

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-20 One-Time Notification	Centers for Medicare & Medicaid Services (CMS)
Transmittal 1219	Date: May 3, 2013
	Change Request 8270

SUBJECT: National Competitive Bidding Program (CBP): Instructions for Processing CBP Oxygen and Capped Rental Item Claims with the Start of the Round One Recompete

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to update the coding developed for the DMEPOS CBP Round One Rebid to apply the grandfathering policies to the CBP Round One Recompete for oxygen and capped rental item claims.

EFFECTIVE DATE: October 1, 2013

IMPLEMENTATION DATE: October 7, 2013

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	

III. FUNDING:

For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:

Not Applicable

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC statement of Work. The contractor is not obliged to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

One-Time Notification

**Unless otherwise specified, the effective date is the date of service.*

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I. GENERAL INFORMATION

A. Background: Section 302 of the Medicare Modernization Act of 2003 (MMA) established requirements for a new Competitive Bidding Program for certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS). Under the program, DMEPOS suppliers compete to become Medicare contract suppliers by submitting bids to furnish certain items in competitive bidding areas, and the Centers for Medicare & Medicaid Services (CMS) awards contracts to enough suppliers to meet beneficiary demand for the bid items. The new, lower payment amounts resulting from the competition replace the Medicare DMEPOS fee schedule amounts for the bid items in these areas. All contract suppliers must comply with Medicare enrollment rules, be licensed and accredited, and meet financial standards. The program sets more appropriate payment amounts for DMEPOS items while ensuring continued access to quality items and services, which will result in reduced beneficiary out-of-pocket expenses and savings to taxpayers and the Medicare program.

Under the MMA, the DMEPOS Competitive Bidding Program was to be phased in so that competition under the program would first occur in 10 areas in 2007. As required by law, CMS conducted the Round One competition in 10 areas and for 10 DMEPOS product categories, and successfully implemented the program on July 1, 2008, for two weeks before the contracts were terminated by subsequent law.

The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) temporarily delayed the program in 2008, terminated the Round One contracts that were in effect, and made other limited changes. As required by MIPPA, CMS conducted the supplier competition again in 2009, referring to it as the Round One Rebid. On January 1, 2011, CMS launched the first phase of Medicare's competitive bidding program in nine different areas of the country for nine product categories.

MIPPA also required the competition for Round Two to occur in 2011 in 70 additional metropolitan statistical areas (MSAs) and authorizes competition for national mail order items and services after 2010. The Affordable Care Act of 2010 expanded the number of Round Two MSAs from 70 to 91 areas and mandates that all areas of the country are subject either to DMEPOS competitive bidding or payment rate adjustments using competitively bid rates by 2016.

CMS is required by law to recompete contracts for the DMEPOS Competitive Bidding Program at least once every three years. The Round One Rebid contract period for all product categories except mail-order diabetic supplies expires on December 31, 2013. (The contract period for mail-order diabetic supplies ended on December 31, 2012.) CMS is conducting the Round One Recompete in the same competitive bidding areas as the Round One Rebid.

The purpose of this Change Request (CR) is to update the coding developed for the DMEPOS CBP Round One Rebid to apply the grandfathering policies to the CBP Round One Recompete for oxygen and capped rental item claims.

B. Policy: As of January 1, 2014, when the Round One Recompete contracts and prices become effective, all contracts from the Round One Rebid will be expired. As of that date, Round One Rebid

suppliers are considered to be non-contract suppliers unless they won contracts for the Round One Recompete. Noncontract suppliers that furnish rented durable medical equipment or oxygen may choose to become grandfathered suppliers that will continue renting items to beneficiaries they are serving when the program becomes effective, and beneficiaries may have the choice to remain with their current supplier (if it opts to become a grandfathered supplier or is a contract supplier) or to switch to a contract supplier. If a beneficiary who would have been entitled to obtain items from a grandfathered supplier switches to a contract supplier, the contract supplier is eligible to receive additional rental payments as provided in 42 CFR 414.408.

As previously discussed in CR 4178 Section 1847(a)(4) of the Act requires that in the case of covered DME items for which payment is made on a rental basis under section 1834(a) of the Act, and in the case of oxygen for which payment is made under section 1834(a)(5) of the Act, the Secretary shall establish a “grandfathering” process by which the rental agreement for those covered items and supply arrangements with oxygen suppliers entered into before the start of a competitive bidding program may be continued. This grandfathering provision provides the beneficiary the choice of receiving a grandfathered item from a grandfathered supplier or a contract supplier. In the event that a beneficiary no longer rents a grandfathered item from his or her previous supplier (because the previous supplier elected not to become a grandfathered supplier or the beneficiary elected to change suppliers), the new contract supplier will receive a certain number of additional monthly payments for furnishing the non-grandfathered item, regardless of how many payments Medicare previously made to the prior supplier.

In the case of capped rental items, the new contract supplier will receive 13 additional monthly payments for the item, provided the item remains medically necessary. For oxygen equipment, the new contract supplier will receive at least 10 monthly rental payments. For example, if a contract supplier begins furnishing oxygen equipment to a beneficiary in months 2 through 26, Medicare would make payment for the remaining number of rental months in the 36-month rental period. However, should a contract supplier begin furnishing oxygen equipment to a beneficiary in months 27 through 35, Medicare would make 10 additional rental payments assuming the equipment remains medically necessary. For oxygen equipment, the maximum number of payments may not exceed 45 rental payments.

