CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 721	<b>Date: June 18, 2010</b>
	Change Request 6918

NOTE: Transmittal 690, dated April 30, 2010, is rescinded and replaced by Transmittal 721, dated June 18, 2010. This Change Request (CR) is being reissued to clarify in Business Requirement 6918.6 how oxygen and capped rental claims will be paid under the grandfathering for Medicare beneficiaries previously enrolled in an MA plan.

SUBJECT: Durable Medical Equipment National Competitive Bidding Implementation -- Phase 10C: Exception for Medicare Beneficiaries Previously Enrolled in a Medicare Advantage Plan

**I. SUMMARY OF CHANGES:** This transmittal instructs the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and the shared system maintainer for the ViPS Medicare System (VMS), to establish programming to allow payment for grandfathered items furnished by a non-contract Medicare Advantage supplier under the DMEPOS Competitive Bidding Program.

**EFFECTIVE DATE: October 1, 2010** 

**IMPLEMENTATION DATE: October 4, 2010** 

## **II. CHANGES IN MANUAL INSTRUCTIONS:**

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**

NOTE: Transmittal 690, dated April 30, 2010, is rescinded and replaced by Transmittal 721, dated June 18, 2010. This Change Request (CR) is being reissued to clarify in Business Requirement 6918.6 how oxygen and capped rental claims will be paid under the grandfathering for Medicare beneficiaries previously enrolled in an MA plan.

SUBJECT: Durable Medical Equipment National Competitive Bidding Implementation -- Phase 10C: Exception for Medicare Beneficiaries Previously Enrolled in a Medicare Advantage Plan

Effective Date: October 1, 2010

**Implementation Date:** October 4, 2010

## I. GENERAL INFORMATION

## A. Background:

This transmittal instructs the standard system maintainers for the Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and the ViPS Medicare System (VMS), to establish programming to allow payment for grandfathered items furnished by a non-contract Medicare Advantage supplier under the DMEPOS Competitive Bidding Program.

Medicare Advantage (MA) plans are coordinated care plans that generally offer people with additional Medicare benefits and coordinated care beyond the Medicare standard coverage, usually through networks for doctors and hospitals. Beneficiaries in a MA plan may purchase or rent durable medical equipment (DME) from a DME supplier under the MA plan.

The Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program was established by section 302(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) which amended section 1847 of the Social Security Act (the Act) to require the Secretary to establish and implement programs 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.

Section 1847(a)(4) requires that in the case of covered DME items for which payment is made on a rental basis under section 1834(a) of the Act, and in the case of oxygen for which payment is made under section 1834(a)(5) of the Act, the secretary must establish a "grandfathering" process by which rental agreements for the DME covered items and oxygen are entered into before the start of the competitive bidding program may be continued.

## B. Policy:

If a beneficiary resides in a CBA and elects to leave their MA plan or loses his/her coverage under this plan, the beneficiary may continue to receive items requiring frequent and substantial servicing, capped rental, oxygen and oxygen equipment, or inexpensive or routinely purchased rented items from the same DME supplier under the MA plan without going to a contract supplier under the Medicare DMEPOS Competitive Bidding Program. However, the supplier from whom the beneficiary previously received the item under the plan must be a Medicare enrolled supplier; meet the Medicare FFS coverage criteria and documentation requirements; and

must elect to become a grandfathered supplier. All competitive bid grandfathering rules apply in these situations.

Contractors shall implement the changes specified in this CR in preparation for the DMEPOS Competitive Bidding Program 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.

<u>NOTE</u>: This CR does not address situations in which a beneficiary, who resides in a CBA, enrolls and later disenrolls with a MA plan multiple times within the contract period for the Round One Rebid. This issue will be addressed in a subsequent CR.

