



**News Flash** - The Centers for Medicare & Medicaid Services (CMS) has announced the single payment amounts for the Round 1 Rebid of the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program. The Press Release on this issue is at [http://www.cms.gov/apps/media/press\\_releases.asp](http://www.cms.gov/apps/media/press_releases.asp) and a related fact sheet is at [http://www.cms.gov/apps/media/fact\\_sheets.asp](http://www.cms.gov/apps/media/fact_sheets.asp) on the CMS website.

MLN Matters Number: MM6838

Related Change Request (CR) #: 6838

Related CR Release Date: April 30, 2010

Effective Date: October 1, 2010

Related CR Transmittal #:1961CP

Implementation Date: October 4, 2010

## Payment for Replacement of Oxygen Equipment in Bankruptcy Situations

**Note:** This article was updated on November 23, 2012, to reflect current Web addresses. This article was revised on May 17, 2011, to add a reference to MLN Matters® article MM7213 (<http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM7213.pdf>) for information on the new reasonable useful lifetime (RUL) policy for stationary and portable oxygen equipment. All other information remains the same.

### Provider Types Affected

Suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) submitting claims to Medicare contractors (Regional Home Health Intermediaries (RHHIs), A/B Medicare Administrative Contractors (MACs) and DME MACs) for oxygen and oxygen equipment provided to Medicare beneficiaries are affected.

### Provider Action Needed

This article is based on Change Request (CR) 6838 and 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. Please be sure that your billing staffs are aware of this change.

#### Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

## Background

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CR 6838 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 CFR 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.

## Payment Documentation Requirements

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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.

Similar to other situations where oxygen equipment is lost, stolen, or irreparably damaged, the 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 (CMN),
- 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.

In addition, the contractor must verify the following information is included and valid to support the supplier 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:

- a) 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

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- b) 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.

### Messages for Denied Claims

Contractors will deny claims for replacement oxygen equipment due to bankruptcy if verification of the above supporting documentation is unsuccessful.

When denying claims for replacement oxygen equipment due to insufficient supporting documentation, the following reason and remark codes and messages will be used:

- Group Code CO (Contractual Obligation),
- A1 - Claim/Service Denied,
- 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.

## Additional Information

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If you have questions, please contact your Medicare contractor at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

The official instruction (CR 6838) issued to your Medicare contractor, regarding this change, may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R1961CP.pdf> on the CMS website.

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