



The Lewin Group  
3130 Fairview Park Drive  
Suite 800  
Falls Church, VA 22042  
703.269.5500/Fax 703.269.5501  
www.lewin.com

September 22, 2006

Tyler J. Wilson  
President & CEO  
American Association for Homecare  
625 Slaters Lane, Suite 200  
Alexandria, VA 22314

Dear Mr. Wilson:

The Lewin Group is pleased to provide you and the association with an independent assessment of: 1) the likely impact of the Notice for Proposed Rulemaking (NPRM) on Medicare payment for home oxygen therapy and oxygen equipment; and, 2) the extent to which the proposed rule meets the budget neutrality requirement.

After careful assessment of the proposed rule and a financial analysis using CMS' utilization figures, The Lewin Group has concluded that the proposed payments are not budget neutral for oxygen and oxygen equipment in 2007. The proposed regulations would result in a reduction of approximately 10 percent (\$257M) in the amount paid for oxygen and equipment in 2007 alone, with additional payment reductions from the capped rental provision in the Deficit Reduction Act that requires providers to transfer title of oxygen equipment to the beneficiary after 36 months of rental. Table 1 summarizes our findings.

**Table 1: Impact of NPRM on Medicare Payment for Oxygen and Oxygen Equipment in 2007**

	<b>In Millions</b>
<b>Total Calculated Payment - Current</b>	\$2,607
<b>Proposed Payment - NPRM</b>	\$2,349
<b>Calculated Loss to Industry</b>	\$ 257

Source: Lewin Group analysis.

Under the proposed rule, CMS changes the oxygen classification system, dividing stationary and portable oxygen contents into two separate payment classes. The proposal also calls for a third payment class for new technologies, such as portable concentrators and home transfilling systems, that eliminate the need for refilling and delivery of oxygen contents.

According to the NPRM, payment for portable oxygen contents would increase to \$55 compared to the current average payments of \$21, but the monthly payment amounts for stationary oxygen equipment and contents would drop from an average of \$199 to \$177.

The proposed payment rates take effect January 1, 2007 and are as follows:

- Stationary payment: \$177
- Portable add-on: \$32
- Oxygen-generating portable equipment add-on (portable concentrators or transfilling systems): \$64
- Stationary contents delivery: \$101
- Portable contents delivery: \$55

### **Lewin Group Analysis**

Our analysis involved several steps, beginning with identifying utilization and payment data supplied by CMS in the NPRM, as outlined below. We first calculated the current payment for oxygen and oxygen equipment provided to 975,561 Medicare beneficiaries per month (11,706,733 per year using 2004 claims). We then calculated payment using the proposed rates, assuming no migration into portable concentrators or transfilling equipment. See Table 2, where the rule results in a reduction in payment of \$257,548,126.

Utilization data provided in the proposed rule were based on Medicare beneficiary claims for 2004. Unfortunately, these claims do not provide specific utilization rates for portable concentrators or transfilling systems, since separate HCPC codes did not exist for these services at that time. In order to determine the potential impact of the multiple changes in payments across modalities, The Lewin Group estimated a migration in modality use from stationary concentrators to the portable concentrators or transfilling systems of five percent, consistent with industry estimates. See Table 3, where the rule results in a reduction in payment of \$238, 817,353.

**Table 2: Impact of NPRM on Oxygen and Oxygen Equipment for 2007 – Assumes No Migration into O2 Generating**

<b>Payment Analysis- Impact of NPRM</b>	<b>Current Per Month Payment</b>	<b>Proposed Payment</b>	<b>Proportion Users</b>	<b>Number of Users- Annual</b>	<b>Number of Users - Per Month</b>	<b>Total Current Annual Payment</b>	<b>Total Annual Proposed Payment</b>	<b>Proposed Difference in Annual Payment</b>
<b>Stationary Concentrator</b>	\$199	\$177	24%	2,809,616	234,135	\$559,113,568	\$497,302,018	<b>-\$61,811,550</b>
<b>Stationary Liquid/Gas System</b>	\$199	\$177	2%	234,135	19,511	\$46,592,797	\$41,441,835	<b>-\$5,150,963</b>
<b>Stationary Concentrator + Portable System</b>	\$231	\$209	69%	8,077,646	673,137	\$1,865,936,173	\$1,688,227,966	<b>-\$177,708,207</b>
<b>Stationary Concentrator + O2 Generating Portable</b>	\$231	\$241	0%	0	0	\$0	\$0	\$0
<b>Stationary Liquid Gas System + Portable</b>	\$231	\$209	5%	585,337	48,778	\$135,212,766	\$122,335,360	<b>-\$12,877,406</b>
<b>Stationary L/G + O2 Generating Portable</b>	\$231	\$241	0%	0	0	\$0	\$0	\$0
<b>Beneficiaries on O2</b>				11,706,733	975,561	\$2,606,855,304	\$2,349,307,178	<b>-\$257,548,126</b>


**Table 3: Impact of NPRM on Oxygen and Oxygen Equipment for 2007 – Assumes 5% Migration into O2 Generating**

<b>Equipment Modality</b>	<b>Current Per Month Payment</b>	<b>Proposed Payment</b>	<b>Proportion Users</b>	<b>Number of Users-Annual</b>	<b>Number of Users - Per Month</b>	<b>Total Current Annual Payment</b>	<b>Total Annual Proposed Payment</b>	<b>Proposed Difference in Annual Payment</b>
<b>Stationary O2 Concentrator</b>	\$199	\$177	24%	2,809,616	234,135	\$559,113,568	\$497,302,018	<b>-\$61,811,550</b>
<b>Stationary Liquid/Gas System</b>	\$199	\$177	2%	234,135	19,511	\$46,592,797	\$41,441,835	<b>-\$5,150,963</b>
<b>Stationary O2 Concentrator + Portable System</b>	\$231	\$209	64%	7,492,309	624,359	\$1,730,723,407	\$1,565,892,606	<b>-\$164,830,801</b>
<b>Stationary O2 Concentrator + O2 Generating Portable</b>	\$231	\$241	5%	585,337	48,778	\$135,212,766	\$141,066,133	\$5,853,367
<b>Stationary Liquid Gas System + Portable</b>	\$231	\$209	5%	585,337	48,778	\$135,212,766	\$122,335,360	<b>-\$12,877,406</b>
<b>Stationary Liquid/Gas System + O2 Generating Portable</b>	\$231	\$241	0%	0	0	\$0	\$0	\$0
<b>Beneficiaries on O2</b>				11,706,733	975,561	\$2,606,855,304	\$2,368,037,951	<b>-\$238,817,353</b>

In addition to the straightforward analysis described in the preceding table, we simulated several different potential scenarios to determine what it would take to result in the proposed payment rates being budget neutral in the first year of implementation. The proposed payment for oxygen and oxygen equipment based on the newly proposed rates (2004 utilization) vary depending on the assumptions related to migration from stationary concentrators to portable equipment. With a two percent migration in 2007, the payment would be \$2,415,840,000, with a loss to industry of \$256,320,000. The negative impact on the industry decreases as migration assumptions increase. With a 20 percent migration, the loss to industry would be \$162,120,000. In order for the proposed payments to be budget neutral, one would have to assume a 73% migration from stationary to O2 generating portable equipment in the first year. It is our understanding that this kind of shift in the first year of the new payment rates is not possible.

In the event that we can be of further help in your work, please do not hesitate to call.

Sincerely,



Joan E. DaVanzo, PhD  
Vice President