

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

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Public Affairs Office

Fact Sheet

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Changes to Medicare Payment for Oxygen Equipment, Oxygen Contents, and Capped Rental Durable Medical Equipment

Overview

Today the Centers for Medicare & Medicaid Services (CMS) issued a final rule that changes how Medicare will pay for oxygen and oxygen equipment and capped rental items, and establishes new protections for beneficiaries who need these items. Oxygen and oxygen equipment and capped rental items are paid under the Medicare Part B durable medical equipment (DME) benefit. The final rule implements Section 5101 of the Deficit Reduction Act (DRA) requiring suppliers to transfer title of oxygen equipment to the beneficiary after 36 continuous months and capped rental items after 13 continuous months of rental payments. This policy change, which is required by the Deficit Reduction Act of 2005 (DRA), will reduce Medicare expenditures and beneficiary coinsurance payments for the affected items of DME.

In addition, as part of this rule, CMS is using its statutory authority provided by the Balanced Budget Act 1997 (BBA) to establish separate payment classes and monthly payments for oxygen generating portable equipment (OGPE). OGPE are new, alternative oxygen equipment technologies that meet all of the patient's oxygen needs without delivery of oxygen contents. CMS also used its authority to create separate classes for oxygen contents for stationary and portable oxygen equipment, resulting in an increase in the monthly payment amount from approximately \$20.77 to \$77.45 for delivery of portable oxygen contents for beneficiary-owned tanks and cylinders. These policies are intended to implement the DRA payment changes for oxygen in a way that does not eliminate the incentive for suppliers to provide new cost-effective oxygen equipment technology and to ensure beneficiary access to portable oxygen contents in the event that they are still using traditional portable oxygen systems.

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Background

Oxygen Equipment:

Under the payment methodology in effect before the DRA, Medicare made continuous monthly payments for those beneficiaries who use oxygen equipment as long as it was medically necessary. Beneficiaries were responsible for a 20 percent coinsurance of Medicare's payment on the rental of the equipment. As a result, a beneficiary's coinsurance payment would often exceed the purchase price of the oxygen equipment without the beneficiary acquiring title to the equipment.

Capped Rental Items:

Under the payment methodology in effect before the DRA, Medicare paid for certain types of DME under a capped rental arrangement, which allowed a beneficiary to either purchase the equipment after 13 continuous months or continually rent the equipment from the supplier. If the beneficiary continued to rent the equipment from the supplier, Medicare made two additional monthly payments and a semi-annual maintenance and servicing payment even if no services were furnished. Beneficiaries were responsible for a 20 percent payment equal to 20 percent of Medicare's allowed monthly rental payment amount for the equipment.

Legislative Background

Oxygen Equipment:

Effective January 1, 2006, section 5101(b) of the DRA of 2005 amended the Social Security Act limiting the total number of Medicare payments for oxygen equipment to 36 continuous months. After 36 continuous months of rental, the DRA requires that ownership for the stationary and/or portable oxygen equipment must be transferred from the supplier to the beneficiary. In the case of the beneficiaries using oxygen equipment on December 31, 2005, the 36 month rental period begins on January 1, 2006. The DRA also required that Medicare continue to make payments for delivery and refilling of oxygen contents for beneficiary owned gaseous or liquid systems for as long as it is medically necessary.

Capped Rental Items:

The DRA revised Medicare payments for capped rental items to 13 continuous months only. The DRA required that the supplier transfer ownership for the capped rental equipment to the beneficiary after the 13th continuous month of rental. This provision applies for capped rental items for which the first rental month occurs on or after January 1, 2006. A supplier must offer beneficiaries the opportunity to purchase a power-driven wheelchair at the time that the supplier furnishes the item.

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Maintenance and Servicing

The DRA required that Medicare make payments for reasonable and necessary maintenance and servicing of beneficiary owned oxygen and capped rental equipment for parts and labor not covered by the supplier's or manufacturer's warranty. With the exception of capped rental items furnished prior to January 1, 2006, maintenance and servicing payments may only be made after the supplier has transferred title to the equipment to the beneficiary.

Final Rule

CMS responded to public comments received and clarified Medicare payment for oxygen and oxygen equipment and capped rental items regarding number of rental months, maintenance and servicing, oxygen contents, replacement of equipment and supplies and accessories necessary for the effective use of the equipment. In addition, CMS established supplier requirements to safeguard beneficiaries, and established new payment classes for oxygen and oxygen equipment to reflect new technology and adequate compensation for delivery and refilling of portable contents.

