

MLN Matters Number: MM5370 **Revised**

Related Change Request (CR) #: 5370

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Related CR Transmittal #: R1120CP

Implementation Date: January 2, 2007

Additional Provider Education for Upcoming Changes in Payment for Oxygen Equipment and Capped Rentals for Durable Medical Equipment (DME) Based on the Deficit Reduction Act (DRA) of 2005

Note: Important information regarding more current requirements for oxygen and oxygen equipment is available in article MM6297 at <http://www.cms.gov/MLN MattersArticles/downloads/MM6297.pdf> on the Centers for Medicare & Medicaid Services website. This information pertains to changes brought about by the Medicare Improvements for Patients and Providers Act that were effective on January 1, 2009.

Provider Types Affected

Suppliers and providers billing Medicare durable medical equipment regional carriers (DMERCs) and DME Medicare Administrative Contractors (DME MACs) for oxygen equipment/services or other rentals of capped DME. Physicians treating Medicare patients using oxygen equipment or other rentals of capped DME may also want to be aware of this issue.

Background

Recent legislative changes mandated by sections 5101(a) and 5101(b) of the Deficit Reduction Act (DRA) of 2005 require changes to the way Medicare makes payment for certain items of DME. The DRA provisions and associated regulations will begin to impact capped rental claims as of February 2007. The purpose of this article and related CR 5370 is to provide DME suppliers with an explanation of how these changes will impact them.

Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

Key Points for Suppliers

Payments for Capped Rental DME

- Section 5101(a) revises the payment rules in accordance with the DRA and states that after 13 months the beneficiary owns the capped rental DME item, and after that time, Medicare pays for reasonable and necessary maintenance and servicing (i.e., for parts and labor not covered by a supplier's or manufacturer's warranty) of the item.
- The beneficiary may not, as in years past, choose to continue to rent the item and leave the supplier with the title to the item. The title transfer must occur on the first day after the last rental month. The provision applies to items for which the first rental month occurs on or after January 1, 2006.
- This provision does not affect parenteral nutrition (PEN) pumps, because PEN is not considered to be a capped rental DME, but rather is covered under the prosthetic benefit.
- Beneficiaries may still elect to obtain power-driven wheelchairs on a lump-sum purchase agreement basis. Should the beneficiary choose not to obtain the power-driven wheelchair on a lump sum purchase basis, title to the wheelchair will still transfer to the beneficiary after 13 continuous rental months have been paid.
- Capped rental items furnished to beneficiaries prior to January 1, 2006 will continue to be paid under the payment rules in effect prior to the DRA changes.

Payments for Oxygen Equipment

- Section 5101(b) of the DRA specifically provided that Medicare will continue to pay for oxygen contents (i.e. oxygen, regardless of modality) for beneficiary-owned stationary or portable gaseous or liquid systems. Payment for oxygen contents will continue to be made as long as the oxygen remains medically necessary.
- Section 5101 (B) of the DRA limits the total number of continuous rental months for which Medicare will pay for oxygen equipment to 36 months. After the 36th month, the supplier must transfer title to the equipment to the beneficiary on the first day of the last rental month. The supplier must follow applicable state and federal laws when transferring title to the beneficiary.

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- The DRA further stipulates that payment for reasonable and necessary maintenance and servicing of beneficiary-owned oxygen equipment will be made for parts and labor that are not covered by a supplier's or manufacturer's warranty. This provision is effective January 1, 2006.
- For beneficiaries who were receiving oxygen equipment on December 31, 2005, the 36-month rental period begins on January 1, 2006, regardless of how many months rental has been paid prior to January 1, 2006.

Additional Information

If you have questions, please contact your Medicare DMERC or DME MAC, at their toll-free number which may be found at:

<http://www.cms.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

The official instruction, CR5370, issued to your Medicare DMERC or DME MAC may be viewed by going to

<http://www.cms.gov/Transmittals/downloads/R1120CP.pdf> on the CMS website.

In addition, you can find more current information in article MM6297 at

<http://www.cms.gov/MLNMattersArticles/downloads/MM6297.pdf> on the CMS website.

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