



Changes in Medicare Payment for Oxygen and Oxygen Equipment – JA0840

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Key Words	SE0840, Oxygen, Equipment, Payment, MM6296, MM6297
Contractors Affected	<ul style="list-style-type: none"> • Durable Medical Equipment Medicare Administrative Contractors (DME MACs) • Regional Home Health Intermediaries (RHHIs)
Provider Types Affected	Providers and suppliers submitting claims to DME MACs and/or RHHIs for oxygen and oxygen equipment provided to Medicare beneficiaries



Special Edition (SE) article SE0840 supplements the information provided in MLN Matters 6296 and 6297 which (when issued) outline instructions regarding repair, maintenance and servicing of oxygen equipment, and other changes resulting from implementation of section 144(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).

Key Supplemental Information

Payment and Billing Issues

- Oxygen and oxygen equipment are paid on a fee schedule basis. The beneficiary pays coinsurance and deductibles.
- The oxygen rental payment covers the equipment, contents, maintenance, and supplies and accessories such as tubing or a mouthpiece, and other services necessary for furnishing oxygen and oxygen equipment.
- The Deficit Reduction Act of 2005 limited monthly payments for oxygen and oxygen equipment to 36 months of continuous use after which the equipment title transferred to the beneficiary.
- Section 144(b) of the MIPPA repeals the transfer of ownership provision and permits suppliers to retain ownership of the oxygen equipment following the 36-month rental cap.

Provider Needs to Know...

- Section 414.226(g)(1) of the Centers for Medicare & Medicaid Services (CMS) regulations requires the supplier who furnished the oxygen equipment in the first month to continue furnishing the oxygen equipment for the entire 36-month period with certain exceptions, such as when the beneficiary relocates outside the service area, when the beneficiary elects to obtain oxygen equipment from another supplier, or in certain cases granted by the carrier/DME MAC or CMS, such as emergency situations.
- Section 414.226(g)(2) of the regulations prevent suppliers from switching oxygen equipment modalities during the 36-month period (e.g., from liquid oxygen to a concentrator).
- There are special exceptions to this rule in the event the physician orders different equipment based on medical necessity or where the beneficiary chooses newer technology and signs an Advance Beneficiary Notice acknowledging potential financial liability for the newer technology.
- Section 414.226(g)(1) also requires the supplier to disclose its intentions for accepting assignment of claims during the 36-month rental period.

Requirements Applicable after the 36-month Cap

- The supplier is required to continue furnishing the equipment, supplies, and accessories for any period of medical need for the remainder of the reasonable useful lifetime of the equipment. This requirement includes use of equipment following temporary breaks of in-home oxygen services (e.g., due to a hospital or other facility stay) of any duration after the 36-month rental cap.
 - The supplier who furnished the liquid or gaseous oxygen equipment during the 36-month rental period is responsible for furnishing the oxygen contents used with the supplier-owned oxygen equipment for any period of medical need following the 36-month rental cap for the remainder of the reasonable useful lifetime of the equipment.
 - Medicare will pay for oxygen contents for any gaseous or liquid oxygen equipment. Suppliers should continue to use Healthcare Common Procedure Coding System codes **E0441** through **E0444** in order to bill and receive payment for furnishing oxygen contents.
 - Medicare can pay for a general maintenance and servicing visit for concentrators or transfilling equipment in 2009, which must take place 6 months after the end of the 36-month rental period.
 - Other than this general maintenance and servicing payment, payment is not allowable for any repair or maintenance and servicing of supplier-owned oxygen equipment, including any replacement part furnished as part of any repair or maintenance and servicing of oxygen equipment.
 - The supplier is responsible for furnishing all of the same items **and services** after the 36-month rental period as they furnished during the 36-month rental period. With the exception of oxygen contents and the general maintenance and servicing
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visit in 2009, the supplier must furnish these items and services without charging Medicare or the beneficiary.

- Payment is not allowable for supplier pickup or disposal of oxygen tanks or cylinders that are no longer needed.

Beneficiary Relocation Issues

- If the beneficiary relocates before the end of the 36-month rental period, he/she should work with his or her supplier to make arrangements to continue receiving oxygen and oxygen equipment from a new supplier at his or her new place of residence.
- If the beneficiary relocates after the 36-month rental period, the supplier is required to continue furnishing oxygen and oxygen equipment. Therefore, the supplier must make arrangements for the beneficiary to continue receiving oxygen services at his or her new place of residence.

Note: Suppliers that are found to be out of compliance with existing regulations and these new requirements are subject to significant administrative remedies, including removal of billing privileges.

Beneficiary Issues of Importance to Providers

- Beneficiaries are entitled to change suppliers at any time during their period of medical need. **Note: Finding new suppliers after the 36-month cap may be difficult because the new supplier would receive no monthly payments except for maybe the maintenance and servicing visit.**
- If beneficiaries choose to purchase their own oxygen equipment instead of renting, they need to understand that **Medicare does not pay a lump-sum purchase for oxygen equipment.** Medicare pays on a rental basis up to a 36-month rental period.

Background CMS is implementing new oxygen payment rules and supplier responsibilities as a result of MIPPA in the payment policies under the Physician Fee Schedule and other revisions to Part B for calendar year 2009, as displayed in the Federal Register on October 30, 2008.

Operational Impact N/A

Reference Materials The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0840.pdf> on the CMS

website.

Once issued, MM6296 may be reviewed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6296.pdf> on the CMS website.

Once issued, MM6297 may be reviewed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6297.pdf> on the CMS website.

Questions and answers regarding changes in payment for oxygen and oxygen equipment are posted at http://questions.medicare.gov/cgi-bin/medicare.cfg/php/enduser/std_alp.php?p_sid=AUyrW7ij&p_lva=&p_li=&p_accessibility=0&p_redirect=&p_page=1&p_cv=1.33&p_pv=&p_prods=&p_cats=33&p_hidden_prods=&cat_lv/1=33 on the Internet.