Maintenance and Servicing and Replacements

- Medicare has traditionally paid for reasonable and necessary maintenance and servicing for beneficiary owned items. CMS will continue applying these policies also to beneficiary owned oxygen equipment. All reasonable and necessary maintenance of beneficiary owned capped rental or oxygen equipment which must be performed by authorized technicians would be covered.
- For the final rule, CMS will make payments for general maintenance and servicing visits every six months, beginning six months after ownership, in addition to reasonable and necessary repairs, for beneficiary-owned oxygen concentrators and OGPE. Payment is limited to 30 minutes of labor based on carriers' rates.
- Payment for maintenance and servicing of beneficiary owned equipment (unless covered by a supplier's or manufacturer's warranty) will be based on the same method currently used for other beneficiary owned DME. Payment is currently made for parts and labor based on payment amounts established by the carriers. Some manufacturers of commonly used oxygen equipment offer full warranties that cover parts for up to five years.
- Medicare has also traditionally paid for loaner equipment while a beneficiary's equipment is being repaired. CMS will continue these policies as well for beneficiary owned oxygen equipment and capped rental items.

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- There will be no general maintenance and servicing payments for beneficiary-owned liquid and gas equipment; however, there will be one payment for pick-up and storage or disposal of liquid and gas equipment in the case when a beneficiary no longer medically needs it. CMS expects that, since the supplier is paid to deliver liquid and gas equipment every month to the beneficiary, the equipment will be in proper working condition and therefore additional general maintenance and service visits are not needed.
- Suppliers are responsible for replacement of beneficiary owned oxygen equipment or capped rental items for equipment that ceases to function due to the need for extensive repairs during the reasonable useful lifetime for DME, which is 5 years. This requirement would not apply in the case where replacement is covered under a supplier's or manufacturer's warranty.
- Separate payment for replacement of supplies and accessories (e.g. cannulas, tubing) will continue after ownership of the equipment transfers to the beneficiary.

Oxygen Classes and Payment Rates

- CMS established a new class and monthly payment amount for OGPE, which includes oxygen transfilling equipment and portable oxygen concentrators. , For the final rule, an OGPE add-on payment, applicable during the three-year rental period, will be made for these systems that eliminate the need for delivery and refilling of oxygen contents for portable systems. The OGPE add-on payment for 2007 will be \$51.63. Payments for the new OGPE add-on will begin on January 1, 2007 for new and existing oxygen users.
- CMS also increased monthly payment amounts from approximately \$20.77 to \$77.45 for portable oxygen contents that need to be delivered for beneficiary owned liquid or gaseous oxygen equipment. Payments for the increased portable oxygen contents will be effective on January 1, 2007 for new and existing oxygen users.
- BBA provision requires payment changes to be budget neutral annually. To achieve budget neutrality for these rate changes, we adjusted Medicare oxygen payment rates for each year. As a result, the monthly payment amount for stationary oxygen equipment will decrease each year. For 2007, the payment rate for stationary equipment would be \$198.40. The projected rate for 2008 is \$198.40; for 2009 is \$193.21; and for 2010 is \$189.39. Budget neutrality requires that Medicare's total spending for all modalities of oxygen equipment, including contents, be the same under the proposed change as it would be without the change.

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- Our budget neutrality calculations were based on an assumption that five percent of oxygen users will shift to use OGPE equipment. We will revise payment rates through program instruction under the methodology specified in the final rule based actual OGPE use and updated data on the distribution of beneficiaries using oxygen equipment.

Beneficiary Safeguards

- CMS established additional safeguards for beneficiaries now that beneficiaries will own their oxygen equipment and capped rental item. CMS is requiring that a supplier who furnishes rented oxygen equipment/capped rental to the beneficiary must continue to furnish that item throughout the whole rental period except in certain circumstances specified in the final rule.
- Suppliers may not switch out equipment at any time during the 36 or 13 month rental period unless (a) the item was lost, stolen, irreparably damaged, being repaired or no longer functions, (b) physician orders a different equipment and (c) beneficiary chooses to obtain a newer technology or upgraded item and signs an advanced beneficiary notice acknowledging his or her liability. In all cases, suppliers must replace the equipment with an equipment of the same or better value.
- CMS is requiring that the supplier disclose to the beneficiary its intentions regarding assignment of all potential monthly rental claims for oxygen equipment/capped rental DME items. CMS will post this information on a CMS or CMS contractor website(s) indicating (1) the percentage of beneficiaries for which a supplier accepts assignment and (2) the percentage of cases which the supplier accepted assignment during the beneficiary's entire rental period.
- In cases where a beneficiary moves, either temporarily or permanently outside the initial supplier's service area, CMS is allowing arrangements for another supplier to furnish the item on either a temporary or permanent basis.

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