Department of Health and Human Services

OFFICE OF
INSPECTOR GENERAL

MEDICARE PAYMENT RATES FOR HOME OXYGEN EQUIPMENT

Inspector General

September 2004
OEI-09-03-00160

Office of Inspector General

http://oig.hhs.gov

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the department.

Office of Evaluation and Inspections

The OIG's Office of Evaluation and Inspections (OEI) conducts management and program evaluations (called inspections) that focus on issues of concern to the department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs. The OEI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

Office of Investigations

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

ERRATA NOTICE

On page 4, the first full paragraph, second sentence, "Department of Veterans Affairs" replaces "Department of Health and Human Services" in the sentence "OIG found that Medicare-allowed amounts were more than twice the amount that the Department of Health and Human Services paid for the concentrators."

A B S T R A C T

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires that the Centers for Medicare & Medicaid Services (CMS) reduce fee schedule payment amounts for home oxygen equipment in 2005. The reduction will be based on the percentage difference between the 2002 Medicare fee schedule amount for each State and the median prices paid by Federal Employees Health Benefits (FEHB) plans.

In 2002, FEHB plans' median payment rates for home oxygen equipment were between 10 and 20 percent lower than median Medicare fee schedule allowances. As mandated by the MMA, we have provided a table that identifies the median FEHB prices for home oxygen equipment. We recommend that CMS use this pricing information to reduce Medicare payment rates in 2005.

In addition to the information mandated by the MMA, we analyzed 2002 payment rates for home oxygen equipment provided by Medicare+ Choice plans, which serve exclusively Medicare beneficiaries. These rates are also between 10 and 20 percent lower than median Medicare fee schedule allowances.

A claim-by-claim analysis of both FEHB and Medicare+Choice payment rates shows that Medicare could have saved between $236 and $499 million in 2002, if Medicare allowances had been based on these plans' payment rates. Some of these plans use competitive bidding, capped rental, and discounted fee schedules to achieve these savings. Therefore, we have also recommended that CMS consider alternative methods to calculate reductions in future years.

In its response to our draft report, CMS fully supported our findings and recommendations. The agency concluded that our draft report provides the data necessary to implement the 2005 payment reductions for home oxygen equipment mandated by the MMA. CMS also supports consideration of alternative payment methods for future years.

OBJECTIVE

The objective of this report is to provide the Centers for Medicare & Medicaid Services (CMS) with (1) median Federal Employees Health Benefits (FEHB) plans' prices for home oxygen equipment in 2002 and (2) information concerning alternative payment rates and methodologies for oxygen equipment.

BACKGROUND

Medicare covers oxygen equipment and supplies under its durable medical equipment benefit (Part B). Oxygen equipment includes oxygen concentrators (stationary equipment that concentrates the oxygen in room air), stationary liquid and gaseous oxygen systems, and portable liquid and gaseous systems. Oxygen therapy is covered under Medicare for patients with significant hypoxemia, which is a shortage of oxygen in the blood (CMS Coverage Issues Manual, Durable Medical Equipment: Home Use of Oxygen, 60-4).

Since 1989, Medicare has reimbursed suppliers for the rental of oxygen equipment based on monthly fee schedule allowances that vary by State. Section 4552(a)(3) of the Balanced Budget Act of 1997 significantly reduced reimbursement for oxygen equipment. However, expenditures have increased in recent years, in part because fee schedules are based on historical charges. In addition, Medicare pays indefinitely for the rental of oxygen equipment. Other items of durable medical equipment, including hospital beds and wheelchairs, are subject to capped rental, which means that Medicare will not pay for rental after 15 consecutive months of use. Section 4319 of the Balanced Budget Act of 1997 authorized CMS to conduct five competitive bidding demonstration projects. These demonstration projects, which resulted in dramatic reductions in Medicare costs for home oxygen equipment, were limited to two geographic areas and ended in 2002.[1]

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) freezes payments for durable medical equipment from 2004 through 2008 and expands competitive bidding beginning in 2007. Section 302(c)(2) of the MMA also requires reductions in payments for

[1] Throughout this report, all references to years are to calendar years.

oxygen equipment in 2005 based on the Office of Inspector General's analysis of median FEHB prices for this equipment.

