

DME MAC Jurisdiction A

Medicare Billing Requirements and Policies for Replacement of Oxygen Equipment and Oxygen Contents (CMS Message 2009-01-28) ([OXY](#))

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This message is for suppliers and home health agencies that furnish oxygen and oxygen equipment to Medicare beneficiaries.

Suppliers of oxygen and oxygen equipment need to be aware of the procedures for submitting claims for oxygen and oxygen equipment following the enactment of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) on July 15, 2008.

Section 144(b) of MIPPA took effect on January 1, 2009, and repeals the requirement for you to transfer title to oxygen equipment to the beneficiary after the 36 month payment cap mandated by the Deficit Reduction Act of 2005. Section 144(b) of MIPPA also establishes new payment rules and supplier responsibilities following the 36 month payment period. See *Medicare Learning Network – MLN Matters* number SE0840 for additional information about these new rules. This listserv message provides specific instructions for submitting claims for oxygen contents and replacement of oxygen equipment.

REPLACEMENT OF OXYGEN EQUIPMENT

New HCPCS Modifier for Replacement of DME

Effective January 1, 2009, the following modifiers was added to the Healthcare Common Procedure Coding System (HCPCS):

RA – Replacement of a DME item;

This modifier is to be used on claims for replacement of oxygen equipment with dates of service on or after January 1, 2009. HCPCS modifier RP, which was discontinued effective December 31 2008, remains in effect for claims with dates of service prior to January 1, 2009.

- If oxygen equipment is replaced because the equipment has been in continuous use by the patient for the equipment's reasonable useful lifetime or is lost, stolen, or irreparably damaged, the patient may elect to obtain a new piece of equipment. Irreparable damage refers to a specific incident of damage to equipment such as equipment falling down a flight of stairs as opposed to equipment that is worn out over time. In these situations, a new 36-month rental period and new reasonable useful lifetime is started on the date that the new, replacement item is furnished. Claims for the replacement of oxygen equipment for the first month of use only are billed using the HCPCS

code for the new equipment and either the RA or RP HCPCS modifier depending on the date that the equipment is furnished.

- You must include on the claim for the first month of use a narrative explanation of the reason why the equipment was replaced and supporting documentation must be maintained in your files. For example, if equipment is stolen, you should keep a copy of the police report in your files. For lost or irreparably damaged equipment, you should maintain any documentation that supports the narrative account of the incident. For reasonable useful lifetime replacements, the narrative explanation should include the date that the beneficiary received the equipment being replaced.
- When submitting claims electronically for replacement of oxygen equipment, you may use, for the narrative explanation, loop 2400 (line note), segment NTE02 (NTE01=ADD) of the ASC X12, version 4010A1 professional electronic claim format. If you are billing using the Form CMS-1500 paper claim, you may report this information in item 19 of the claim form.
- If you are a home health agency submitting claims electronically for replacement of oxygen equipment, you may use, for the narrative explanation, loop 2300, segment NTE (billing note) of the ASC X12, version 4010A1 institutional electronic claim format. If you are a home health agency billing using the UB-04 paper claim, you may report this information in Form Locator 80 (Remarks).
- A new certificate of medical necessity (CMN) is required in situations where oxygen equipment is replaced because the equipment has been in continuous use by the patient for the equipment's reasonable useful lifetime or is lost, stolen, or irreparably damaged. New testing, however, is not required unless it is necessary in order to meet existing medical review guidelines for oxygen and oxygen equipment. You should continue to follow the existing guidelines requiring recertification CMNs for all situations in which oxygen equipment is being replaced. The most recent qualifying value and testing date should be entered on the CMN.
- As is the case for all DME items, you must maintain proof-of-delivery documentation in your files for replacement oxygen equipment. In addition, for equipment that is being replaced because it has been in continuous use by the beneficiary for the reasonable useful lifetime and the beneficiary has elected to obtain new equipment, you must also have proof-of-delivery documentation in your files for the item being replaced that documents that the oxygen equipment has been in use for at least 5 years.

