DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

The "Medicare Quarterly Provider Compliance Newsletter" is designed to provide education on how to avoid common billing errors and other erroneous activities when dealing with the Medicare Program. This publication is issued on a quarterly basis and highlights the "top" issues of that particular quarter. An archive and searchable index of current and previously-issued newsletters is available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedQtrlyCompNL_Archive.pdf** on the Centers for Medicare & Medicaid website.

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Capped Rental DME: Enforcement of Payment Requirements for Beneficiary-owned Capped Rental Durable Medical Equipment (DME)

Note: This article was updated on May 8, 2014 to include links to the most current articles that reflect the changes in Medicare policy that have occurred since SE1103 was published in 2011.

Provider Types Affected

This article is for suppliers submitting claims to Durable Medical Equipment Medicare Administrative Contractors (DME MACs) for services provided to Medicare beneficiaries for capped rental DME equipment.

At the time this article was first published in 2011, the information reflected Medicare policy correctly at that time. Since then, more current information is available and new articles have been published. See the Additional Information section for the updated publications detailing what providers need to know in order to remain current.

Provider Action Needed

This article is primarily informational and summarizes the findings of the Office of the Inspector General (OIG) report of August of 2010 titled, "A Review of Claims for Capped Rental Durable Medical Equipment." The article contains references to Medicare policy documents that the Center for Medicare & Medicaid Services (CMS) has available to guide suppliers in proper billing of capped rental DME claims, including repairs and maintenance. Suppliers need to be aware of the report findings and proper billing procedures to avoid impact on claims payments. The OIG report provides the details about the findings and it is available at **http://oig.hhs.gov/oei/reports/oei-07-08-00550.pdf** on the Internet. In addition to the procedures for proper billing, be sure to follow all proper documentation requirements to assure that the documentation adequately supports your claims for payment.

Background

The DME items covered by Medicare are medical equipment that often requires maintenance and repairs, and Medicare pays DME suppliers for that maintenance and those repairs in certain circumstances. Capped rental DME is a specific category of DME for which Medicare pays a fee schedule amount that is capped after 13 consecutive months of rental to a beneficiary.

Section 5101 of the Deficit Reduction Act of 2005 (DRA) revised the payment rules for capped rental DME so that ownership of the equipment would transfer to the beneficiaries after 13 continuous months of rental. During the audit conducted by the OIG's office, approximately 500 claims were reviewed and 34 beneficiary interviews were conducted. The finding of the claims reviews and beneficiary interviews was that claims for repairs of beneficiary-owned capped rental DME were improperly paid. Consequently the OIG recommended strategies to reduce improper payments and strengthen program integrity.

Key Points

DME is medical equipment that can withstand repeated use, serves a medical purpose, is not useful in the absence of an illness or injury, and is appropriate for home use. The following are the summarized findings listed in the OIG report:

- **From 2006 to 2008, suppliers erroneously billed Medicare for routine maintenance and servicing of capped rental DME with rental periods after implementation of the DRA.**
- **From 2006 to 2008, suppliers erroneously billed Medicare for repairs for beneficiary-rented capped rental DME.**

- **In 2007, Medicare allowed payment for some repair claims of beneficiary-owned capped rental DME that failed to meet payment requirements.** OIG review of supplier records indicate that 27 percent of allowed repair claims for beneficiary-owned capped rental DME in 2007 lacked medical necessity, service, or delivery documentation, or represented repairs to DME still under manufacturer or supplier warranties.
- **In 2007, Medicare allowed payment for repair claims for capped rental DME that were questionable because of missing information and high dollar allowed amounts for repairs relative to replacement costs.**
- **Supplier practices adversely affected some beneficiaries with high-cost repairs.** Beneficiaries with high-cost allowed repairs reported that some suppliers failed to properly customize Power Mobility Devices (PMD), rendering the PMDs useless to them, and that other suppliers did not offer loaner equipment when repairing PMDs, leaving some beneficiaries immobile. Some beneficiaries reported difficulties in contacting suppliers, and record reviews indicated that suppliers charged some beneficiaries service fees for repairs of capped rental DME. Finally, other beneficiaries reported that suppliers failed to provide instructions about the proper use of their equipment and information about repair charges.

Several payment policy changes have been implemented to improve the accuracy of payment for beneficiary-owned capped rental items.

