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MLN Matters® Number: MM6990 | Related Change Request (CR) #: 6990

Related CR Release Date: June 8, 2010 | Effective Date: July 1, 2010

Related CR Transmittal #: R717OTN | Implementation Date: July 9, 2010

# Clarification of the Date of Service for Maintenance and Servicing Payments for Certain Oxygen Equipment after July 1, 2010

## Provider Types Affected

This article is for suppliers submitting claims to Medicare contractors (Regional Home Health Intermediaries (RHHI), Medicare Administrative Contractors (MAC) and/or Durable Medical Equipment Medicare Administrative Contractors (DME MAC)) for oxygen services provided to Medicare beneficiaries.

## What You Need to Know

CR 6990, from which this article is taken, clarifies (effective July 1, 2010) the date of service (DOS) of an oxygen equipment maintenance and servicing visit as discussed in CR 6792 (Maintenance and Servicing Payments for Certain Oxygen Equipment After July 1, 2010).

In particular, please note one element of this clarification, i.e., CR 6990 requires that the applicable date of Service (DOS) must be at least 6 months after the 36-month rental cap for oxygen equipment or the end of the warranty period for maintenance and servicing, whichever is later. Further, before a supplier can bill for maintenance and servicing, the supplier must verify and document in

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their records that the oxygen equipment is no longer covered under a warranty and the supplier must visit the beneficiary's home to inspect the equipment.

Please see the background section, below, for additional information; and you should make sure that your billing staffs are aware of these clarifications.

## Background

CR 6792 (released on February 5, 2010) announced (for dates of service on or after July 1, 2010) that Medicare regulation 42 CFR 414.210(e) (5) permits one payment for all maintenance and servicing of certain oxygen equipment during each 6-month period, beginning 6 months after the end of the 36-month rental period for oxygen equipment. (You can find the associated MLN Matters® article at *http://www.cms.gov/MLNMattersArticles/downloads/MM6792.pdf* on the CMS website.)

Medicare contractors and durable medical equipment (DME) suppliers requested clarification for particular situations that are listed below, and CR 6990 (from which this article is taken) provides that clarification.

This clarification in date of service (DOS) applies to the following oxygen concentrators and oxygen transfilling equipment, HealthCare Common Procedure Coding System (HCPCS) codes:

- E1390 – Oxygen concentrator, single delivery port, capable of delivering 85 percent or greater oxygen concentration at the prescribed flow rate;
- E1391 -- Oxygen concentrator, dual delivery port, capable of delivering 85 percent or greater oxygen concentration at the prescribed flow rate, each;
- E1392 – Portable oxygen concentrator, rental;
- E0433 – Portable liquid oxygen system, rental; home liquefier used to fill portable liquid oxygen containers, includes portable containers, regulator, flowmeter, humidifier, cannula or mask and tubing, with or without supply reservoir and contents gauge; and
- K0738 – Portable gaseous oxygen system, rental; home compressor used to fill portable oxygen cylinders; includes portable containers, regulator, flowmeter, humidifier, cannula or mask, and tubing.

It does not apply to beneficiary-owned oxygen equipment or to the following liquid and gaseous oxygen equipment HCPCS codes:

- E0424 – Stationary compressed gaseous oxygen system, rental; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, and tubing;

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- E0431 – Portable gaseous oxygen system, rental; includes portable container, regulator, flowmeter, humidifier, cannula or mask, and tubing;
- E0434 – Portable liquid oxygen system, rental; includes portable container, supply reservoir, humidifier, flowmeter, refill adaptor, contents gauge, cannula or mask, and tubing; or
- E0439 – Stationary liquid oxygen system, rental; includes container, contents, regulator, flowmeter, humidifier, nebulizer, cannula or mask, & tubing.

CR 6990 clarifies the following situations

1. Date of Service for Multiple Visits
   If multiple maintenance and servicing visits are needed, the DOS is the date of the first visit in the first month of the 6-month period during which an in home inspection of the equipment was performed.
2. Date of Service for Delayed Visits
   If an unavoidable delay (e.g., hospitalization of the beneficiary or beneficiary is out of the service area) causes the DOS to occur after the first month of a 6-month period, the DOS is the date of the first visit after the delay during which an in home inspection of the equipment was performed. The reason for the unavoidable delay must be documented by the supplier and maintained in the supplier's records. Payment for subsequent maintenance and servicing visits can occur no earlier than 6 months after the DOS of the delayed visit (i.e., the last visit date used to bill for the maintenance and servicing payment). As a result, a new sequence of 6 month periods for maintenance and service payment is established.
3. Date of Service for Multiple Pieces of Oxygen Equipment
   If both a stationary concentrator and portable transfilling equipment are serviced, and the 36-month rental payment cap for one piece of equipment was reached at a different time than the 36-month rental payment cap for the other piece of equipment, the DOS is the date of the visit which occurs during the 6-month period following the earliest of the dates that the 36-month rental caps was reached for either piece of equipment. Only one payment is allowable per beneficiary regardless of the number of pieces of equipment serviced (stationary concentrator, portable concentrator, and/or transfilling equipment).
4. Date of Service When a Maintenance and Servicing Warranty Applies
   The applicable DOS must be at least 6 months after the 36-month rental cap for oxygen equipment or the end of the warranty period for maintenance and servicing, whichever is later.

Please remember that only one maintenance and servicing payment may be made for each 6-month period, regardless of the combination of stationary and portable oxygen equipment that the beneficiary uses. In addition, payment for maintenance

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and servicing cannot be made if the oxygen equipment is covered under a warranty; therefore, before you can bill for maintenance and servicing, you must confirm, and record, that the oxygen equipment is no longer covered under a warranty; and visit the beneficiary's home to inspect the equipment.

Finally, keep in mind that the *Medicare Claims Processing Manual*, Chapter 20 (Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)), Section 40 (Payment for Maintenance and Service for Non-ESRD Equipment), Subsection 40.1 (General) instructs your contractor to refer cases to the program integrity specialist if claims are submitted that do not appear to comply with program instructions.

For reference, a summary of service details from CR 6792 follows:

1. If a combination of stationary concentrator (E1390 or E1391) and transfilling equipment (K0738 or E0433) is furnished, the supplier should bill for the maintenance and servicing payment using the code for the concentrator (E1390 or E1391) and the MS modifier.
2. If a portable concentrator (billed using a combination of codes E1390 and E1392 during the 36-month rental period) is furnished, the supplier should bill for the maintenance and servicing payment using the code for the concentrator (E1390 or E1391) and the MS modifier.
3. Code E1392 should not be used when billing for maintenance and servicing.
4. If transfilling equipment (K0738 or E0433) is furnished and a separate concentrator is not furnished or is owned by the beneficiary, the supplier should bill for the maintenance and servicing payment using the code for the transfilling equipment (K0738 or E0433) and the MS modifier.
5. Also, only one maintenance and servicing payment may be made for each 6-month period, regardless of the number of visits. Although a visit is not required, separate payment is not allowable without an in home visit to inspect the equipment. Even if the supplier does not perform a maintenance and servicing visit and forgo payment, 42 CFR 414.226(f)(1) continues to require the supplier that furnished the oxygen equipment for the 36th continuous rental month to furnish the equipment in good working order for the remaining period of medical need or the end of the equipment's reasonable useful lifetime (5 years).

## Additional Information

You can find the official instruction, CR 6990, issued to your RHHI, MAC, or DME MAC by visiting *http://www.cms.gov/Transmittals/downloads/R717OTN.pdf* on the CMS website.

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

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