We used a mail survey to collect information from 164 FEHB and Medicare+Choice plans concerning their payment rates for four items that accounted for 99.8 percent, or $2.2 billion, of Medicare spending for home oxygen equipment in 2002. We surveyed Medicare+Choice plans because they serve exclusively Medicare beneficiaries. For each plan, we compared its 2002 payment rates to Medicare allowed amounts for oxygen equipment claims within each plan's coverage area. We also reviewed the methods that plans use to determine payment rates.

FINDINGS

FEHB plans' median payment rates are approximately 10 to 20 percent lower than median Medicare fee schedule allowances for home oxygen equipment. FEHB rates are lower than Medicare allowances for stationary and portable oxygen equipment. The differences are greater for stationary systems, which include concentrators, stationary liquid and stationary gaseous systems, than for portable equipment, which includes portable liquid and gaseous systems. In this report, we have included a table that provides the data CMS needs to meet the mandate of the MMA to reduce Medicare fee schedule allowances in 2005 based on median FEHB prices.

Medicare+Choice plans' median payment rates are approximately 10 to 20 percent lower than median Medicare fee schedule allowances for home oxygen equipment. Medicare+Choice rates are lower than Medicare fee-for-service allowances for both stationary and portable oxygen equipment.

Based on a claim-by-claim analysis, FEHB and Medicare+Choice plans' <u>actual</u> payment rates are approximately 10 to 23 percent lower than <u>actual</u> Medicare fee schedule allowances for home oxygen equipment. In 2002, Medicare could have saved $499 million if payments had been based on the lowest FEHB rates or $236 million if payments had been based on the lowest Medicare+Choice rates.

Plans use a variety of methods to determine payment rates. Unlike Medicare, which bases payment for home oxygen equipment on fee schedules alone, FEHB and Medicare+Choice plans use competitive bidding, capped rental, discounted fee schedules, or contracts with local or national suppliers to lower their costs.

RECOMMENDATIONS

In 2002, FEHB and Medicare+Choice plans paid less than Medicare based on median rates for home oxygen equipment. The MMA mandates that CMS use the FEHB median prices to reduce Medicare fee schedule allowances for home oxygen equipment in 2005. Accordingly, we recommend that CMS:

Use the FEHB median prices information obtained as part of this review to reduce the rates it pays for home oxygen equipment in 2005.

We also recommend that CMS:

Consider alternative methods for determining future Medicare oxygen payment rates, such as competitive bidding, contracts with local or national providers, and capped rental arrangements.

AGENCY COMMENTS

We received comments on our draft report from CMS. The agency agreed with our findings and recommendations and stated that our report provides the data necessary to reduce payments for home oxygen equipment as mandated by the MMA. CMS also supports consideration of alternative payment methods, including capped rental arrangements.

TABLE OF CONTENTS

ABSTRACT i

EXECUTIVE SUMMARY ii

INTRODUCTION 1

FINDINGS 7

Median allowances for FEHB plans 7

Median allowances for Medicare+Choice plans 8

Savings based on claim-by-claim analysis 9

Alternative payment methods 11

RECOMMENDATIONS 15

APPENDICES 16

A: Methodology 16

B: Agency Comments 20

ACKNOWLEDGMENTS 22

OBJECTIVE

The objective of this report is to provide the Centers for Medicare & Medicaid Services (CMS) with (1) median Federal Employees Health Benefits (FEHB) plans' prices for home oxygen equipment in 2002 and (2) information concerning alternative payment rates and methodologies for oxygen equipment.

BACKGROUND

Medicare Coverage and Reimbursement Policy

Medicare Part B covers home oxygen equipment and supplies under its durable medical equipment (DME) benefit (Section 1832(a)(2)(G) of the Social Security Act). DME is defined as equipment that can withstand repeated use, is primarily used to serve a medical purpose, and is appropriate for use in a patient's home (42 CFR § 414.202). Oxygen therapy is covered for patients with significant hypoxemia, a shortage of oxygen in the blood, who meet specific medical criteria (CMS Coverage Issues Manual, DME: Home Use of Oxygen, 60-4).

