



## Payment for Replacement of Oxygen Equipment in Bankruptcy Situations – JA6838

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**Key Words** MM6838, CR6838, R1961CP, Oxygen, Equipment, Replacement

**Contractors Affected**

- Regional Home Health Intermediaries (RHHIs)
- Part A/B Medicare Administrative Contractors (A/B MACs)
- Durable Medical Equipment MACs (DME MACs)

**Provider Types Affected** Suppliers of DME, prosthetics, orthotics and supplies (DMEPOS), submitting claims to RHHIs, A/B MACs and DME MACs for oxygen and oxygen equipment provided to Medicare beneficiaries are affected.



Change Request (CR) 6838 informs suppliers of DMEPOS that Medicare contractors may make payment for replacement oxygen equipment in the event that a supplier files for Chapter 7 or 11 bankruptcy in a United States Bankruptcy Court.

### Payment for Replacement of Oxygen Equipment

**Provider Needs to Know...**

- Medicare contractors may make payment for replacement oxygen equipment in the event that a supplier files for Chapter 7 or 11 bankruptcy in a United States Bankruptcy Court.
- Medicare contractors are to verify supporting documentation and consider oxygen equipment as lost in certain bankruptcy situations.
- Payment may then be provided for the replacement of oxygen equipment and a new reasonable useful lifetime period, and a 36-month rental payment period may begin on the date that the new, replacement equipment is furnished.

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### Claim Information Requirement

- The Medicare contractor must verify that following claims information is included and valid with the claim:
  - The most recent test date and blood gas testing result;
  - Oxygen Certificate of Medical Necessity;
  - The Healthcare Common Procedure Coding System (HCPCS) code for the new oxygen equipment (Stationary oxygen equipment - E0424, E0439, E1390, E1391, E1405 or E1406 or Portable oxygen equipment - E0431, E0433, E0434, E1392, or K0738),
  - The HCPCS modifier RA (*Replacement of a DME Item*), and
  - A narrative describing why the equipment was replaced. **Note:** Proof-of-delivery documentation from the previous supplier is not required.

### Bankruptcy Documentation Requirement

- In addition, the contractor must verify the following information is included and valid to support the supplier that declared Chapter 7 or 11 bankruptcy under Title 11 of the United States Code bankruptcy and is unable to continue furnishing oxygen and oxygen equipment to patients:
  - For a Chapter 7 bankruptcy, supporting documentation must include court records documenting that the previous supplier filed a petition for a Chapter 7 bankruptcy in a United States Bankruptcy Court; and
  - For a Chapter 11 bankruptcy, supporting documentation must include court records documenting that the previous supplier filed a petition for a Chapter 11 bankruptcy in a United States Bankruptcy Court, **and** documents filed in the bankruptcy case confirming that the equipment was sold or is scheduled to be sold as evidenced by one of the following:
    - The court order authorizing and/or approving the sale; **or**
    - Supporting documentation that the sale is scheduled to occur or has occurred (e.g., a bill of sale, or an asset purchase agreement signed by the seller and the buyer); **or**
    - A court order authorizing abandonment of the equipment.
- The Medicare contractor will deny claims for replacement oxygen equipment due to bankruptcy if verification of the above supporting documentation is unsuccessful.

### Claim Denial Messages

- Medicare contractors will use the following reason and remark codes and messages when denying claims for replacement oxygen equipment due to insufficient supporting documentation:
    - Group Code CO (Contractual Obligation),
    - A1 - Claim/Service Denied,
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- N225 - Incomplete/invalid documentation/orders/notes/summary/report/chart, and
- MSN 9.2 - *This item or service was denied because information required to make payment was missing. (Este artículo o servicio fue denegado porque la información requerida para hacer el pago fue omitida).*

**Note:** No payment will be made for replacement equipment when the original supplier divests business and equipment outside of the court bankruptcy process.

**Background**

- CR6838 adds Section 50.4 to Chapter 20 of the *Medicare Claims Processing Manual* to provide instructions, regarding payment for the replacement of oxygen equipment in the event that a supplier files for Chapter 7 or 11 bankruptcy under Title 11 of the United States Code and is unable to continue furnishing oxygen and oxygen equipment to patients.
- In accordance with 42 Code of Federal Regulations Sections 414.210(f) and 414.226(g), payment can be made for replacement of oxygen equipment if the equipment has been in continuous use by the patient for the equipment's reasonable useful lifetime or has been lost, stolen, or irreparably damaged, resulting in a new reasonable useful lifetime period and a new 36-month rental payment period.

Operational Impact      N/A

**Reference Materials**

The related MLN Matters® article can be found at <http://www.cms.gov/MLN MattersArticles/downloads/MM6838.pdf> on the CMS website.

The official instruction (CR6838) regarding this change may be viewed at <http://www.cms.gov/Transmittals/downloads/R1961CP.pdf> on the CMS website.