

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 676	Date: April 27, 2010
	Change Request 6939

SUBJECT: Payment of Oxygen Contents to Suppliers After the 36th Month Rental Cap under the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program

I. SUMMARY OF CHANGES: This transmittal instructs the shared system maintainers, for the ViPS Medicare System (VMS) and the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) to establish programming to allow payment of oxygen contents to suppliers that received payment for 36th month of continuous use for oxygen equipment furnished to beneficiaries residing in a CBA regardless of whether the supplier is a contract, non-contract, or a grandfathered supplier under the DMEPOS Competitive Bidding Program.

EFFECTIVE DATE: October 1, 2010

IMPLEMENTATION DATE: October 4, 2010

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:

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

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

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

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SUBJECT: Payment of Oxygen Contents to Suppliers After the 36th Month Rental Cap under the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program

Effective Date: October 1, 2010

Implementation Date: October 4, 2010

I. GENERAL INFORMATION

A. Background: Currently, Medicare payment for most durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) is based on fee schedules. However, section 302(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) amended section 1847 of the Social Security Act (the Act) to require the Secretary to establish and implement programs (the “Medicare DMEPOS Competitive Bidding Program”) under which competitive bidding areas (CBAs) are established throughout the United States for contract award purposes for the furnishing of certain competitively priced items and services for which payment is made under Medicare Part B. Oxygen equipment and supplies is one of the nine product categories included in the Round One Rebid of the DMEPOS Competitive Bidding Program. The start date for the Round One Rebid Competitive Bid Program is targeted for January 1, 2011. The new prices and policies will become effective on the start date.

On July 15, 2008, section 144(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) amended section 1834(a)(5)(F) of the Social Security Act (the Act) to repeal the transfer of ownership provision established by the Deficit Reduction Act of 2005 for oxygen equipment and establish new payment rules and supplier responsibilities after the 36 month payment cap. One of the MIPPA 144(b) provisions requires that Medicare payment for oxygen contents used with liquid or gaseous oxygen equipment (stationary or portable) continue after the 36-month rental cap. As further defined in Federal Regulations (42 CFR 414.226(f)(2)), the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment during any period of medical need for the remainder of the reasonable useful lifetime established for the equipment. If a beneficiary relocates, the supplier that received the payment for the 36th continuous month must arrange for furnishing the oxygen contents with another supplier if the beneficiary relocates to an area that is outside the normal service area of the supplier. This MIPPA requirement for the supplier that received the 36th month payment to continue furnishing oxygen contents during any period of medical need for the remainder of the reasonable useful lifetime remains in effect regardless of whether the beneficiary resides in a CBA or the oxygen supplier is a contract, non-contract or grandfathered supplier under the DMEPOS competitive bidding program.

This transmittal instructs the shared system maintainers, for the ViPS Medicare System (VMS) and the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) to establish programming to allow payment of oxygen contents to suppliers that received payment for 36th month of continuous use for oxygen equipment furnished to beneficiaries residing in a CBA regardless of whether the supplier is a contract, non-contract, or a grandfathered supplier under the DMEPOS Competitive Bidding Program.

B. Policy: The Medicare law requires that the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment during any period after the payment cap and of medical need for the remainder of the reasonable useful lifetime established for the equipment. This requirement continues to apply under the Medicare DMEPOS Competitive Bidding Program, regardless of the role of the supplier (i.e., contract supplier, grandfathered supplier, or non-contract supplier) and the location of the beneficiary (i.e. residing within or outside a CBA).

Should a beneficiary travel or temporarily relocate to a CBA, the oxygen supplier that received the payment for the 36th continuous month must make arrangements for furnishing oxygen contents with a contract supplier in the CBA in the event that the supplier that received the 36th month payment elects to make arrangements for a temporary oxygen contents billing supplier.

The Medicare payment amount is always based on the location in which the beneficiary maintains a permanent residence. If the beneficiary resides in a CBA, payment for the oxygen contents will be based on the single payment amount for that CBA. If the beneficiary resides outside of a CBA and travels to a CBA, payment for the oxygen contents will be based on the fee-schedule amount for the area where the beneficiary maintains a permanent residence.