Medicare covers three types of oxygen delivery systems, which are payable for rental only: (1) oxygen concentrators, which are electrically powered, stationary machines that deliver high concentrations of oxygen by extracting it from room air; (2) stationary or portable liquid oxygen systems, which use oxygen stored as a very cold liquid in cylinders and tanks; and (3) stationary or portable gaseous oxygen systems, which administer compressed oxygen directly from cylinders (CMS Coverage Issues Manual, DME: Home Use of Oxygen, 60-4).

In 1989, fee schedules based on historic charges replaced the use of reasonable charges as the basis for DME reimbursement. Medicare reimburses suppliers for oxygen equipment based on monthly fee schedule allowances that vary by State. These monthly allowances cover the oxygen equipment, oxygen contents including all refills, equipment setup and maintenance, accessories, and patient education. Suppliers of oxygen equipment submit claims to the DME Regional Carriers for processing and payment. Section 4552 of the Balanced Budget Act of 1997 mandated the development of service and quality assurance standards for suppliers of home oxygen equipment. These standards have not been implemented as of the date of this report.

Efforts to Lower Medicare Expenditures

Balanced Budget Act of 1997

The Balanced Budget Act of 1997 reduced Medicare payment rates for oxygen equipment and supplies by 25 percent, effective January 1, 1998, and by an additional 5 percent, effective January 1, 1999. In 1999, the Government Accountability Office found that access to home oxygen equipment and supplies by Medicare beneficiaries was generally unchanged after the initial 25 percent reduction.

In addition, the Balanced Budget Act of 1997 authorized up to five demonstration projects and mandated that at least one include oxygen equipment and supplies. CMS conducted three demonstrations that resulted in large savings for oxygen equipment. In the first demonstration, CMS selected five categories of medical equipment and supplies, including oxygen equipment and supplies, for competitive bidding in Polk County, Florida. Based on the bids, Medicare established new payment rates for this equipment in Polk County, effective October 1, 1999 through September 30, 2002. For each category of equipment, the rates were much lower than the existing fee schedule allowances. Competitive bidding in this demonstration resulted in an average price reduction of 19 percent for all oxygen equipment and supplies from October 2001 to September 2002. At the second demonstration site, San Antonio, Texas, the average price reduction for oxygen equipment and supplies was 22 percent from February 2002 through December 2002.

Despite statutory reductions in Medicare payment rates for oxygen equipment, spending has continued to increase following an initial drop in 1998 when the cuts went into effect. In 2002, home oxygen equipment accounted for 24 percent ($2.2 billion of $9.2 billion) of all Medicare spending for DME.[2] Oxygen concentrators accounted for approximately 20 percent ($1.8 billion) of all Medicare spending on DME, an increase of $210 million over 2001 levels. One factor behind this trend is Medicare's reimbursement method for DME. In addition, the Government Accountability Office found that CMS lacks information on market prices that would enable the agency to compare Medicare to other payers.[3]

---

[2] Throughout this report, all references to years are to calendar years.

[3] U.S. Government Accountability Office, "Major Management Challenges and Program Risks: Department of Health and Human Services" GAO-03-101, January 2003, page 9.

Inherent Reasonableness Authority

CMS has the authority to adjust reimbursement for durable medical equipment under its inherent reasonableness authority (Section 1842(b)(8) of the Social Security Act). Inherent reasonableness allows for adjustments to the fee schedule for medical equipment and supplies if current payments for a particular service or group of services are determined to be grossly excessive or deficient and, therefore, not inherently reasonable.

CMS issued regulations to implement inherent reasonableness in 1986. However, Congress imposed a temporary moratorium on use of this authority in the Omnibus Budget Reconciliation Act of 1987 and added new requirements for inherent reasonableness reviews. Since 1986, when the Health Care Financing Administration (now known as CMS) first was authorized to "use the inherent reasonableness process to adjust payments for medical equipment and supplies, it successfully did so only once—for blood glucose monitors—and, in that instance, it took almost 3 years to adjust the maximum allowable Medicare payment from $185.79 to $58.71."[4]

Medicare Prescription Drug, Improvement, and Modernization Act

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) expanded competitive bidding and froze payments from 2004 through 2008 for DME other than items classified by the Food and Drug Administration as Class III devices. The MMA authorizes the Secretary of the Department of Health and Human Services to include those items with the highest cost and volume or with the largest savings potential in the new competitive acquisition programs, scheduled for gradual implementation beginning in 2007. Section 302(c)(2) of the MMA requires reductions in payments for oxygen and oxygen equipment in 2005 based on the percentage difference between the 2002 Medicare fee schedule amount for each State and the median prices paid by FEHB plans (42 U.S.C. § 1395m(a)(21)).

