

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 497	Date: May 22, 2009
	Change Request 6509

Note: Transmittal 461, Change Request (CR) 6404, dated March 20, 2009, is being rescinded and replaced by Transmittal 497, dated May 22, 2009, to alert the Medicare contractors and shared systems to responsibility changes made in order to appropriately pay for the maintenance and servicing of oxygen concentrators and transfilling equipment. All other material remains the same.

Subject: Payment for Maintenance and Servicing of Certain Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008- THIS CR RESCINDS AND FULLY REPLACES CR 6404

I. SUMMARY OF CHANGES: The purpose of this replacement change request (CR) is to alert the Medicare contractors and shared systems to responsibility changes made in order to appropriately pay for the maintenance and servicing of oxygen concentrators and transfilling equipment.

New / Revised Material

Effective Date: July 1, 2009

Implementation Date: July 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. ATTACHMENT:

One-Time Notification

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

Attachment – One-Time Notification

Pub. 100-20	Transmittal: 497	Date: May 22, 2009	Change Request: 6509
-------------	------------------	--------------------	----------------------

Note: Transmittal 461, Change Request (CR) 6404, dated March 20, 2009, is being rescinded and replaced by Transmittal 497, dated May 22, 2009, to alert the Medicare contractors and shared systems to responsibility changes made in order to appropriately pay for the maintenance and servicing of oxygen concentrators and transfilling equipment. All other material remains the same.

SUBJECT: Payment for Maintenance and Servicing of Certain Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008- THIS CR RESCINDS AND FULLY REPLACES CR 6404

Effective Date: July 1, 2009

Implementation Date: July 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 Change Requests 6297(Transmittal 421) and 6296(Transmittal 443). This one-time update provides additional instructions regarding maintenance and servicing of oxygen concentrators and transfilling equipment resulting from implementation of section 144(b) of the MIPPA.

B. Policy:

Maintenance and Servicing of Certain 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 no more often than 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 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 the lesser of the supplier's actual charge or two units of the allowed payment amount for K0739 in Pennsylvania. 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).

For example, if maintenance and servicing is billed for a column I code, additional payment for the maintenance and servicing of any of the column II codes shall not be made.

Column I	Column II
E1390 MS	E1391 MS, E1392 MS
E1391 MS	E1390 MS, E1392 MS
E1392 MS	E1390 MS, E1391 MS, K0738 MS
K0738 MS	E1392 MS

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 parts that must be replaced in order for the supplier-owned equipment to continue to function appropriately. Payment shall not be made for any repairs or maintenance and servicing, other than the maintenance and servicing payments described above, of oxygen equipment. Suppliers may not charge beneficiaries for any repairs, parts or servicing of equipment that they are required to furnish for the remainder of the equipment's reasonable useful lifetime.

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 I	Shared-System Maintainers				OTH ER
		M A C	M A C				FI S S	M C S	V M S	C W F	
6509.1	Contractors shall pay claims with dates of service from July 1, 2009 thru December 31, 2009, for maintenance and servicing for oxygen concentrators no more often than every 6 months beginning 6 months after the end of the 36 th month of continuous use when billed with one of the following HCPCS codes and modifiers: E1390MS; E1391MS; or E1392MS.	X	X			X	X		X		
6509.1.2	In addition to payment for maintenance and servicing for stationary oxygen concentrators (HCPCS codes E1390 or E1391) under requirement 6509.1, contractors shall pay claims with dates of service from July 1, 2009 thru December 31, 2009, for maintenance and servicing for portable oxygen transfilling equipment (HCPCS code	X	X			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	R H I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
	K0738) no more often than every 6 months beginning 6 months after the end of the 36 th month of continuous use when billed with the HCPCS modifier MS.										
6509.1.3	Contractors shall not pay for maintenance and servicing of both a portable oxygen concentrator (E1392MS) and portable oxygen transfilling equipment (K0738MS).	X	X			X	X		X		
6509.1.4	For the oxygen equipment codes and modifier MS referenced in requirements 6509.1 and 6509.2, contractors shall make maintenance and servicing payments for covered services equal to the lesser of the supplier's actual charge or 2 units of K0739 every 6 months.	X	X			X	X		X		
6509.2	Contractors shall deny claims for maintenance and servicing of oxygen equipment when billed with the HCPCS codes E0424, E0439, E0431, E0434, E1405 or E1406 and the "MS" modifier.	X	X			X	X		X		

III. PROVIDER EDUCATION 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 I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
6509.3	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	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	R H I	Shared-System Maintainers				OTH ER
		M A C	M A C				F I S S	M C S	V M S	C W F	
	correctly.										

IV. SUPPORTING INFORMATION

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

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

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 Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and /or Carries:

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.