

**Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)
Competitive Bidding Program
Proposed Grandfathering Provisions -- 2011 Physician Fee Schedule and other Revisions to
Part B Final Rulemaking (1503-FC)**

BACKGROUNDERS

Under 42 CFR §414.408(i)(2), when the beneficiary decides to use a contract supplier instead of a grandfathered supplier to receive their oxygen equipment and supplies, the contract supplier receives a minimum of 10 monthly payments for taking over the furnishing of oxygen and oxygen equipment. When a beneficiary decides to use a contract supplier to furnish capped rental DME, section §414.408(h)(2) restarts the 13-month capped rental period. These rules were established, in part, based on advice from the Program Advisory and Oversight Committee (PAOC) and are intended to give bidding suppliers an assurance that they would be compensated in these situations and would not have to factor into their bids the cost of receiving as few as one monthly payment for beneficiaries near the end of the 13-month cap for capped rental items and 36-month cap for oxygen equipment.

In some cases, the grandfathering rules described above place a financial burden on beneficiaries who are near the end of the 13 or 36-month rental cap periods. If a beneficiary's existing supplier chooses not to be a grandfathered supplier, the beneficiary will be required to switch to a contract supplier in order for Medicare to continue to pay for the furnishing of the rental equipment. In such cases, the beneficiary will be responsible for additional co-insurance amounts.

As discussed above and as a result of the MIPPA, suppliers of oxygen equipment no longer lose title to the equipment after receiving the 36th payment and this may warrant reconsideration of the minimum number of payments they should receive as contract suppliers when a beneficiary transitions to them from a noncontract supplier at the beginning of a DMEPOS CBP. In addition, we believe it is important to reevaluate the policy that restarts the 13-month capped rental period in situations where a beneficiary transitions from a noncontract supplier to a contract supplier at the beginning of a DMEPOS CBP. Therefore, we solicited public comments on whether or not the current rules should be changed to reduce the number of payments the contract supplier would receive in these situations above the 13 and 36-month limits set forth under the standard payment rules in section 1834(a) of the Act. We received 9 comments and will take them into consideration in future proposed rulemaking.