

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

**NOTE: Transmittal 690, dated April 30, 2010, is rescinded and replaced by Transmittal 721, dated June 18, 2010.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:**

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
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

Pub. 100-20	Transmittal: 721	Date: June 18, 2010	Change Request: 6918
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**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







Number	Requirement	Responsibility									
		A / B	D M E	F I	C A R R I E R	R H H I	Shared-System Maintainers				Other
							F I S S	M C S	V M S	C W F	

#### IV. SUPPORTING INFORMATION

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

X-Ref Requirement Number	Recommendations or other supporting information:
6918.1-6918.3.9	Contractors shall continue to report the existing National Competitive Bid (NCB) indicator 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, 6918.3, 6918.3.4	The target implementation date for the Round One Rebid is January 1, 2011 and is subject to change. The beneficiary must have been enrolled in a MA plan on the day prior to the 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 [Karen.Jacobs@cms.hhs.gov](mailto:Karen.Jacobs@cms.hhs.gov); for Claims Processing questions, contact Angie Costello at (410) 786-1554 or [angela.costello@cms.hhs.gov](mailto: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](mailto:Karen.Jacobs@cms.hhs.gov); for Claims Processing questions, contact Angie Costello at (410) 786-1554 or [angela.costello@cms.hhs.gov](mailto: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.