The following section describes possible scenarios for capped rental items furnished during the Round One Recompete and recompetes of future rounds of the CBP:

Scenario 1 – The beneficiary was receiving items or services from a Round One Rebid contract supplier that was awarded a contract for the Round One Recompete and the beneficiary chooses to stay with that supplier. In this case the new supplier is NOT entitled to any additional payments since the beneficiary is not otherwise entitled to obtain the items from a grandfathered supplier.

Scenario 2 – The beneficiary was receiving items or services from a Round One Rebid contract supplier that was NOT awarded a contract for the Round One Recompete and the beneficiary chooses to switch to a Round One Recompete contract supplier. In this case, the new contract supplier is entitled to the additional payments since the beneficiary is eligible to obtain the items from a grandfathered supplier.

Scenario 3 – The beneficiary was receiving items or services from a Round One Rebid contract supplier that was NOT awarded a contract for the Round One Recompete but opted to become a grandfathered supplier and the beneficiary chooses to remain with the grandfathered supplier. In this case, the grandfathered supplier is NOT entitled to additional payments since only contract suppliers are eligible for additional payments.

Scenario 4 – The beneficiary was receiving items or services from a Round One Rebid contract supplier that was awarded a contract for the Round One Recompete and the beneficiary chooses to switch to a new contract supplier. In this case, the contract supplier is NOT entitled to the additional payments since the beneficiary is not otherwise entitled to obtain the items from a grandfathered supplier.

NOTE: Contractors will test for all scenarios described above. Scenarios 1, 3 and 4 were addressed in previous CRs. The business requirements in this CR will specifically address scenario 2.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement.

Number	Requirement	Responsibility										
		A/B MAC		D M E M A C	F I	C A R R I E R	R H I	Shared- System Maintainers				O t h e r
		P a r t A	P a r t B					F I S S	M C S	V M S	C W F	
8270.1	Contractors shall continue to pay claims submitted by contract suppliers for capped rental items furnished during the Round One Rebid of CBP, when submitted within the timely filing period, even if the supplier is not awarded a contract for the Round One Recompete.			X						X		
8270.2	Contractors shall deny claims submitted by Round One Rebid suppliers for items furnished on or after January 1, 2014, when the supplier is not awarded a contract in the Round One Recompete.			X						X		
8270.2.1	<p>Contractors shall use the following message for denials specified in 8270.2:</p> <p>M115: This item is denied when provided to this patient by a non-contract or non-demonstration supplier.</p> <p>M114: This service was processed in accordance with rules and guidelines under the DMEPOS Competitive Bidding Program or other Demonstration Project. For more information regarding this project, contact your local contractor.</p> <p>96: Non-covered charge(s).</p> <p>N211: Alert: You may not appeal this decision.</p> <p>MA13: Alert: You may be subject to penalties if you bill the patient for amounts not reported with the PR (patient responsibility) group code.</p> <p>MSN 8.92: You live in a Competitive Bidding Area, so a Medicare-contract supplier in the DMEPOS competitive bidding program must provide this item. Medicare won't pay for this item, and you don't have to pay for it either. Medicare appeal rights don't apply.</p>			X						X		

Number	Requirement	Responsibility										
		A/B MAC		D M E M A C	F I	C A R R I E R	R H I	Shared-System Maintainers				O t h e r
		P a r t A	P a r t B					F I S S	M C S	V M S	C W F	
	MSN 8.92: Usted vive en una zona de oferta competitiva, entonces debe usar un proveedor de equipo médico contratado por Medicare. Ni Medicare ni usted tienen que pagar por el artículo. Los derechos de apelación no se aplican.											
8270.3	Contractors shall apply the grandfathering policies established for capped rental and oxygen rental items in the Round One Rebid to items furnished during the Round One Recompete.			X						X		
8270.4	Contractors shall allow at least 10 payments across all claims for an item, including both those for the contract and non-contract supplier. NOTE: The total number of oxygen payments cannot exceed 45 payments.			X						X		
8270.5	Contractors shall allow 13 bonus payments to the new contract supplier for a capped rental item furnished in the Round One Recompete when a beneficiary was receiving the item from a Round One Rebid supplier that was not awarded a contract for the Round One Recompete, and switches to a new contract supplier.			X						X		
8270.6	Contractors shall implement these policies for all future recompetete rounds of the DMEPOS Competitive Bidding Program.			X						X		

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility									
		A/B MAC		D M E M A C	F I	C A R R I E R	R H I	Other			
		P a r t A	P a r t B								
8270.7	MLN Article : A provider education article related to			X							

Number	Requirement	Responsibility					
		A/B MAC	D M E	F I	C A R R I E R	R H H I	Other
		P a r t A	P a r t B	M A C			
	this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web sites and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in the contractor's next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.						

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A
Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Bobbett Plummer, 410-786-3321 or bobbett.plummer@cms.hhs.gov (For claims processing questions.) , Janae James, 410-786-0801 or janae.james@cms.hhs.gov (For policy questions)

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

VI. FUNDING

Section A: For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers:
 Not Applicable

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