Prior Inspector General Work

Previous Office of Inspector General (OIG) studies have highlighted excessive Medicare spending for DME in general and oxygen equipment specifically. In 2002, OIG compared Medicare payments for 16 DME items, excluding oxygen equipment, to reimbursement by other public

[4] U.S. Government Accountability Office, "Challenges Remain in Setting Payments for Medical Equipment and Supplies and Covered Drugs," GAO-02-833T, June 2002, page 8.

and private payers. OIG projected savings ranging from $84 million to $958 million for these 16 items, depending on how much Medicare lowered reimbursement.

In 1991, OIG compared amounts allowed by Medicare for rental of oxygen concentrators to the amounts paid by the Department of Veterans Affairs. OIG found that Medicare-allowed amounts were more than twice the amount that the Department of Veterans Affairs paid for concentrators.

Timeline of Current Study

We began this study several months prior to passage of the MMA. Our original objective was to compare 2002 Medicare payments for home oxygen equipment to payments by private health plans. We surveyed FEHB and Medicare+Choice plans, now known as Medicare Advantage Organizations. We included Medicare+Choice plans because they encompass managed care as well as fee-for-service plans and serve Medicare beneficiaries exclusively. In addition to asking FEHB and Medicare+Choice plans to provide pricing data, we requested information on their payment policies for home oxygen equipment.

In accordance with the MMA, this report includes the specific FEHB data that CMS needs to reduce Medicare payments in 2005, as well as other information from health plans that CMS may use to adjust payments for home oxygen equipment in the future.

METHODOLOGY

We obtained a list of all FEHB plans operating in 2002 from the Office of Personnel Management and a list of all Medicare+Choice plans operating in 2002 from CMS. Enrollment in these plans totaled approximately 14 million in 2002. (Approximately 8.3 million subscribers and dependents were enrolled in FEHB plans, and an estimated 5.5 million Medicare beneficiaries were enrolled in Medicare+Choice plans that year.)

We used a mail survey to collect 2002 oxygen payment rates for the following four items: E1390 (oxygen concentrator), E0431 (portable gaseous oxygen system), E0439 (stationary liquid system), and E0434 (portable liquid system). At CMS's request, we also collected 2002 oxygen payment rates for E0424 (stationary gaseous system) from FEHB plans after we had completed the mail survey. The five items

accounted for 99.9 percent of all Medicare Part B spending for oxygen equipment and supplies in 2002. (See Table 1.)

Table 1. Five Oxygen Codes as a Percentage of Total Medicare Part B Allowances for Oxygen Equipment and Supplies in Calendar Year 2002

Code	Description	Allowed Amount in 2002	Percentage of Oxygen Spending
E1390	Oxygen concentrator	$1.8 billion	83.2%
E0431	Portable gaseous oxygen system	$212 million	9.6%
E0439	Stationary liquid oxygen system	$128 million	5.8%
E0434	Portable liquid oxygen system	$26 million	1.2%
E0424	Stationary gaseous system	$2 million	0.1%
Total		$2.2 billion	99.9%

Source: Medicare National Claims History 100 percent of DME claims, 2002

We mailed surveys to all 198 FEHB and 146 Medicare+Choice plans in September 2003. We mailed a second survey to nonrespondents in November 2003 and telephoned the remaining nonrespondents in December 2003. We obtained responses from 322 of 344 plans. Of these responses, 298 plans met our study criteria (see Appendix A). We grouped the remaining 298 plans according to their corporate ownership. After consolidating these plans, we identified 164 distinct plans. In May 2004, at CMS's request, we contacted 51 of the FEHB plans that responded to our survey and that provided an actual payment rate for at least one oxygen code to obtain their payment rates for E0424. We received 21 responses.