In addition, any prior enrollments in Healthcare Management Organization plans are not included in the implementation of this 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

Number	Requirement	Responsibility									
		A	D	F	C	R		Shai	ed-		Other
		/	M	I	Α	Н		Syst	em		
		В	Е		R	Н	M	ainta	aine	rs	
					R	I	F	M	V	C	
		M	M		I		I	C	M	W	
		A	A		Е		S	S	S	F	
		C	C		R		S				
6918.1	The CWF maintainer shall create a new overrideable									X	
	utilization edit for DMEPOS Competitive Bidding										
	Program claims to determine whether a beneficiary was										
	enrolled in a MA Plan prior to the start of Round One of										
	the DMEPOS Competitive Bidding Program.										
6918.1.1	The shared system maintainer shall create a new line-								X		
	level override to the new CWF utilization edit.										
6918.1.1.1	Contractors shall use the override only as specified in		X								
	this instruction or as further specified by CMS.										
6918.2	The shared system maintainer and the CWF maintainer								X	X	
	shall create a new line-level field on the HUDC record										
	to indicate that a competitive bid line item is being										
	denied due to the DMEPOS Competitive Bidding rule										
	that prohibits a beneficiary living in a CBA from										
1010.01	receiving DMEPOS items from a non-contract supplier.										
6918.2.1	The field shall be a one-byte indicator with values of								X	X	
6010.2.1.1	"Y" or space.								7.7	**	
6918.2.1.1	An indicator of "Y" shall designate a line item as being								X	X	
	denied because the beneficiary resides in a CBA and the										
	supplier for the line item does not have a contract as a										
	DMEPOS Competitive Bidding Program supplier for										
(010.2.2	Round One.		<b>T</b> 7						<b>T</b> 7	**	
6918.2.2	Contractors shall ignore any value other than "Y" in the		X						X	X	

Number	Requirement	Responsibility									
		Α	D	F	С	R		Shar	ed-		Other
		/	M	I	A	Н		Syst			
		В	E		R	Н		ainta		rs	
			ב		R	I	F	M	V		
		M	M		I	1				C	
		A	A		E		I	C S	M	W F	
		$\begin{array}{ c c } \hline C \\ \hline \end{array}$	C		R		S	2	S	r	
		C			I		S				
6010.2	new indicator field.								<b>3</b> 7		
6918.3	The shared system maintainer shall process and allow								X		
	payment for grandfathered DMEPOS Competitive										
	Bidding rental item claims from non-contract suppliers										
	for beneficiaries who elect out of an MA plan or lose										
	their coverage under the plan if the beneficiary was										
	enrolled in the MA plan on the day before the start date										
	for the DMEPOS Competitive Bidding Program Round										
	One Rebid.										
6918.3.1	The product categories subject to requirement 6918.3								X	X	
	are: capped rental DME, frequently serviced DME,										
	inexpensive and routinely purchased DME, and oxygen										
	items covered under the DMEPOS Competitive Bidding										
	Program.										
6918.3.2	The shared system maintainer shall process the claims								X		
	per the DMEPOS Competitive Bidding Program rule										
	that prohibits a beneficiary living in a CBA from										
	receiving DMEPOS items from a non-contract supplier.										
6918.3.3	The shared system maintainer shall deny the appropriate								X		
	line items as they relate to BR 6918.3.2, following										
	existing guidelines for processing DMEPOS										
	Competitive Bidding Program claims.										
6918.3.4	For each denied line item, the shared system maintainer								X		
	shall send a HUDC query to the Common Working File										
	(CWF) with the denied lines specified in 6918.3.3 above										
	and the DMEPOS Competitive Bidding Program										
	indicator field specified in 6918.2 set to a "Y."										
6918.4	The CWF Maintainer shall not consider any prior									X	
	enrollments in other Healthcare Management										
	Organization plans when implementing this query.										
6918.4.1	For each denied line item, the CWF maintainer shall use									X	
0,10,1,1	the new DMEPOS Competitive Bidding Program									4.1	
	indicator field on the HUDC record to query the										
	beneficiary's claims history and determine whether the										
	beneficiary was enrolled in a MA plan on the day before										
	the start date for the Round One Rebid.										
6918.4.2	CWF shall reject the line item(s) when the beneficiary									X	
0710.7.2	was previously enrolled in a MA plan, as specified in									<b>4 1</b>	
	6918.4.1.										
6918.4.3	For rejected line items specified in 6918.4.2 above, the									X	
0710.7.3	CWF maintainer shall return a new CWF utilization									<b>1</b>	
	error on CWF Trailer 08 to indicate that the beneficiary										
	was enrolled in a MA plan prior to the start of the										
	was ontotion in a with plan prior to the start of the	l		<u> </u>		l	l				

