

<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 871</b>	<b>Date: April 8, 2011</b>
	<b>Change Request 7213</b>

**SUBJECT: Implementation of New Reasonable Useful Lifetime (RUL) Policy for Stationary and Portable Oxygen Equipment**

**I. SUMMARY OF CHANGES:** This instruction will implement systems changes to enforce new Reasonable Useful Lifetime (RUL) policies and National Competitive Bidding rules for instances where the beneficiary has both portable and stationary oxygen equipment and the RUL for one piece of equipment expires before the RUL for the other piece of equipment has been reached.

**EFFECTIVE DATE: May 8, 2011**

**IMPLEMENTATION DATE: May 8, 2011**

*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.*

<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

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**SUBJECT: Implementation of New Reasonable Useful Lifetime (RUL) Policy for Stationary and Portable Oxygen Equipment**

**Effective Date: May 8, 2011**

**Implementation Date: May 8, 2011**

## **I. GENERAL INFORMATION**

**A. Background:** This instruction establishes new Reasonable Useful Lifetime (RUL) policies for instances wherein a Medicare beneficiary has both portable and stationary oxygen equipment and the RUL for one piece of equipment expires before the RUL for the other piece of equipment has been reached. In most cases, a beneficiary who requires both stationary and portable oxygen will have developed the need for both stationary and portable oxygen at the same time, will have received stationary and portable oxygen equipment at the same time, and will be in a situation where the RUL for the stationary oxygen equipment ends at the same time that the RUL for the portable oxygen equipment ends. At the end of the RUL, the beneficiary can elect to obtain new oxygen equipment. This instruction addresses situations where beneficiaries do not receive their portable oxygen equipment at the same time they receive their stationary oxygen equipment, therefore resulting in two RUL periods for the two types of oxygen equipment that do not coincide.

## **B. Policy:**

### Summary of Current Policy Concerning Payment for Oxygen and Oxygen Equipment

Payment for portable oxygen equipment under Medicare is made as an add-on to the monthly payment amount for oxygen and oxygen equipment, which includes payment for stationary oxygen equipment and related accessories and supplies, stationary oxygen contents, and portable oxygen contents. As a general rule, the same supplier that furnishes stationary oxygen equipment to a beneficiary and receives the monthly payment for oxygen and oxygen equipment should also be the supplier that furnishes the portable oxygen equipment, if needed, to the beneficiary since a component of the payment for portable oxygen (portable oxygen contents) is included in the monthly payment amount for oxygen and oxygen equipment. A supplier of either stationary oxygen equipment or portable oxygen equipment that has furnished the equipment for 36 months of continuous use must continue to furnish the oxygen equipment to the beneficiary during any period of medical need for the remainder of the RUL of the equipment. The supplier retains this responsibility to continue furnishing oxygen equipment after the 36<sup>th</sup> month of continuous use whether or not it is awarded a contract under the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) competitive bidding program. Under the DMEPOS competitive bidding program, when the RUL for oxygen equipment ends and the beneficiary elects to obtain replacement oxygen equipment, the replacement equipment must be furnished by a contract supplier and cannot be furnished by a non-contract supplier.

At the start of a competitive bidding program, a supplier that is not awarded a contract for furnishing oxygen and oxygen equipment under the program may elect to or is required to continue furnishing oxygen and oxygen equipment to beneficiaries it is currently serving:

1. It may elect to be a grandfathered supplier for oxygen and oxygen equipment that has not yet reached the 36-month rental cap for all of its current customers who are Medicare beneficiaries residing in a competitive bidding area; or
2. It is required to continue furnishing oxygen equipment and related oxygen contents for gaseous or liquid equipment for which it received the 36th rental payment prior to the start of the program during any period of medical need for the remainder of the RUL established for the equipment.

New RUL policies are needed in order to address situations wherein the beneficiary has both portable and stationary oxygen equipment and the RUL for one piece of equipment expires before the RUL for the other piece of equipment has been reached. The new RUL policies outlined below apply to oxygen and oxygen equipment furnished to Medicare beneficiaries in general and are not restricted to oxygen and oxygen equipment furnished to beneficiaries residing in competitive bidding areas.

#### New RUL Policies for Oxygen and Oxygen Equipment

The following rules apply in situations where the beneficiary is using both stationary and portable oxygen equipment with different RUL end dates.

1. When the RUL of a beneficiary's portable oxygen equipment differs from the RUL of the beneficiary's stationary oxygen equipment, the RUL of the stationary oxygen equipment shall govern the application of RUL-based rules and processes for both types, stationary and portable, of oxygen equipment.
2. Until such time as the end date of the RUL of the stationary oxygen equipment is reached, the supplier must continue to furnish both the portable and stationary oxygen equipment.
  - a. If the end date of the RUL of the portable oxygen equipment *precedes* the end date of the RUL of the stationary oxygen equipment, the end date of the RUL of the portable oxygen equipment is adjusted (*extended*) to coincide with the end date of the RUL of the stationary oxygen equipment.
  - b. If the end date of the RUL of the portable oxygen equipment *follows* the end date of the RUL of the stationary oxygen equipment, the end date of the RUL of the portable oxygen equipment is adjusted (*shortened*) to coincide with the end date of the RUL of the stationary oxygen equipment.
3. When the end date of the RUL of the stationary oxygen equipment occurs, the beneficiary may elect to obtain replacement of both the stationary and the portable oxygen equipment.
4. If the beneficiary elects to obtain replacement of the stationary and the portable oxygen equipment, both types of oxygen equipment must be replaced at the same time.
5. When the stationary and the portable oxygen equipment are replaced, a new 36-month rental period and new RUL is started for both the replacement stationary oxygen equipment and the replacement portable oxygen equipment.
6. Beginning January 1, 2011, a beneficiary who resides in a DMEPOS competitive bidding area (CBA) may obtain replacement of both the stationary and portable oxygen systems only from a contract supplier having a competitive bidding contract for the CBA in which the beneficiary permanently resides.
7. A grandfathered supplier for oxygen and other grandfathered equipment as of January 1, 2011, who has continued to furnish such equipment that has not yet reached the 36-month rental cap, does not qualify to furnish replacement equipment once the end date of the RUL of the stationary equipment is reached, if the beneficiary resides in the CBA when the end of the RUL has been reached unless the status of the grandfathered supplier has changed to a contract supplier for the current round of the competitive bidding program.





Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I    	C A R R I E R	R H H I	Shared-System Maintainers				OTHE R
						F I S S	M C S	V M S	C W F		
	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. 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.										

#### IV. SUPPORTING INFORMATION

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

*Use "Should" to denote a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:

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

#### V. CONTACTS

**Pre-Implementation Contact(s):** For policy questions please contact Hafsa Bora at [hafsa.bora@cms.hhs.gov](mailto:hafsa.bora@cms.hhs.gov) . For claims processing questions please contact Angela Costello at [angela.costello@cms.hhs.gov](mailto:angela.costello@cms.hhs.gov) .

**Post-Implementation Contact(s):** Contact your Contracting Officer's Technical Representative (COTR) or Contractor Manager, as applicable.

#### VI. FUNDING

**Section A: For *Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers:***

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**Section B: *For Medicare Administrative Contractors (MACs):***

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