We used two methods to compare Medicare oxygen payment rates to FEHB and Medicare+Choice payment rates. For the first method, we compared median Medicare rates to median FEHB and Medicare+Choice rates for five and four codes, respectively. At CMS's request, we then calculated weighted means of the FEHB median rates for two groups: stationary systems (E1390, E0439, and E0424) and portable systems (E0431 and E0434).

For the second method, we performed a claim-by-claim comparison of actual Medicare allowances to actual FEHB and Medicare+Choice rates. We extracted Medicare claims for the four oxygen codes that accounted for 99.8 percent of spending in 2002 (E1390, E0431, E0434, and E0439).

For each claim, we determined the amount that a plan would have allowed based on the specific oxygen code, date of service, and beneficiary's location. We then calculated the difference between the total charges that the plan would have allowed and the total Medicare-allowed charge. (See Appendix A for a more detailed description of the methodology.)

This inspection was conducted in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

FEHB plans' median payment rates are approximately 10 to 20 percent lower than median Medicare fee schedule allowances for home oxygen equipment

The MMA requires CMS to reduce payments for oxygen in 2005 based on the percentage difference between the 2002 Medicare Part B fee schedule for each State and the median prices of FEHB plans. For the five oxygen codes (E1390, E0439, E0424, E0434, and E0431), which account for 99.9 percent of all spending for oxygen supplies and equipment in 2002, we calculated the median payment rates across FEHB plans and compared them to the median Medicare fee schedule rates. Based on our analysis, we determined that median FEHB rates are approximately 10 to 20 percent lower than median Medicare allowances for the five oxygen codes.

The differences between median FEHB and median Medicare oxygen payment rates are greater for stationary systems, which include concentrators, stationary liquid and stationary gaseous systems, than for portable equipment, which includes portable liquid and gaseous systems. Because current Medicare reimbursement for oxygen systems is modality neutral (i.e., one allowance for stationary systems and one allowance for portable systems), we calculated the difference between FEHB and Medicare payment rates for all stationary systems combined and, separately, the difference between FEHB and Medicare payment rates for the two portable systems combined. Based on the weighted mean[5] of median FEHB payment rates, we determined that Medicare allowances are approximately 15 percent higher for stationary systems and approximately 11 percent higher for portable systems. (See Table 2 on next page.)

[5] The mean is weighted based on total 2002 Medicare Part B allowances for each code.

Table 2. Comparison of Median Medicare Allowances and Median FEHB Oxygen Payment Rates for Five Oxygen Codes in 2002					
Oxygen Code (N = Number of plans that responded)	**Median Medicare Fee Schedule Allowance**	**Median FEHB Oxygen Price***	**Percentage Difference Between Median Medicare and Median FEHB Price**	**Weighted Mean of Median FEHB Prices**	**Percentage Difference Between Medicare and FEHB Weighted Mean**
Stationary Home Oxygen Equipment					
E1390 (N = 49) Oxygen concentrator	$230.17	$195.32	15.1%	$194.58	15.5%
E0439 (N = 49) Stationary liquid system	$230.17	$184.14	20.0%		
E0424 (N = 21) Stationary gaseous system	$230.17	$183.59	20.2%		
Portable Home Oxygen Equipment					
E0434 (N = 49) Portable liquid system	$36.19	$32.57	10.0%	$32.09	11.3%
E0431 (N = 50) Portable gaseous system	$36.19	$32.04	11.5%		

Source: OIG analysis of 2002 median Medicare allowances and median FEHB oxygen payment rates
* Throughout the report we use the terms “price” and “payment rate” interchangeably.

The table above provides the data that CMS needs to meet the mandate of the MMA to reduce Medicare fee schedule allowances in 2005 based on median FEHB prices. The third column shows the median prices by the Healthcare Common Procedure Coding System codes in accordance with the MMA. The fifth and sixth columns show similar information on a modality neutral basis.

