

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 717	Date: June 8, 2010
	Change Request 6990

SUBJECT: Clarification of the Date of Service for Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010

I. SUMMARY OF CHANGES: This one-time notification clarifies the date of service (DOS) of a maintenance and servicing visit when implementing CR 6792 Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010, Transmittal 635, dated February 5, 2010.

EFFECTIVE DATE: July 1, 2010

IMPLEMENTATION DATE: July 9, 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/revise 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: Clarification of the Date of Service for Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010

Effective Date: July 1, 2010

Implementation Date: July 9, 2010

I. GENERAL INFORMATION

A. Background:

This one-time notification clarifies the date of service (DOS) of a maintenance and servicing visit when implementing CR 6792 Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010 (Transmittal 635, dated February 5, 2010). Clarification of the DOS was requested by the contractors and durable medical equipment (DME) suppliers for the situations listed in section B.

As discussed in CR 6792, for dates of service on or after July 1, 2010, Medicare regulation 42 CFR 414.210(e) (5) permits one payment for all maintenance and servicing of certain oxygen equipment during each 6-month period, beginning 6 months after the end of the 36-month rental period for oxygen equipment. This applies to oxygen concentrators and oxygen transfilling equipment (Healthcare Common Procedure Coding System (HCPCS) codes E1390, E1391, E1392, E0433, and K0738) but not to liquid and gaseous oxygen equipment (HCPCS codes E0424, E0431, E0434, or E0439) or beneficiary-owned oxygen equipment. Only one maintenance and servicing payment may be made for each 6-month period, regardless of the combination of stationary and portable oxygen equipment used by the beneficiary. As shown in CR 6792, if a combination of stationary concentrator (E1390 or E1391) and transfilling equipment (K0738 or E0433) is furnished, the supplier should bill for the maintenance and servicing payment using the code for the concentrator (E1390 or E1391) and the MS modifier. If a portable concentrator (billed using a combination of codes E1390 or E1391 and E1392 during the 36-month rental period) is furnished, the supplier should bill for the maintenance and servicing payment using the code for the concentrator (E1390 or E1391) and the MS modifier. Code E1392 should not be used when billing for maintenance and servicing. If transfilling equipment (K0738 or E0433) is furnished and a separate concentrator is not furnished or is owned by the beneficiary, the supplier should bill for the maintenance and servicing payment using the code for the transfilling equipment (K0738 or E0433) and the MS modifier.

Also, only one maintenance and servicing payment may be made for each 6-month period, regardless of the number of visits. Although a visit is not required, separate payment is not allowable without an in home visit to inspect the equipment. Even if the supplier does not perform a maintenance and servicing visit and forgo payment, 42 CFR 414.226(f)(1) continues to require the supplier that furnished the oxygen equipment for the 36th continuous rental month to furnish the equipment in good working order for the remaining period of medical need or the end of the equipment's reasonable useful lifetime (5 years).

B. Policy:

In accordance with 1834(a)(5)(F)(ii)(III) of the Act, payment for maintenance and servicing cannot be made if the oxygen equipment is covered under a warranty that covers labor related to routine/general maintenance and servicing (e.g. inspection, changing filters, cleaning, and calibration). As a result, before a supplier can bill for maintenance and servicing, the supplier must:

1. Verify and document in their records that the oxygen equipment is no longer covered under a warranty.
2. Visit the beneficiary’s home to inspect the equipment.

Date of Service for Multiple Visits

If multiple maintenance and servicing visits are needed, the DOS is the date of the first visit in the first month of the 6-month period during which an in home inspection of the equipment was performed.

Date of Service for Delayed Visits

If an unavoidable delay (e.g., hospitalization of the beneficiary or beneficiary is out of the service area) cause the DOS to occur after the first month of a 6-month period, the DOS is the date of the first visit after the delay during which an in home inspection of the equipment was performed. The reason for the unavoidable delay must be documented by the supplier and maintained in the supplier’s records. Payment for subsequent maintenance and servicing visits can occur no earlier than 6 months after the DOS of the delayed visit (i.e., the last visit date used to bill for the maintenance and servicing payment). As a result, a new sequence of 6 month periods for maintenance and service payment is established.

Date of Service for Multiple Pieces of Oxygen Equipment

If both a stationary concentrator and portable transfilling equipment are serviced, and the 36-month rental payment cap for one piece of equipment was reached at a different time than the 36-month rental payment cap for the other piece of equipment, the DOS is the date of the visit which occurs during the 6-month period following the earliest of the dates that the 36-month rental caps was reached for either piece of equipment. As stated in Business Requirement 6792.1.2, only one payment is allowable per beneficiary regardless of the number of pieces of equipment serviced (stationary concentrator, portable concentrator, and/or transfilling equipment).

Date of Service When a Maintenance and Servicing Warranty Applies

As stated in Business Requirement 6792.1, the DOS is the date of the visit which occurs beginning 6 months after the 36-month rental cap for oxygen equipment or the end of the warranty period for maintenance and servicing. This OTN clarifies the applicable DOS must be at least 6 months after the 36-month rental cap for oxygen equipment or the end of the warranty period for maintenance and servicing, whichever is later. As stated in Pub. 100-04 Medicare Claims Processing Manual, Chapter 20, §40.1 Payment for Maintenance and Service, contractors can refer cases to the program integrity specialist if claims are submitted that do not appear to comply with program instructions.

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	R H H I	Shared-System Maintainers		OTHER		
		M A C	M A C				F I S S	MCS	V M S	C W F	
6990.1	Contractors shall be aware of and educate suppliers of this guidance for submitting claims for maintenance and servicing of	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		OTHER		
		M A C	M A C				F I S S	MCS	V M S	C W F	
	certain oxygen equipment.										
6990.2	Contractors shall pay claims with dates of service on or after July 1, 2010, for maintenance and servicing of oxygen equipment identified in requirement 6792.1 no more often than every 6 months beginning 6 months after the end of the 36 th month of continuous use of the end of the supplier's or manufacturer's warranty, whichever is later. This business requirement (BR) updates BR 6792.1.	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		OTHER		
		M A C	M A C				F I S S	MCS	V M S	C W F	
6990.3	<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.</p> <p>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	X				X				

IV. SUPPORTING INFORMATION

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

X-Ref Requirement Number	Recommendations or other supporting information:
6990.4	Change Request 6792, Transmittal 635, Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010

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

V. CONTACTS

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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.