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Related Change Request (CR) #: 6296

Related CR Release Date: February 13, 2009

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Related CR Transmittal #: R4430TN

Implementation Date: April 6, 2009

## Payment for Repair, Maintenance and Servicing of Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008

### Provider Types Affected

Providers and suppliers submitting claims to Medicare DME Medicare Administrative Contractors (DME MACs), and/or Regional Home Health Intermediaries (RHHIs) for repair, maintenance and servicing of oxygen equipment provided to Medicare beneficiaries

### Provider Action Needed

This article is based on Change Request (CR) 6296 and alerts providers that the Centers for Medicare & Medicaid Services (CMS) is providing instructions regarding repair, maintenance, and servicing of oxygen equipment resulting from implementation of Section 144(b) of the MIPPA. The 36-month cap noted in MIPPA applies to stationary and portable oxygen equipment furnished on or after January 1, 2006. **Therefore, the 36-month cap may end as early as January 1, 2009, for beneficiaries using oxygen equipment on a continuous basis since January 1, 2006.**

CMS has determined that, for services furnished during calendar year 2009, it is reasonable and necessary to make payment for periodic, in-home visits by suppliers to inspect certain oxygen equipment and provide general maintenance and servicing after the 36-month rental cap. These payments only apply to equipment falling under HCPCS codes E1390, E1391, E1392, and K0738, and only when the supplier physically makes an in-home visit to inspect the equipment and provide any necessary maintenance and servicing. Payment may be made every 6 months, beginning 6 months after the 36-month rental cap (as early as July 1, 2009, in some cases), and the allowed payment amount for each visit is equal to the 2009 fee for code E1340 (K0739 for dates of service on or after April 1, 2009) multiplied by 2, for the state in which the in-home visit takes place.

#### 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.

Suppliers should use the HCPCS code for the equipment E1390, E1391, E1392, and/or K0738 along with the MS modifier in order to bill and receive payment for these maintenance and servicing visits. For example, if the supplier visits a beneficiary's home in Pennsylvania to perform the general maintenance and servicing on a portable concentrator, the supplier would enter E1392MS on the claim and the allowed payment amount would be equal to the lesser of the supplier's actual charge or two units of the allowed payment amount for K0739 in Pennsylvania. If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a stationary concentrator (E1390 or E1391) and a transfilling unit (K0738), payment can be made for maintenance and servicing of both units (E1390MS or E1391MS, and K0738MS). If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a portable concentrator (E1392), payment can only be made for maintenance and servicing of the one unit/HCPCS code (E1392MS).

CMS will issue further instructions in the future regarding continuation of these payments for dates of service on or after January 1, 2010.

## Background

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Section 144(b) of MIPPA repeals the transfer of ownership provision established by the Deficit Reduction Act (DRA) of 2005 for oxygen equipment and establishes new payment rules and supplier responsibilities after the 36-month payment cap. Initial instructions related to implementation of these changes were issued as part of the January 2009 Durable Medical Equipment Prosthetics Orthotics & Supplies (DMEPOS) Fee Schedule Update, CR 6297. The MLN Matters article related to CR6297 may be viewed at

<http://www.cms.gov/MLN MattersArticles/downloads/mm6297.pdf> on the CMS website.

## Key Points in CR6296

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- To distinguish between the repair or nonroutine service of beneficiary-owned DME and oxygen equipment, two new "K" codes are effective for claims with dates of service on or after April 1, 2009. Those "K" codes are:
  - K0739 – Repair or Nonroutine Service for Durable Medical Equipment Other than Oxygen Equipment Requiring the Skill of a Technician, Labor Component, Per 15 Minutes
  - K0740 – Repair or Nonroutine Service for Oxygen Equipment Requiring the Skill of a Technician, Labor Component, Per 15 Minutes

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- The new non-covered code K0740 should be used by suppliers to indicate the labor associated with the repair of stationary or portable oxygen equipment.
- The existing E1340 HCPCS code is invalid for Medicare claims, effective April 1, 2009. The revised 2009 labor payment rates, provided in CR 6297, map directly to the new K0739 code and will be used to pay claims for code K0739 with dates of service on or after April 1, 2009.
- **Note that the two new codes are not yet final and should not be used until effective on April 1, 2009.**
- DME MACs and RHHIs:
  - Deny claims with dates of service on or after April 1, 2009 for HCPCS code K0740.
  - Will deny claims with dates of service on or after January 1, 2009, for claims received on or after April 6, 2009, for replacement parts billed using a HCPCS code and the "RB" modifier when the part is replaced in conjunction with the repair of oxygen equipment identified by HCPCS codes E0424, E0431, E0434, E0439, E1390, E1391, E1392, E1405, E1406, or K0738.

## Additional Information

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For complete details regarding this Change Request (CR) please see the official instruction (CR 6296) issued to your Medicare DME MAC, or RHHI. That instruction may be viewed by going to <http://www.cms.gov/Transmittals/downloads/R443OTN.pdf> on the CMS website.

If you have questions, please contact your DME MAC and RHHI at their toll-free number, which may be found at <http://www.cms.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

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