Medicare+Choice plans’ median payment rates are approximately 10 to 20 percent lower than median Medicare fee schedule allowances for home oxygen equipment

In order to compare Medicare fee schedule allowances to payments by plans that serve exclusively Medicare beneficiaries, we calculated the median payment rates for four oxygen codes (E1390, E0439, E0434, and E0431) across M+C plans. We found that median Medicare+Choice rates are approximately 10 to 20 percent lower than median Medicare allowances. (See Table 3.)

Table 3. Comparison of Median Medicare Allowances and Median Medicare+Choice (M+C) Oxygen Payment Rates for Four Oxygen Codes in 2002			
Oxygen Code (N = Number of plans that responded)	**Median Medicare Fee Schedule Allowance**	**Median M+C Oxygen Payment Rate**	**Percentage Difference Between Medicare and M+C**
E1390 Oxygen concentrator (N = 55)	$230.17	$191.04	17.0%
E0439 Stationary liquid system (N = 54)	$230.17	$183.02	20.5%
E0434 Portable liquid system (N = 53)	$36.19	$32.57	10.0%
E0431 Portable gaseous system (N = 54)	$36.19	$30.45	15.9%

Source: OIG analysis of 2002 median Medicare allowances and median M+C oxygen payment rates

Based on a claim-by-claim analysis, FEHB and Medicare+Choice plans' actual payment rates are approximately 10 to 23 percent lower than actual Medicare fee schedule allowances for home oxygen equipment

In addition to comparing median Medicare allowances to median FEHB and Medicare+Choice payment rates, we analyzed actual payment rates. Unlike the comparison of median Medicare allowances to median plan payment rates, a claim-by-claim comparison of Medicare fee schedule allowances to FEHB and M+C actual payment rates takes into account differences in plans' coverage areas and the number of Medicare claims in those areas.

We extracted Medicare claims data with 2002 service dates for four oxygen codes (E1390, E0439, E0434, and E0431) and matched these claims to the geographic coverage area for each plan that provided payment rates for any of the four codes. For each claim, we determined the amount that the plan would have allowed based on the oxygen code, date of service, and beneficiary's location. We calculated Medicare savings based on the difference between the Medicare fee schedule and the rates that plans would have paid for each claim. The potential Medicare savings and the percentage difference between Medicare and plan payment rates in the following tables are influenced by the number

of Medicare claims in a plan's coverage area. Plans with large coverage areas affect the calculations more than plans with small coverage areas.

FEHB plans' payment rates range from 10 to 23 percent lower than Medicare allowances. If Medicare had based its oxygen payment rates on the lowest FEHB rates, the program and its beneficiaries would have realized $499 million in savings (23 percent). Based on the highest FEHB rates, the program and its beneficiaries would have realized $219 million in savings (10 percent). (See Table 4.)

Table 4. Potential Medicare Savings Based on FEHB Actual Payment Rates for Four Oxygen Codes in 2002

Oxygen Code	Medicare-Allowed Amount for 2002 Claims in FEHB Coverage Area (millions)	Medicare Savings					
		Based on the Highest Oxygen Payment Rates		Based on Median Oxygen Payment Rates		Based on the Lowest Oxygen Payment Rates	
		Dollars (millions)	Percentage of Medicare	Dollars (millions)	Percentage of Medicare	Dollars (millions)	Percentage of Medicare
E1390 Oxygen concentrator	$1,809.3	$189.1	10.4%	$306.7	17.0%	$392.1	21.7%
E0439 Stationary liquid system*	$123.9	$44.0	35.5%	$60.8	49.1%	$82.6	66.7%
E0434 Portable liquid system	$25.9	($2.2)	(8.4%)	($0.2)	(0.7%)	$2.1	8.1%
E0431 Portable gaseous system	$210.2	($11.4)	(5.4%)	$4.5	2.1%	$22.2	10.6%
TOTAL	$2,169.2**	$219.5	10.1%***	$371.8	17.1%***	$499.0	23.0%***

Source: OIG claim-by-claim analysis based on FEHB's lowest, highest, and median payment rates for oxygen in 2002.
* The rate for one FEHB plan with nationwide coverage is considerably lower than the Medicare allowance for stationary liquid systems.
** Total dollars do not equal the sum of the amounts for individual codes due to rounding.
*** Total percentages are weighted by the number of claims for each code and do not equal the mean of the individual percentages.

