Effective Date: January 1, 2006

Implementation Date: July 2, 2007

I. GENERAL INFORMATION

A. Background: Sections 5101(a) and 5101(b) of the Deficit Reduction Act (DRA) of 2005 mandate changes in the way Medicare makes payment for certain items of DME.

Section 5101(a) revises the payment rules for capped rental DME. After 13 months, the beneficiary owns the capped rental DME item and, after that time, Medicare pays for reasonable and necessary repairs and servicing (i.e., parts and labor not covered by a supplier's or manufacturer's warranty) of the item. The provision applies to beneficiaries renting an item for which the first rental month occurs on or after January 1, 2006.

Capped rental items furnished to beneficiaries prior to January 1, 2006 will continue to be paid under the payment rules in effect prior to the DRA changes.

Section 5101(b) limits the total number of continuous rental months for which Medicare will pay for oxygen equipment to 36 months. After the 36th month, the beneficiary will own the oxygen equipment. For beneficiary-owned gaseous or liquid oxygen systems, Medicare will continue to pay for the oxygen contents. In addition, Medicare will pay for reasonable and necessary repairs and servicing (i.e., parts and labor not covered by a supplier's or manufacturer's warranty) of beneficiary-owned equipment (including oxygen concentrators). This provision was effective January 1, 2006. For beneficiaries receiving oxygen equipment on December 31, 2005, the 36-month rental period begins on January 1, 2006.

On July 28, 2006, CMS published change request (CR) 5227, entitled "Implementation of Changes in Capped Rentals for DME items due to the Deficit Reduction Act of 2005" to address §5101(a). On November 1, 2006, CMS also published CR 5268, "Implementation of Changes in Oxygen Equipment Rental Due to the Deficit Reduction Act of 2005" to implement §5101(b). These two CRs did not address maintenance and servicing, however, because they were drafted prior to the issuance of the final rule to implement the new statutory provisions. On November 9, 2006, CMS published a Final Rule entitled "Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2007 and Deficit Reduction Act of 2005 Changes to Medicare Payment for Oxygen Equipment and Capped Rental Durable Medical Equipment; Final Rule".

These changes affect Medicare payment for both maintenance and servicing and for needed repairs once the capped rental period ends. This Change Request instructs contractors how maintenance and servicing should be handled for both capped rental items generally and for oxygen equipment.

As a practical matter, claims for repairs and servicing for capped rental items are payable beginning February 1, 2007 and claims for repairs and servicing for oxygen equipment are payable beginning January 1, 2009. Claims for Maintenance and Servicing (M&S) for oxygen equipment are payable beginning July 1, 2009.

B. Policy:

Capped Rental Items– Payment will no longer be made every 6 months for Maintenance and Servicing (M&S) for capped rental items (with the exception of oxygen equipment). However, once the beneficiary owns the capped rental item, Medicare will cover reasonable and necessary repairs and servicing.

Oxygen Equipment – Payment may be made for Maintenance and Servicing every 6 months, starting 6 months after the beneficiary owns the equipment. The payment for M & S will be paid in 15 minute intervals and shall not exceed 30 minutes. In addition, Medicare will cover reasonable and necessary repairs.

II. BUSINESS REQUIREMENTS TABLE

Use “Shall” to denote a mandatory requirement

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B	D M E	F I	C A R R I E R	D M R I C	R E H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
5461.1	Contractors shall no longer pay maintenance and servicing for capped rental items every 6 months, with the exception of oxygen equipment as described in 5461.2 below.		X			X				X		
5461.1.1	Contractors shall pay for reasonable and necessary repairs and servicing for capped rental items and oxygen once the beneficiary owns the equipment.		X			X				X		
5461.2	Contractors shall pay for maintenance and servicing for oxygen equipment every 6 months beginning 6 months after the beneficiary owns the equipment.		X			X				X		
5461.2.1	Contractors shall accept claims with the base HCPCS code for the oxygen equipment and the “MS” modifier for maintenance and servicing for oxygen equipment.		X			X				X		
5461.2.2	Contractors shall pay for maintenance and servicing for oxygen equipment not to exceed 2 units (of E1340) every 6 months.		X			X				X		
5461.3	Contractors shall pay for reasonable and necessary repairs and servicing to oxygen equipment as needed. These payments may be made in addition to the payments made for requirement 5461.2 above.		X			X				X		
5461.4	Contractors shall accept HCPCS code E1340 for reasonable and necessary repairs and servicing for capped rental and oxygen equipment claims.		X			X				X		

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A / B	D M E	F I	C A R R I E R	D M R I	R E H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
5461.5	Contractors shall accept modifier "RP" for replacement parts.		X			X				X		
5461.6	Contractors shall accept claims with HCPCS code E1399 and modifier "RP" if a specific replacement code is not available for billing.		X			X				X		
5461.7	<p>Contractors shall use the following Medicare Summary Notice (MSN) messages for capped rental items where the title has been transferred to the beneficiary:</p> <p>8.64 - Monthly rental payments can be made for up to 13 months from the first paid rental month or until the equipment is no longer needed, whichever comes first. After the 13 month of rental is paid, your supplier must transfer title of this equipment to you.</p> <p>8.64 - Los pagos mensuales por alquiler pueden hacerse hasta 13 meses contando desde el mes que usted hizo el primer pago o hasta que usted no necesite más el equipo, lo que ocurra primero. Después de 13 meses de pago por el alquiler, su suplidor le debe transferir el título de propiedad de este equipo a usted.</p> <p>8.65- Medicare will pay for medically necessary maintenance and/or servicing as needed after the end of the 13th paid rental month.</p> <p>8.65 - Medicare pagará por el mantenimiento y/o servicio que sea médicamente necesario, según su necesidad, después de que pasen y pague por 13 meses de alquiler.</p>		X			X				X		
5461.8	<p>Contractors shall use the following MSN messages and ANSI Remark Codes for oxygen equipment where the title has been transferred to the beneficiary:</p> <p>61.42 - Medicare will pay for you to rent oxygen for up to 36 months (or until you no</p>		X			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 I E R	C A R I C E R	D M R R C	R H H I	Shared-System Maintainers			
						F I S S	M C S	V M S	C W F		
5461.9	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. Contractors 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					

IV. SUPPORTING INFORMATION

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:

B. For all other recommendations and supporting information, use the space below:

V. CONTACTS

Pre-Implementation Contact(s): Angie Costello at Angela.Costello@cms.hhs.gov or Tracey Hemphill at Tracey.Hemphill@cms.hhs.gov

Post-Implementation Contact(s): Angie Costello at Angela.Costello@cms.hhs.gov or Tracey Hemphill at Tracey.Hemphill@cms.hhs.gov

VI. FUNDING

A. For TITLE XVIII Contractors, use only one of the following statements:

No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2007 operating budgets.

B. For Medicare Administrative Contractors (MAC), use only one of the following statements:

The contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the Statement of Work (SOW). The contractor is not obligated to incur costs in excess of the amounts specified 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.