



**News Flash** – The Centers for Medicare & Medicaid Services (CMS) is now soliciting bids for the Round 1 Rebid of the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program. All bids must be submitted in DBidS, the on-line bidding system, by 9 p.m. prevailing Eastern Time on December 21, 2009; all required hardcopy documents that must be included as part of the bid package must be postmarked by 11:59 p.m. on December 21, 2009. If you are interested in bidding, you must designate one Authorized Official (AO) from those listed on the CMS-855S enrollment form to act as your AO for registration purposes. The Round 1 Rebid competitive bidding areas (CBAs), product categories, DBidS information, bidder charts, educational materials, complete RFB instructions, and registration information, can all be found at <http://www.dmecompetitivebid.com/palmetto/cbic.nsf/DocsCat/Home>, which is the Competitive Bidding Implementation Contractor website.

MLN Matters® Number: MM6716 **Revised**

Related Change Request (CR) #: 6716

Related CR Release Date: November 2, 2009

Effective Date: January 1, 2010

Related CR Transmittal #: R5890TN

Implementation Date: January 4, 2010

**Note:** This article was updated on January 18, 2013, to reflect current Web addresses. This article was previously 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.

## **Continuation of Maintenance and Servicing Payments in CY 2010 for Certain Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008**

### **Provider Types Affected**

This article is for suppliers submitting claims to Medicare contractors (Regional Home Health Intermediaries (RHHIs), Medicare Administrative Contractors (MACs) and/or Durable Medical Equipment Medicare Administrative Contractors (DME MACs)) for oxygen services provided to Medicare beneficiaries.

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## Provider Action Needed

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This article is based on change request (CR) 6716, which provides instructions on continuing the payment policy for general maintenance and servicing of certain oxygen equipment after the 36-month rental cap, as established in calendar year (CY) 2009, for dates of service through June 30, 2010. See the *Key Points* section of this article for specific payment instructions.

## Background

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Section 144(b) of MIPPA repeals the transfer of ownership provision established by the Deficit Reduction Act (DRA) of 2005 for oxygen equipment and establishes new payment rules and supplier responsibilities after the 36 month rental cap. Section 144(b)(1) of the MIPPA, provides for payment for reasonable and necessary maintenance and servicing of oxygen equipment furnished after the 36-month rental cap if the Secretary of the Department of Health and Human Services determines that such payments are reasonable and necessary. Initial instructions relating to the maintenance and servicing payments for oxygen concentrators and transfilling equipment for CY 2009 were issued in Transmittal 497, CR 6509, dated May 22, 2009. The MLN Matters® article for this CR is available at <http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/MM6509.pdf> on the Centers for Medicare & Medicaid Services (CMS) website. CR6716 provides instructions on the continuation of these maintenance and servicing payments in CY 2010 for dates of service through June 30, 2010.

As indicated in Transmittal 497 (CR 6509), CMS determined that, for services furnished during calendar year 2009, it is reasonable and necessary to make payment for periodic, in-home visits by suppliers to inspect certain oxygen equipment and provide general maintenance and servicing after the 36-month rental cap. These payments only apply to equipment falling under Healthcare Common Procedure Coding System (HCPCS) codes E1390, E1391, E1392, and K0738, and only when the supplier physically makes an in-home visit to inspect the equipment and provide any necessary maintenance and servicing. Payment may be made no more often than every 6 months, beginning 6 months after the 36-month rental cap (as early as July 1, 2009, in some cases). In CY 2009, the allowed payment amount for each visit is equal to the 2009 fee for code K0739, multiplied by 2, for the State in which the in-home visit takes place. Suppliers should use the HCPCS code for the equipment E1390, E1391, E1392 and/or K0738 along with the MS modifier in order to bill and receive payment for these maintenance and servicing visits.

For example, if the supplier visits a beneficiary's home in Pennsylvania to perform the general maintenance and servicing on a portable concentrator, the supplier

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would enter E1392 MS on the claim and the allowed payment amount would be equal to the lesser of the supplier's actual charge or two units of the allowed payment amount for K0739 in Pennsylvania. If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a stationary concentrator (E1390 or E1391) and a transfilling unit (K0738), payment can be made for maintenance and servicing of both units (E1390MS or E1391MS, and K0738MS). If the supplier visits the beneficiary's home to provide the periodic maintenance and servicing for a portable concentrator (E1392), payment can only be made for maintenance and servicing of the one unit/HCPCS code (E1392MS).

For example, if maintenance and servicing is billed for a column I code, additional payment for the maintenance and servicing of any of the column II codes will not be made.

Column I	Column II
E1390 MS	E1391 MS, E1392 MS
E1391 MS	E1390 MS, E1392 MS
E1392 MS	E1390 MS, E1391 MS, K0738 MS
K0738 MS	E1392 MS

For CY 2010, CMS has determined that it is reasonable and necessary to continue the existing payments and payment methodology, as described above and in Transmittal 497 (CR 6509), for maintenance and servicing of certain oxygen equipment for dates of service through June 30, 2010. For dates of service from January 1, 2010 through June 30, 2010, the allowed payment amount for each visit is equal to 2 units of the 2010 fee for code K0739, for the State in which the in-home visit takes place.

## Key Points of CR 6716

- Medicare contractors will pay claims with dates of service from July 1, 2009 thru June 30, 2010, for maintenance and servicing for oxygen concentrators no more often than every 6 months beginning 6 months after the end of the 36<sup>th</sup> month of continuous use when billed with one of the following HCPCS codes and modifiers:
  - E1390MS;
  - E1391MS; or
  - E1392MS.
- In addition to payment for maintenance and servicing for stationary oxygen

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concentrators (HCPCS codes E1390 or E1391 Medicare contractors will pay claims with dates of service from July 1, 2009 through June 30, 2010, for maintenance and servicing for portable oxygen transfilling equipment (HCPCS code K0738) no more often than every 6 months beginning 6 months after the end of the 36<sup>th</sup> month of continuous use when billed with the HCPCS modifier MS.

- Medicare contractors will not pay for maintenance and servicing of both a portable oxygen concentrator (E1392MS) and portable oxygen transfilling equipment (K0738MS).
- For the oxygen equipment codes E1390, E1391, E1392, and K0738, billed with the modifier "MS", Medicare contractors will make maintenance and servicing payments for covered services equal to the lesser of the supplier's actual charge or 2 units of K0739 every 6 months.
- Medicare contractors will deny claims for maintenance and servicing of oxygen equipment when billed with the HCPCS codes E0424, E0439, E0431, E0434, E1405 or E1406 and the "MS" modifier.

## Additional Information

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If you have questions, please contact your Medicare DME MAC 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, CR6717, issued to your RHHI, MAC, DME MAC regarding this change may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R5890TN.pdf> on the CMS website.

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