



News Flash – The Medicare Fraud and Abuse Web-based Training Course has been revised and is now available - The course provides information helpful for Medicare providers and suppliers involved in providing and billing for services to people with Medicare. This activity provides information that will increase awareness of Medicare fraud and abuse; provide information regarding correct billing practices, and help Medicare providers, suppliers and staff to file claims correctly. The course offers continuing education credits; please see the course description page for details. To access the course, go to the MLN Products page at <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/index.html>, and select the web-based training modules link in the "Related Links Inside CMS" section. Once the web-based training courses page is displayed, select the Medicare Fraud and Abuse WBT from the list provided.

MLN Matters® Number: MM6939 **Revised**

Related Change Request (CR) #: 6939

Related CR Release Date: April 27, 2010

Effective Date: October 1, 2010 for Medicare system changes

Related CR Transmittal #: R676OTN

Implementation Date: October 4, 2010

Payment of Oxygen Contents to Suppliers after the 36th Month Rental Cap under the Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program

Note: This article was updated on December 6, 2012, to reflect current Web addresses. This article was previously revised on August 8, 2011, to add a reference to MLN Matters® article MM7416 (<http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM7416.pdf>), which alerts providers of oxygen equipment/contents under DMEPOS Competitive Bidding Program to payment changes for payment for oxygen contents after the 36-month rental cap is reached. All other information remains the same.

Provider Types Affected

This article is for suppliers who have received payment for the 36th continuous use of oxygen equipment for a Medicare patient and billing Durable Medical Equipment Medicare Administrative Contractors (DME MACs) for oxygen contents used with that liquid or gaseous oxygen equipment (stationary or portable).

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. CPT only copyright 2009 American Medical Association.

Provider Action Needed

The Centers for Medicare & Medicaid Services (CMS) issued Change Request (CR) 6939 to alert suppliers that Medicare law requires that the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment for any period of medical need after the payment cap for the remainder of the reasonable useful lifetime of the equipment. This requirement continues to apply under the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program, regardless of the role of the supplier (i.e., contract supplier, grandfathered supplier, or non-contract supplier) and the location of the beneficiary (i.e. residing within or outside a competitive bidding area (CBA)). See the *Key Points* section of this article for more of the specifics of CR6939.

Background

On July 15, 2008, section 144(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) amended section 1834(a)(5)(F) of the Social Security Act (the Act) to repeal the transfer of ownership provision established by the Deficit Reduction Act of 2005 for oxygen equipment and establish new payment rules and supplier responsibilities after the 36 month payment cap. One of the MIPPA 144(b) provisions requires that Medicare payment for oxygen contents used with liquid or gaseous oxygen equipment (stationary or portable) continue after the 36-month rental cap. As further defined in Federal Regulations (42 CFR 414.226(f)(2)), **the supplier that furnishes liquid or gaseous oxygen equipment (stationary or portable) for the 36th continuous month must continue to furnish the oxygen contents necessary for the effective use of the liquid or gaseous equipment during any period of medical need for the remainder of the reasonable useful lifetime established for the equipment. If a beneficiary relocates, the supplier that received the payment for the 36th continuous month must arrange for furnishing the oxygen contents with another supplier if the beneficiary relocates to an area that is outside the normal service area of the supplier.** This MIPPA requirement for the supplier that received the 36th month payment to continue furnishing oxygen contents during any period of medical need for the remainder of the reasonable useful lifetime remains in effect regardless of whether the beneficiary resides in a CBA or the oxygen supplier is a contract, non-contract or grandfathered supplier under the DMEPOS competitive bidding program.

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Key Points of CR6939

- If a beneficiary travels or temporarily relocates to a CBA, the oxygen supplier that received the payment for the 36th continuous month must make arrangements for furnishing oxygen contents with a contract supplier in the CBA in the event that the supplier that received the 36th month payment elects to make arrangements for a temporary oxygen contents billing supplier.
- The Medicare payment amount is always based on the location in which the beneficiary maintains a permanent residence. If the beneficiary resides in a CBA, payment for the oxygen contents will be based on the single payment amount for that CBA. If the beneficiary resides outside of a CBA and travels to a CBA, payment for the oxygen contents will be based on the fee-schedule amount for the area where the beneficiary maintains a permanent residence.
- The changes specified in this CR6939 are in preparation for the DMEPOS Competitive Bidding Program Round One Rebid (the Round One Rebid) implementation. The target implementation date for the Round One Rebid is January 1, 2011 and is subject to change. CMS will send notification of the actual start date for the Round One Rebid in a separate instruction.
- **Remember** claims will be denied for both base oxygen equipment and related oxygen contents claims from non-contract suppliers in CBAs when the initial date on the beneficiary's oxygen Certificate of Medical Necessity (CMN) is on or after the start date for the Round One Rebid. Medicare will also deny such claims from non-contract suppliers when the rental period for the base oxygen equipment began on or after the start date of the Round One Rebid.
- **NOTE:** CR6939 provides instructions for processing oxygen contents claims received from a supplier when the beneficiary resides in a CBA and the 36-month payment cap has been reached for the related base equipment. The CR6939 does not address situations in which a beneficiary travels or temporarily relocates to a CBA. Moreover, it does not address the oxygen claim payment policies applicable to beneficiaries who do not reside in a CBA. The claims processing instructions related to these policies will be provided in a subsequent CR.

Additional Information

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.

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The official instruction associated with this CR6939 issued to your Medicare MAC regarding this change may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R676OTN.pdf> on the CMS website.

To review the CMS DME website that provides a complete listing of links to DME related information you may go to <http://www.cms.gov/Center/Provider-Type/Durable-Medical-Equipment-DME-Center.html> on the CMS website.

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