Change in Oxygen Equipment during the Reasonable Useful Lifetime Period

- The reasonable useful lifetime for stationary or portable oxygen equipment begins when the oxygen equipment is first delivered to the beneficiary and continues until the point at which the stationary or portable oxygen equipment has been used by the beneficiary on a continuous basis for 5 years. Computation of the reasonable useful lifetime is not based on the age of the equipment.
- If there is a change in oxygen equipment modalities (e.g., from a concentrator to a stationary liquid oxygen system) prior to the end of the reasonable useful lifetime period, this does not result in the start of a new reasonable useful lifetime period or a new 36 month payment period. In

addition, if you have to replace oxygen equipment that is not functioning properly prior to the end of the reasonable useful lifetime period, this does not result in the start of a new reasonable useful lifetime period or a new 36 month payment period. Finally, if the beneficiary switches to a new supplier and new equipment prior to the end of the reasonable useful lifetime period, this does not result in the start of a new reasonable useful lifetime period or a new 36 month payment period.

- A beneficiary may elect to obtain new oxygen equipment at the end of the 5 year reasonable useful lifetime period in these situations.

Clarification of Policy Regarding Continuous Use of Oxygen and Oxygen Equipment

- The instructions pertaining to payments for capped rental items during a period of continuous use now apply to the monthly payment amounts for oxygen and oxygen equipment and the portable oxygen equipment add-on payments.
- A period of continuous use allows for temporary interruptions in the use of the equipment. For breaks in need (beneficiary no longer needs or uses the equipment) of less than 60 days plus the days remaining in the last paid rental month, the period of continuous use does not start over and so the count of continuous months picks up where it left off before the break. For example, if the last paid rental month is month #31 and there is a 50 day break in need, the next paid rental month would be month #32.
- If, however, there is a break in need more than 60 days plus the days remaining in the last paid rental month, and the need for the equipment resumes at a later date, a new period of continuous use, a new 36-month payment period, and a new reasonable useful lifetime period would begin provided that you have submitted the following:
 - New medical necessity documentation (i.e., a new CMN and retesting) for oxygen and oxygen equipment and/or portable oxygen equipment;

AND

- A narrative explanation describing the reason for the interruption which shows that medical necessity in the prior episode ended. When submitting claims electronically for replacement of oxygen equipment, you may use, for the narrative explanation, loop 2400 (line note), segment NTE02 (NTE01=ADD) of the ASC X12, version 4010A1 professional electronic format. If you are billing using the Form CMS-1500 paper claim, you may report this information in item 19 of the claim form. If you are a home health agency submitting claims electronically for replacement of oxygen equipment, you may use, for the narrative explanation, loop 2300, segment NTE (billing note) of the ASC X12, version 4010A1 institutional electronic claim format. If you are a home health agency and are billing using the UB-04 paper claim, you may report this information in Form Locator 80 (Remarks). Suppliers and home health agencies are not to use modifier RA on these claims.

PLEASE NOTE: If medical necessity for the equipment continues during a break in billing/Part B payment (e.g., the beneficiary is hospitalized for 70 days but continues to use oxygen equipment during the hospital stay), this DOES NOT constitute a break in need, and therefore, a new period of continuous use DOES NOT begin. In these situations, the count of continuous months picks up where it left off before the break.

OXYGEN CONTENTS

Payment for Oxygen Contents (General Policy)

- If you furnished liquid or gaseous oxygen equipment during the 36-month rental period, you are responsible for furnishing the oxygen contents used with the oxygen equipment for any period of medical need following the 36-month rental cap for the remainder of the reasonable useful lifetime of the equipment.
- In these situations, you can bill for and receive a monthly payment for furnishing oxygen contents (see chart below).