- **Capped Rental Items** – The DRA required changes to payments for maintenance and servicing of capped rental items so that Medicare payment is no longer made at every 6 months for maintenance and servicing. Instead, once the beneficiary owns the capped rental item, Medicare will cover reasonable and necessary repairs and servicing, provided the repairs are not to items still covered (parts and/or labor) by the manufacturer's warranty. These changes are discussed in Change Request (CR) 5461, issued by CMS on February 2, 2007. That CR is available at **http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R1177CP.pdf** on the CMS website. A companion MLN Matters® article, MM5461 is also available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM5461.pdf** on the same site

- **Oxygen and Oxygen Equipment** – The Medicare Improvements for Patients and Providers Act (MIPPA) as of January 1, 2009, eliminated the requirement for suppliers to transfer title to oxygen equipment. Instead, the supplier who furnished the stationary and/or portable oxygen equipment during the 36-month rental period is required to continue furnishing the stationary and/or portable equipment following the 36-month rental period for any period of medical need for the remainder of the equipment's reasonable useful lifetime (5 years). This

requirement includes situations where there is a temporary break in need or break in use of the equipment of any duration after the 36-month rental cap. In such situations, the supplier remains responsible for furnishing the oxygen equipment after the break in need for the remainder of the reasonable useful lifetime during which the medical need for oxygen and oxygen equipment continues. A new rental period can begin if the equipment is replaced because it is lost, stolen, irreparably damaged, or is replaced after the reasonable useful lifetime expires.

- Effective for certain oxygen equipment (i.e., oxygen concentrators and oxygen transfilling equipment) but not for other gaseous or liquid oxygen equipment (stationary or portable), a maintenance and servicing fee can be billed with the "MS" modifier and is paid every 6 months, beginning 6 months after the 36th paid rental month or end of the period the item is no longer covered under the supplier's or manufacturer's warranty, whichever is later. The maintenance and servicing fee will be updated on an annual basis through program instructions based on the covered item update for DME. The payment covers all maintenance and servicing through the following 6 months that is needed in order to keep the oxygen equipment in good working order. A single payment ($65.93 for dates of service January 1, 2011, through December 31, 2011), is made per beneficiary regardless of the number of pieces of equipment serviced (stationary concentrator, portable concentrator, and/or transfilling equipment), regardless of when the maintenance and servicing is performed during each 6-month period, and regardless of how often the equipment must be maintained and serviced. The supplier is required to make at least one maintenance and servicing visit to inspect the equipment and provide any maintenance and servicing needed at the time of the visit during the first month of each 6-month period. These changes are discussed in Change Request (CR) 7248, issued by CMS on January 24, 2011.

- As discussed in CR6297, excerpted from MLN Matters® article MM6297): the monthly payment amount for oxygen and oxygen equipment covers equipment, contents, supplies and accessories. The supplier who received payment for furnishing the oxygen and oxygen equipment during the 36-month rental period is responsible for continuing to furnish any accessories and supplies necessary for the effective use of the equipment for any period of medical need following the 36-month rental cap for the remainder of the reasonable useful lifetime of the equipment. Therefore, separate payment shall not be made for replacement of supplies and accessories for use with oxygen equipment that are furnished on or after January 1, 2009. This applies to any supply or accessory billed under a miscellaneous HCPCS code, any codes added to the HCPCS in the future, or under the following current HCPCS codes:

HCPCS Code	Descriptor
A4608	Transtracheal oxygen catheter, each
A4615	Cannula, nasal
A4616	Tubing (oxygen), per foot
A4617	Mouth piece
A4619	Face tent
A4620	Variable concentration mask
A7525	Tracheostomy mask, each
E0555	Humidifier, durable, glass or autoclavable plastic bottle type, for use with regulator or flowmeter
E0560	Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery
E0580	Nebulizer, durable, glass or autoclavable plastic, bottle type, for use with regulator or flowmeter
E1353	Regulator
E1354	Wheeled cart for portable cylinder or concentrator (Added to HCPCS effective January 1, 2009)
E1355	Stand/Rack
E1356	Battery pack/cartridge for portable concentrator (Added to HCPCS effective January 1, 2009)
E1357	Battery charger for portable concentrator (Added to HCPCS effective January 1, 2009)
E1358	DC Power adapter for portable concentrator (Added to HCPCS effective January 1, 2009)

CMS will continue to improve its claims processing edits to improve the accuracy of payments for capped rental DME.

Additional Information

The entire OIG report, "A Review of Claims for Capped Rental Durable Medical Equipment," referenced in this SE1103 is available at **http://oig.hhs.gov/oei/reports/oei-07-08-00550.pdf** on the Internet.

CR6297 is available at **http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R421OTN.pdf** and the related article, MM6297 is at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM6297.pdf** on the CMS website.

If you have any questions, please contact your DME MAC at their toll-free number. That number is available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html** under - How Does It Work.

MLN Matters® article MM7212 (http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM7212.pdf) alerts providers that replacement parts for capped rental items billed during the 13-month capped rental period with the RB modifier will be denied.

MLN Matters® Article MM7389 (**http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM7389.pdf**) informs Medicare suppliers and DME MACs that Medicare payments is permissible to a non-contract, grandfathered supplier for furnishing certain purchased, covered accessories or supplies furnished for use with capped rental equipment.