

**Fact Sheet: Requirement to Furnish Oxygen and Oxygen Equipment on or after the 18<sup>th</sup>  
Rental Month in the Physician Fee Schedule CY 2011 Final Rule  
(CMS-1503-FC)**

On July 13, 2010 the CY 2010 Physician Fee Schedule (PFS) Proposed Rule was published. We proposed a provision requiring suppliers of oxygen and oxygen equipment to continue serving beneficiaries who relocate to new areas of the country on or after the 18<sup>th</sup> rental month. The current regulations do not require suppliers to continue to serve beneficiaries that relocate prior to the end of the 36-month rental payment cap for oxygen equipment. After the 36-month cap, suppliers are required to continue furnishing oxygen and oxygen equipment to the beneficiary, under arrangement with another supplier if necessary, during any period of medical need for the remainder of the 5 year reasonable useful lifetime of the equipment. This rule was proposed to help ensure beneficiaries access to oxygen and oxygen equipment in situations when they relocate during the second half of the 36-month cap and when they must find suppliers willing to furnish oxygen and oxygen equipment to them when less than 18 monthly payments remain before the 36-month payment cap is reached. The 60-day comment period ended August 24, 2010.

We received a total of 8 public comments on the proposed rule and all were critical of the proposal. Some of the commenters objected to the financial burden they believe that this requirement would cause for suppliers. Other objections were that the proposed requirement did not consider the effect on beneficiaries who relocate on a temporary basis during winter months (“snow birds”), or the access problems that it might cause in rural areas.

In addition to considering the comments on the proposed rule, we analyzed complaint data from January 2009 to September 2010. At the time of the proposed rule, there were reports about the difficulty beneficiaries, who relocated to a new service area before the 36<sup>th</sup> rental month, had finding suppliers to furnish their oxygen and oxygen equipment. In the limited situations where beneficiaries receiving oxygen equipment for less than 36 months relocated during this time and initially had trouble locating an oxygen supplier in their new location, CMS caseworkers in the CMS Regional Offices and the Office of the Medicare Beneficiary Ombudsman were able to locate suppliers to serve each and every beneficiary, usually within a matter of a days. This means that, although supply arrangements and/or access to oxygen and oxygen equipment in these situations may have been briefly delayed, suppliers stepped forward to provide access to oxygen and oxygen equipment in these situations.

Based on this information that suppliers are accommodating beneficiaries who relocate prior to the end of the 36-month rental cap, and based on the comments received, we have decided not to finalize this proposed revision at this time. If in the future, access to oxygen equipment becomes

a problem due to beneficiaries relocating, we may consider this proposal or similar proposals again.