Payment for Oxygen Contents (When Monthly Payments May Begin)

- Payment for both oxygen contents used with stationary oxygen equipment and oxygen contents used with portable oxygen equipment is included in the 36 monthly payments for oxygen and oxygen equipment (stationary oxygen equipment payment) made for codes E0424, E0439, E1390, or E1391. Beginning with dates of service on or after the end date of service for the month representing the 36th payment for code E0424, E0439, E1390, or E1391, you may bill on a monthly basis for furnishing oxygen contents (stationary and/or portable), but only in accordance with the following chart:

Equipment Furnished in Month 36	Monthly Contents Payment after Stationary Cap
Oxygen Concentrator (E1390, E1391, or E1392)	None
Portable Gaseous Transfilling Equipment (K0738)	None
Portable Liquid Transfilling Equipment (E1399)	None
Stationary Gaseous Oxygen System (E0424)	Stationary Gaseous Contents (E0441)
Stationary Liquid Oxygen System (E0439)	Stationary Liquid Contents (E0442)
Portable Gaseous Oxygen System (E0431)	Portable Gaseous Contents (E0443)
Portable Liquid Oxygen System (E0434)	Portable Liquid Contents (E0444)

- You may not bill for stationary oxygen contents if the beneficiary uses a stationary concentrator and you may not bill for portable oxygen contents if the beneficiary uses a portable concentrator or transfilling equipment.

PLEASE NOTE: The descriptors for HCPCS codes E0441 through E0444 reflect older policies and regulations and need to be revised to reflect current policies and regulations. For now, each of these four codes represents monthly delivery of either stationary or portable oxygen contents. The language in parentheses in the descriptors for each of these codes should be disregarded.

- If the beneficiary began using portable gaseous or liquid oxygen equipment (E0431 or E0434) more than one month after they began using stationary oxygen equipment, monthly payments for portable gaseous or liquid oxygen contents (E0443 or E0444) may begin following the stationary oxygen equipment payment cap AND prior to the end of the portable equipment payment cap (code E0431 or E0434). As long as the beneficiary is using covered gaseous or liquid portable oxygen equipment, payments for portable oxygen contents may begin following the stationary oxygen equipment payment cap. This will result in a period during which monthly payments for E0431 and E0443, in the case of a beneficiary using portable gaseous oxygen equipment, or E0434 and E0444, in the case of a beneficiary using portable liquid oxygen equipment, overlap. In these situations, after the 36-month portable oxygen equipment payment cap for E0431 or E0434 is reached, monthly payments for portable oxygen contents (E0443 or E0444) would continue.
- If the beneficiary began using portable gaseous or liquid oxygen equipment (E0431 or E0434) following the 36-month stationary oxygen equipment payment period, payments may be made for both the portable equipment (E0431 or E0434) and portable contents (E0443 or E0444).
- In all cases, separate payment for oxygen contents (stationary or portable) would end in the event that a beneficiary receives new stationary oxygen equipment and a new 36-month stationary oxygen equipment payment period begins (i.e., in situations where stationary oxygen equipment is replaced because the equipment has been in continuous use by the patient for the equipment's reasonable useful lifetime or is lost, stolen, or irreparably damaged). Again, the monthly payment for stationary oxygen equipment includes payment for both stationary and portable oxygen contents. Therefore, under no circumstances can you receive both the monthly stationary oxygen equipment payment and payment for either stationary or portable oxygen contents.

Proof-of-Delivery Requirements for Oxygen Contents

- Following the stationary oxygen equipment payment cap, you may bill for oxygen contents (stationary and/or portable in accordance with the chart above) on the anniversary date of the oxygen equipment billing.

For example, if the 36th month of continuous use of the stationary oxygen equipment begins on March 11th and ends on April 10th, you may begin billing for monthly oxygen contents that the beneficiary will use after the cap on April 11th.

- For subsequent months, you do not need to deliver the oxygen contents every month in order to continue billing for the contents on a monthly basis. A maximum of 3 months of oxygen contents can be delivered at one time. In these situations, the delivery date of the oxygen contents does not have to be the DOS (anniversary date) on the claim. However, in order to bill for contents for a specific month, you must have previously delivered quantities of oxygen that are sufficient to last for one month following the date of service on the claim. You are required to have proof-of-delivery for each actual delivery of oxygen, but as discussed above, this may be less often than monthly.

For example, if you deliver 30 oxygen tanks on April 11th and the beneficiary only uses 15 tanks from April 11th through May 10th and 15 tanks from May 11th through June 10th, you may bill

for contents on April 11th and again on May 11th for contents delivered on April 11th that were used for two months.

A Change Request (CR) and an MLN Matters Article will be forthcoming that will incorporate the information contained in this listserv message.