



News Flash – Time is running out for suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) who bill Medicare under Part B to obtain accreditation by the **September 30, 2009 deadline** or risk having their Medicare Part B billing privileges revoked on October 1, 2009. While the accreditation process takes on average 6-7 months to complete, the process could take as long as 9 months to complete. Accordingly, DMEPOS suppliers should contact an accreditation organization right away to obtain information about the accreditation process and submit an application. Further information on the DMEPOS accreditation requirements along with a list of the accreditation organizations and those professionals and other persons exempted from accreditation may be found at the CMS website: http://www.cms.hhs.gov/MedicareProviderSupEnroll/03_DeemedAccreditationOrganizations.asp on the CMS website.

MLN Matters® Number: MM6509

Related Change Request (CR) #: 6509

Related CR Release Date: May 22, 2009

Effective Date: July 1, 2009

Related CR Transmittal #: R4970TN

Implementation Date: July 6, 2009

Payment for Maintenance and Servicing of Certain Oxygen Equipment as a Result of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 - CR 6509 RESCINDS AND FULLY REPLACES CR 6404.

Provider Types Affected

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.

Provider Action Needed

This article is based on replacement change request (CR) 6509 which provides additional instructions regarding maintenance and servicing of oxygen concentrators and transfilling equipment resulting from implementation of section 144(b) of the MIPPA. Earlier instructions pertaining to the MIPPA changes for oxygen equipment were issued as part of CRs 6297 (Transmittal 421) and 6296 (Transmittal 443) and the MLN Matters® articles for these CRs are available at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/mm6297.pdf> and

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<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6296.pdf>, respectively, on the Centers for Medicare & Medicaid (CMS) website.

Background

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 payment cap. Section 144(b) of MIPPA mandates payment for reasonable and necessary maintenance and servicing of oxygen equipment furnished after the 36-month rental cap. The 36-month cap applies to stationary and portable oxygen equipment furnished on or after January 1, 2006; therefore, the 36-month cap may end as early as January 1, 2009, for beneficiaries using oxygen equipment on a continuous basis since January 1, 2006.

CMS has 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), and 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.

In the case of all oxygen equipment furnished after the 36-month rental cap, the supplier is responsible for performing any repairs or maintenance and servicing of the equipment that is necessary to ensure that the equipment is in good working order for the remainder of the reasonable useful lifetime fo the equipment. This includes parts that must be replaced in order for the supplier-owned equipment to continue to function appropriately. Payment shall not be made for any repairs or maintenance and servicing, other than the maintenance and servicing payments described above, of oxygen equipment. Suppliers may not charge beneficiaries for any repairs, parts or servicing of equipment that they are required to furnish for the remainder of the equipment's reasonable useful lifetime.

Key Points

- Medicare contractors will pay claims with dates of service from July 1, 2009 thru December 31, 2009, for maintenance and servicing for oxygen concentrators no more often than every 6 months beginning 6 months after

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the end of the 36th 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 concentrators (HCPCS codes E1390 or E1391) Medicare contractors will pay claims with dates of service from July 1, 2009 thru December 31, 2009, 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 36th month of continuous use. HCPCS code K0738 must be billed with the HCPCS modifier "MS" to obtain such payment.
 - Medicare contractors will not pay for maintenance and servicing of both a portable oxygen concentrator (E1392MS) and portable oxygen transfilling equipment (K0738MS).
 - If maintenance and servicing is billed for a column I code in the following table, additional payment for the maintenance and servicing of any of the column II codes should not be made as in the following example:

| 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 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.
- Program instructions will be issued in the future regarding the continuation of the maintenance and servicing payments for dates of service on or after January 1, 2010.

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Additional Information

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

The official instruction, CR6509, issued to your Medicare DME MAC, MAC and/or RHHI regarding this change may be viewed at <http://www.cms.hhs.gov/Transmittals/downloads/R497OTN.pdf> on the CMS website.

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