If Medicare had based oxygen payments on the lowest amounts paid by Medicare+Choice plans only, the program and its beneficiaries would have saved $236 million (22.8 percent). Medicare savings are lower for Medicare+Choice plans, primarily because their coverage area was not as large as the coverage area for FEHB plans. Medicare+Choice plans in this analysis covered 47 percent of Medicare claims for the four oxygen codes; FEHB plans covered 100 percent of Medicare claims. (See Table 5.)

Table 5. Potential Medicare Savings Based on Medicare+Choice (M+C) Actual Payment Rates for Four Oxygen Codes in 2002

Oxygen Code	Medicare Allowed Amount for 2002 Claims in M+C Coverage Area (millions)	Medicare Savings					
		Based on the Highest Oxygen Payment Rates		Based on Median Oxygen Payment Rates		Based on the Lowest Oxygen Payment Rates	
		Dollars (millions)	Percentage of Medicare	Dollars (millions)	Percentage of Medicare	Dollars (millions)	Percentage of Medicare
E1390 Oxygen concentrator	$868.6	$135.1	15.6%	$173.4	20.0%	$198.5	22.8%
E0439 Stationary liquid system	$61.1	$10.5	17.2%	$14.0	22.9%	$16.7	27.4%
E0434 Portable liquid system	$12.2	$0.5	4.4%	$1.3	10.5%	$2.2	18.1%
E0431 Portable gaseous system	$96.8	$5.8	6.0%	$14.0	14.5%	$18.9	19.6%
TOTAL	$1,038.7	$152.0*	14.6%**	$202.7	19.5%**	$236.4*	22.8%**

Source: OIG claim-by-claim analysis based on M+C lowest, highest, and payment rates for oxygen in 2002.
* Total dollars do not equal the sum of the amounts for individual codes due to rounding.
** Total percentages are weighted by the number of claims for each code and do not equal the mean of the individual percentages.

FEHB and Medicare+Choice plans use a variety of methods to determine payment rates

Unlike Medicare, which bases payment for home oxygen equipment on fee schedules, FEHB and Medicare+Choice plans routinely use a variety of methods to set rates for home oxygen equipment, which may lower plans' costs. Plans also may use different methods depending on the service area.

Discounting the Medicare fee schedule

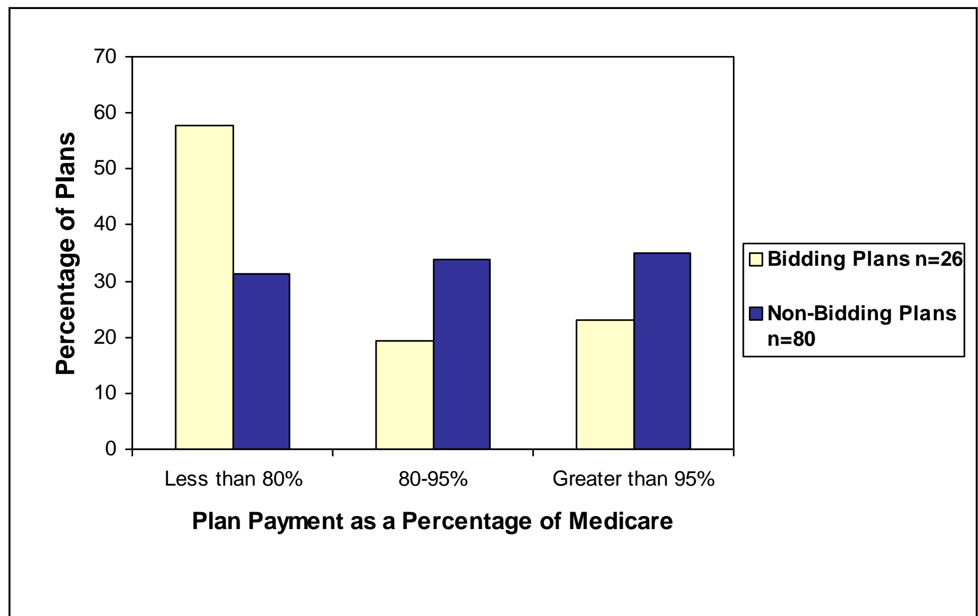
Fifty-three of 164 FEHB and Medicare+Choice plans volunteered that they discount the Medicare fee schedule to determine payment rates for at least one of the four codes. We were able to obtain actual or average payment rates for all 4 codes from 41 of 53 plans and found that 44 percent of the 41 plans allow 80 percent or less of the Medicare fee schedule.

