

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Centers for Medicare & Medicaid Services



**News Flash** – 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/MLNProducts/downloads/MedQtrlyCompNL\\_Archive.pdf](http://www.cms.gov/MLNProducts/downloads/MedQtrlyCompNL_Archive.pdf) on the Centers for Medicare & Medicaid (CMS) website.

MLN Matters® Number: MM7213

Related Change Request (CR): 7213

Related CR Release Date: April 8, 2011

Effective Date: May 8, 2011

Related CR Transmittal #: R8710TN

Implementation Date: May 8, 2011

## **Implementation of New Reasonable Useful Lifetime (RUL) Policy for Stationary and Portable Oxygen Equipment**

### **Provider Types Affected**

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This article is for suppliers billing Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and/or Regional Home Health Intermediaries (RHHIs) for portable and stationary oxygen equipment for Medicare beneficiaries.

### **Provider Action Needed**

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Change Request (CR) 7213 implements changes to address situations in which a beneficiary has both portable and stationary oxygen equipment and the RUL for one piece of equipment expires before the RUL for the other piece of equipment has been reached.

### **Background**

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This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents. CPT only copyright 2010 American Medical Association.

CR 7213 results in systems changes to establish new RUL policies for instances where the beneficiary has both portable and stationary oxygen equipment and the RUL for one piece of equipment expires before the RUL for the other piece of equipment has been reached. In most cases, a beneficiary who requires both stationary and portable oxygen will have developed the need for both stationary and portable oxygen at the same time, will have received their stationary and portable oxygen equipment at the same time, and will be in a situation where the RUL for the stationary oxygen equipment ends at the same time that the RUL for the portable oxygen equipment ends. At the end of the RUL, the beneficiary can elect to obtain new oxygen equipment.

Payment for portable oxygen equipment under Medicare is made as an add-on to the monthly payment amount for oxygen and oxygen equipment, which includes payment for stationary equipment, stationary oxygen contents, and portable oxygen contents. As a general rule, the same supplier that furnishes the stationary oxygen equipment to a beneficiary and receives the monthly payment for oxygen and oxygen equipment should also be furnishing the portable oxygen equipment to that beneficiary since a component of the payment for portable oxygen (portable oxygen contents) is included in the monthly payment amount for oxygen and oxygen equipment. A supplier of either stationary oxygen equipment or portable oxygen equipment that has furnished the equipment for 36 months of continuous use must continue to furnish the oxygen equipment to the beneficiary for the remainder of the RUL. Under the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) competitive bidding program, this responsibility does not transfer to a contract supplier if the supplier is not awarded a contract. When the RUL for oxygen equipment ends and the beneficiary elects to obtain replacement oxygen equipment, the replacement equipment must be furnished by a contract supplier and cannot be furnished by a non-contract supplier.

At the start of a competitive bidding program, a supplier that is not awarded a contract for furnishing oxygen and oxygen equipment under the program may elect to continue or may be required to continue furnishing oxygen and oxygen equipment to beneficiaries they are currently serving:

1. They may elect to be a grandfathered supplier for oxygen and oxygen equipment that has not yet reached the 36-month rental cap for all of their current customers who are Medicare beneficiaries residing in a DMEPOS Competitive Bidding Area (CBA); or
2. They are required to continue furnishing oxygen and oxygen equipment for which they received the 36th rental payment prior to the start of the program for the remainder of the RUL established for the equipment.

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**Note: These new RUL policies outlined below apply to oxygen and oxygen equipment furnished to Medicare beneficiaries in general and are not restricted to oxygen and oxygen equipment furnished to beneficiaries residing in CBAs.**

## Key Points of CR7213

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The following rules apply in situations where the beneficiary is using both stationary and portable oxygen equipment with different RUL end dates.

- When the RUL of a beneficiary's portable oxygen equipment differs from the RUL of the beneficiary's stationary oxygen equipment, the RUL of the stationary oxygen equipment shall govern the application of RUL-based rules and processes for both types, stationary and portable, of oxygen equipment.
- Until such time, as the end date of the RUL of the stationary oxygen equipment is reached, the supplier must continue to furnish both the portable and stationary oxygen equipment.
  - If the end date of the RUL of the portable oxygen equipment **precedes** the end date of the RUL of the stationary oxygen equipment, the end date of the RUL of the portable oxygen equipment is adjusted (**extended**) to coincide with the end date of the RUL of the stationary oxygen equipment.
  - If the end date of the RUL of the portable oxygen equipment **follows** the end date of the RUL of the stationary oxygen equipment, the end date of the RUL of the portable oxygen equipment is adjusted (**shortened**) to coincide with the end date of the RUL of the stationary oxygen equipment.
- When the end date of the RUL of the stationary oxygen equipment occurs, the beneficiary may elect to obtain replacement of both the stationary and the portable oxygen equipment.
- If the beneficiary elects to obtain replacement of the stationary and the portable oxygen equipment, both types of oxygen equipment must be replaced at the same time.
- When the stationary and the portable oxygen equipment are replaced, a new 36-month rental period and new RUL is started for both the replacement stationary oxygen equipment and the replacement portable oxygen equipment.

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- Beginning January 1, 2011, a beneficiary who resides in a DMEPOS CBA may obtain replacement of both the stationary and portable oxygen systems only from a contract supplier having a competitive bidding contract for the CBA in which the beneficiary permanently resides.
- A grandfathered supplier for oxygen and other grandfathered equipment as of January 1, 2011, who has continued to furnish such equipment that has not yet reached the 36-month rental cap, does not qualify to furnish replacement equipment once the end date of the RUL of the stationary equipment is reached, if the beneficiary resides in the CBA when the end of the RUL has been reached (unless the status of the grandfathered supplier has changed to a contract supplier for the current round of the DMEPOS competitive bidding program).

## Additional Information

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If you have questions, please contact your Medicare DME MAC or RHHI at their toll-free number, which may be found at <http://www.cms.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the Centers for Medicare & Medicaid Services (CMS) website.

For complete details regarding this CR please see the official instruction (CR 7213) issued to your Medicare RHHI or DME MAC. That instruction may be viewed by going to <http://www.cms.gov/Transmittals/downloads/R871OTN.pdf> on the CMS website.

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