Contractors are instructed to implement the changes specified in this CR in preparation for the DMEPOS Competitive Bidding Program Round One Rebid (the Round One Rebid) implementation. The target implementation date for the Round One Rebid is January 1, 2011 and is subject to change. CMS will notify the contractors of the actual start date for the Round One Rebid in a separate instruction.

NOTE: This change request (CR) provides instructions for processing oxygen contents claims received from a supplier when the beneficiary resides in a CBA and the 36-month payment cap has been reached for the related base equipment. The CR does not address situations in which a beneficiary travels or temporarily relocates to a CBA. Moreover, it does not address the oxygen claim payment policies applicable to beneficiaries who do not reside in a CBA. The claims processing instructions related to these policies will be provided in a subsequent CR.

In addition, the group codes, Remittance Advice messages and Medicare Summary Notice messages to be used for claims denials under the Round One Rebid will be provided in a subsequent CR.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)								
		A / B M A C	D M M A C	F I I E R	C A R R I E R	R H H I	Shared-System Maintainers			
						F I S S	M C S	V M S	C W F	
6939.1	For a beneficiary residing in a CBA, contractors shall allow payment for oxygen contents claims received from a supplier when the supplier received payment for the 36 th month of continuous use for the related base oxygen equipment and the rental period for the base equipment began prior to the start of the Round One Rebid.		X					X		
6939.1.1	Contractors shall allow payment for the related oxygen contents claims referenced in 6939.1 at the single payment amount for the CBA in which the beneficiary resides.		X					X		
6939.1.2	Contractors shall allow payment for the related oxygen contents claims, regardless of whether the beneficiary owns the base oxygen equipment.		X					X		
6939.1.3	Contractors shall allow payment for the related oxygen contents claims, regardless of whether the contents were furnished prior to or after the start of the Round One Rebid.		X					X		
6939.1.4	Contractors shall allow payment for the related oxygen contents claims, regardless of whether the supplier is a contract, a non-contract, or grandfathered supplier.		X					X		
6939.1.5	Contractors shall allow payment for the related contents claims, regardless of the location of the supplier (whether the supplier is located in the beneficiary's CBA, in another CBA or outside of a CBA).		X					X		
6939.1.6	Contractors shall allow payment for the related oxygen contents claims when the initial date on the beneficiary's oxygen Certificate of Medical Necessity (CMN) is prior to the start date for the Round One Rebid.		X					X		
6939.1.7	Contractors shall allow payment for the related oxygen contents claims during any period of medical need for the remainder of the reasonable useful lifetime established for the base oxygen equipment.		X					X		
6939.2	For a beneficiary residing in a CBA, contractors shall deny payment for claims for both the base oxygen equipment and the related oxygen contents received from a non-contract supplier when the rental period for the base oxygen equipment began on or after the start date of the Round One Rebid, regardless of whether the 36-month		X					X		

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 R I E R	R H I I S S	Shared-System Maintainers			
F I S S	M C S						V M S	C W F		
	payment cap for the base oxygen equipment has been reached.									
6939.2.1	Contractors shall deny payment for both base oxygen equipment and related oxygen contents claims when the initial date on the beneficiary's oxygen CMN is on or after the start date for the Round One Rebid.		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 R I E R	R H I I S S	Shared-System Maintainers			
F I S S	M C S						V M S	C W F		
6939.3	<p>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.</p> <p>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.</p>		X							

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): For policy questions please contact Karen Jacobs at karen.jacobs@cms.hhs.gov.

For claims processing questions please contact Bobbett Plummer at Bobbett.plummer@cms.hhs.gov.

Post-Implementation Contact(s): For policy questions please contact Karen Jacobs at karen.jacobs@cms.hhs.gov.

For claims processing questions please contact Bobbett Plummer at Bobbett.plummer@cms.hhs.gov.

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*, use only one of the following statements:

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)*, include the following statement:

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.