Number	Requirement	Responsibility									
		A	D	F	С	R		Sha	red-		Other
		/	M	I	A	Н		Syst	tem		
		В	Е		R	Н	M	aint	aine	rs	
					R	I	F	M	V	C	
		M	M		I		Ι	C	M	W	
		A	A		Е		S	S	S	F	
		C	C		R		S				
	Round One Rebid.										
6918.5	The shared system maintainer shall suspend any claim								X		
	that receives the new CWF utilization error to a unique										
	location/status.										
6918.5.1	The shared system maintainer shall allow operators to								X		
	override the new CWF utilization edit to bypass the										
	DMEPOS Competitive Bidding Program edits and										
	reprice the claim line(s) to pay the DMEPOS rental										
	item(s) when the beneficiary was previously enrolled in										
	a MA plan prior to the start date for the Round One										
	Rebid.										
6918.6	Contractors shall pay oxygen claims that qualify for the		X						X		
	MA plan grandfathering at the Round One bid amount										
	and shall pay capped rental claims that qualify for the										
	MA plan grandfathering at the fee schedule amount										
	during the Round One contract period.										

# III. PROVIDER EDUCATION TABLE

Number	Requirement	Re	espo	nsil	bilit	y					
		Α	D	F	С	R		Shai	ed-		Other
		/	M	I	A	Н	1	Syst	em		
		В	E		R	Н	M	ainta	aine	rs	
					R	I	F	M	V	C	
		M	M		I		I	C	M	W	
		A	A		E		S	S	S	F	
		C	C		R		S				
6918.7	A provider education article related to this instruction		X								
	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 listsery 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.										

Number	Requirement	Responsibility									
		Α	D	F	C	R		Shai	red-		Other
		/	M	I	A	Н		Syst	tem		
		В	Е		R	Н	M	aint	aine	ers	
					R	I	F	M	V	С	
		M	M		I		I	C	M	W	
		A	A		Е		S	S	S	F	
		C	C		R		S				

## IV. SUPPORTING INFORMATION

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

X-Ref	Recommendations or other supporting information:
Requirement	
Number	
6918.1-	Contractors shall continue to report the existing National Competitive Bid (NCB) indicator
6918.3.9	on the line items subject to NCB, as specified in CR 5779. (See CR 5779, Transmittal
	1367, Pub. 100-04, issued on November 2, 2007.)
6918.3.4	The beneficiary's prior enrollment must have been in a MA plan for the grandfathering
	exception to apply. HMOs do not qualify for the MA plan grandfathering exception.
6918.1.	The target implementation date for the Round One Rebid is January 1, 2011 and is subject
6918.3,	to change. The beneficiary must have been enrolled in a MA plan on the day prior to the
6918.3.4	start date for the Round One Rebid to qualify for the MA plan grandfathering exception.
	The shared systems maintainers shall allow flexibility for future date changes when coding
	this exception. CMS will notify the contractors of the actual start date for the Round One
	Rebid in a separate instruction.

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

## **V. CONTACTS**

**Pre-Implementation Contact(s):** For Policy questions, contact Karen Jacobs at (410) 786-2173 or <u>Karen.Jacobs@cms.hhs.gov</u>; for Claims Processing questions, contact Angie Costello at (410) 786-1554 or angela.costello@cms.hhs.gov.

**Post-Implementation Contact(s):** For Policy questions, contact Karen Jacobs at (410) 786-2173 or Karen.Jacobs@cms.hhs.gov; for Claims Processing questions, contact Angie Costello at (410) 786-1554 or angela.costello@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.