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General Provider Education for Changes in the Payment for Oxygen Equipment and Capped Rentals for Durable Medical Equipment (DME) Due to the Deficit Reduction Act (DRA) of 2005

Note: This article was revised on September 4, 2007, to refer to related CR5461 (<http://www.cms.hhs.gov/Transmittals/downloads/R1177CP.pdf>). CR5461 identifies the Medicare payment method used for maintenance and servicing (M&S) for both capped rental items generally and for oxygen equipment in particular. The related MLN Matters article may be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/mm5461.pdf> on the CMS website. The reference to DMERCs was also changed to DME MACs.

Provider Types Affected

Suppliers and providers billing Durable Medical Equipment Medicare Administrative Contractors (DME MACs) for oxygen equipment/services or other rentals of capped DME. Physicians treating Medicare patients using oxygen equipment or other rentals of capped DME may also want to be aware of this issue.

Background

Recent legislative changes mandated by Section 5101(a) and 5101(b) of the Deficit Reduction Act (DRA) of 2005 require changes to the DME claims processing systems.

The purpose of this article and related CR5010 are to provide DME suppliers with an explanation of how these changes will impact them.

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Important Points to Remember

Changes in Capped Rentals for DME

Section 5101(a) of the DRA is effective for capped rental items for which the first rental month occurs on or after January 1, 2006.

- For claims with dates of service (DOS) on and after January 1, 2006, the DME MAC will limit the total number of months for which they make payment for capped rental DME to 13 months.
- After the DME MAC has paid for 13 months for capped rental DME, title for the equipment will be transferred to the beneficiary.
- This policy applies only to beneficiaries who began a new DME capped rental period for dates of service on or after January 1, 2006.
- For claims with dates of services prior to January 1, 2006, current rules apply.

Changes Related to Payment for Oxygen Equipment:

- Section 5101(b) of the DRA establishes a 36 month (3 year) limit or cap on monthly payments for stationary and portable oxygen equipment. This cap applies to oxygen equipment furnished on or after January 1, 2006, and applies to all claims for the following list of HCPCS codes.

E0424 – Stationary gaseous oxygen system	E0431 – Portable gaseous oxygen system
E0434 – Portable liquid oxygen system	E0439 – Stationary liquid oxygen system
E1390 – Oxygen concentrator, single delivery port	E1391 – Oxygen concentrator, dual delivery port
E1392 – Portable oxygen concentrator	E1405 – Oxygen and water vapor enriching system with heated delivery
E1406 – Oxygen and water vapor enriching system without heated delivery	

- Payments for any of the above described items terminate after a period of continuous use of 36 months beginning on or after January 1, 2006. On the first day after the month for which the 36th monthly payment amount is made, the supplier must transfer title for the stationary and/or portable oxygen equipment to the beneficiary.
- On the same day that title for the equipment is transferred to the patient, **monthly payments can begin to be made for oxygen contents** used with patient-owned gaseous and liquid oxygen equipment.

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The HCPCS codes for oxygen contents include the following:

E0441 – Stationary gaseous contents used with patient owned gaseous stationary system	E0442 – Stationary liquid contents used with patient owned liquid stationary system
E0443 – Portable gaseous contents used with patient owned gaseous portable system	E0444 – Portable liquid contents used with patient owned liquid portable system

Note: Medicare DME MACs will begin the 36-month count for beneficiaries that were already receiving oxygen therapy on January 1, 2006. Months prior to January 2006 will not be included in the 36-month count.

- DME MACs will pay for reasonable and necessary maintenance and servicing (i.e., parts and labor not covered by a supplier's or manufacturer's warranty) of beneficiary-owned equipment (including oxygen concentrators).
- Updates to the *Medicare Claims Processing Manual*, Publication 100-04, and the *Medicare Benefits Policy Manual*, Publication 100-02, related to CR5010 will be made at a later date to reflect these changes.

Use of HCPCS Modifiers

Additional program billing and claims processing instructions will be issued later this year. For now, suppliers should continue to use the KH, KI, and KJ modifiers in the manner as previously instructed for capped rental DME. These modifiers do not need to be submitted for oxygen or oxygen equipment claims. Suppliers should continue to use the BP, BR, and BU modifiers with respect to capped rental periods that began prior to January 1, 2006.

Implementation

The implementation date for this instruction is May 30, 2006.

Additional Information

The official instructions issued to your DME MAC regarding this change can be found at <http://www.cms.hhs.gov/Transmittals/downloads/R918CP.pdf> on the CMS website.

If you have questions, please contact your Medicare DME MAC at their toll-free number, which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

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