



Payment of Oxygen Contents to Suppliers after the 36th Month Rental Cap under the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program – JA6939

Related CR Release Date: April 27, 2010

Date Job Aid Revised: May 6, 2010

Effective Date: October 1, 2010 for Medicare system changes

Implementation Date: October 4, 2010

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| Key Words | MM6939, CR6939, R676OTN, Oxygen, Rental, Cap, DMEPOS, Competitive, Bidding |
| Contractors Affected | Durable Medical Equipment Medicare Administrative Contractors (DME MACs) |
| Provider Types Affected | Provider types affected are suppliers who have received payment for the 36 th month of continuous use of oxygen equipment for a Medicare patient and billing DME MACs for oxygen contents used with that liquid or gaseous oxygen equipment (stationary or portable). |



- Change Request (CR) 6939 alerts suppliers that Medicare law requires that the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment for any period of medical need after the payment cap for the remainder of the reasonable useful lifetime of the equipment.
- This requirement continues to apply under the Medicare DMEPOS Competitive Bidding Program, regardless of the role of the supplier (i.e., contract supplier, grandfathered supplier, or non-contract supplier) and the location of the beneficiary (i.e. residing within or outside a competitive bidding area (CBA)).

Provider Needs to Know...

- If a beneficiary travels or temporarily relocates to a CBA, the oxygen supplier that received the payment for the 36th continuous month must make arrangements for furnishing oxygen contents with a contract supplier in the CBA, in the event that the supplier that received the 36th month payment elects to make arrangements for a temporary oxygen contents billing supplier.
- The Medicare payment amount is always based on the location in which the beneficiary maintains a permanent residence.

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- If the beneficiary resides in a CBA, payment for the oxygen contents will be based on the single payment amount for that CBA.
 - If the beneficiary resides outside of a CBA and travels to a CBA, payment for the oxygen contents will be based on the fee-schedule amount for the area where the beneficiary maintains a permanent residence.
 - The changes specified in CR6939 are in preparation for the DMEPOS Competitive Bidding Program Round One Rebid (the Round One Rebid) implementation. The target implementation date for the Round One Rebid is January 1, 2011, and is subject to change. CMS will send notification of the actual start date for the Round One Rebid in a separate instruction.
 - Claims will be denied for both base oxygen equipment and related oxygen contents claims from non-contract suppliers in CBAs when the initial date on the beneficiary's oxygen Certificate of Medical Necessity is on or after the start date for the Round One Rebid.
 - Medicare will also deny such claims from non-contract suppliers when the rental period for the base oxygen equipment began on or after the start date of the Round One Rebid.

Note: CR6939 provides instructions for processing oxygen contents claims received from a supplier when the beneficiary resides in a CBA and the 36-month payment cap has been reached for the related base equipment. CR6939 does not address situations in which a beneficiary travels or temporarily relocates to a CBA. It also does not address the oxygen claim payment policies applicable to beneficiaries who do not reside in a CBA. The claims processing instructions related to these policies will be provided in a subsequent CR.

Background

- On July 15, 2008, Section 144(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) amended Section 1834(a)(5)(F) of the Social Security Act (the Act) to repeal the transfer of ownership provision established by the Deficit Reduction Act of 2005 for oxygen equipment and established new payment rules and supplier responsibilities after the 36-month payment cap.
 - One of the MIPPA 144(b) provisions requires that Medicare payment for oxygen contents used with liquid or gaseous oxygen equipment (stationary or portable) continue after the 36-month rental cap.
 - As further defined in Federal Regulations (42 CFR 414.226(f)(2)), **the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment during any period of medical need for the remainder of the reasonable useful lifetime established for the equipment.**
 - **If a beneficiary relocates, the supplier that received the payment for the 36th continuous month must arrange for furnishing the oxygen contents with another**
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supplier when the beneficiary relocates to an area that is outside the normal service area of the supplier.

- This MIPPA requirement for the supplier that received the 36th month payment to continue furnishing oxygen contents during any period of medical need for the remainder of the reasonable useful lifetime remains in effect, regardless of whether the beneficiary resides in a CBA, or the oxygen supplier is a contract, non-contract, or grandfathered supplier under the DMEPOS competitive bidding program.

Operational N/A
Impact

The related MLN Matters® article can be found at <http://www.cms.gov/MLN MattersArticles/downloads/MM6939.pdf> on the CMS website.

Reference
Materials

The official instruction (CR6939) issued regarding this change may be found at <http://www.cms.gov/Transmittals/downloads/R676OTN.pdf> on the CMS website.

To review the CMS DME website that provides a complete listing of links to DME related information providers may go to <http://www.cms.gov/center/dme.asp> on the CMS website.