Competitive bidding

We asked health plans if they use competitive bidding to select oxygen suppliers and, if they do, to describe the criteria they use to select

among bids. According to survey responses, 40 plans use competitive bidding, and 121 plans do not (3 plans did not respond to the question about competitive bidding). Based on further analysis of the responses from 106 plans that provided actual or average payment rates for all 4 oxygen codes, more than half of the plans that use competitive bidding allowed 80 percent or less of the fee schedule (15 of 26 plans). In contrast, less than one-third of the plans that do not use competitive bidding allowed 80 percent or less (25 of 80 plans) of the fee schedule. (See Chart 1.)

CHART 1
Effect of Competitive Bidding on Oxygen Payment Rates



Source: OIG comparison of actual or average payment rates for all four oxygen codes in 2002 for FEHB and Medicare+Choice plans to Medicare allowances

Plans use a variety of criteria to select among competing bids. In addition to cost and location, plans consider the quality and range of services, supplier experience and reputation, and physician and member satisfaction.

In 2002, Medicare competitive bidding demonstration projects were underway in Polk County, Florida, and San Antonio, Texas. CMS reported that during the demonstrations, the average price reduction for oxygen equipment and supplies was 19 percent in Polk County and 22 percent in San Antonio. We compared the Medicare demonstration allowances to the rates that FEHB and Medicare+Choice plans pay in the same locations. We found that the plans' rates, like the

demonstration allowances, are lower than the statewide Medicare fee schedules. (See Table 6.)

Table 6. FEHB and Medicare+Choice (M+C) Allowances Compared to Medicare Demonstration Allowances and Statewide Fee Schedules

Monthly Rental Allowances for Concentrators			
Location	FEHB and M+C Plans*	Medicare Demonstration	Medicare Fee Schedule
Polk County	$185.00	$170.36	$214.39
San Antonio	$172.63	$186.40	$230.17

Source: CMS 2002 demonstration project data and OIG analysis based on FEHB and M+C actual payment rates for oxygen in 2002.
* Allowances reflect lowest payment by FEHB and M+C plans.

Contracting

Sixty-one health plans volunteered that they contract with local or national suppliers. We obtained actual or average payment rates for all 4 codes from 32 of these plans and found that 50 percent of plans allow 80 percent or less of the fee schedule. One health plan negotiated a contract with a large national supplier and as a result achieved significant savings. This plan offers both FEHB and Medicare+Choice products with payment rates that are 72 percent of the Medicare fee schedule.

Health plans may have multiple contracts with different suppliers. One large Medicare+Choice plan, with approximately 700,000 members, negotiated multiple contracts that paid suppliers 65, 75, or 80 percent of the Medicare fee schedule. Another Medicare+Choice plan with approximately 4,600 members negotiated payment rates at 79 percent of the fee schedule.

Capped rental arrangements

We obtained detailed information from two plans that have capped rental arrangements. One plan will not pay more than the purchase price and considers the item purchased after 10 months of rental. The plan will pay up to $400 annually for maintenance and repair. All oxygen equipment is subject to this policy.

Another Medicare+Choice plan has a comparable policy. Rental fees are capped at 10 months or the purchase price, whichever is less. The plan pays for rental of concentrators for 10 months at an “elevated” rental

price ($100 per month) and then converts to a reduced rental price ($30 per month), which is similar to a maintenance fee.

Although we did not obtain specific information from other plans about rental and purchase arrangements, some plans indicated that they consider purchase price and will buy oxygen equipment, particularly concentrators, for members who are expected to use them for a long period of time.

In 2002, FEHB plans' median payment rates were between 10 and 20 percent lower, and Medicare+Choice plans' median payment rates also were between 10 and 20 percent lower, than median Medicare allowances for home oxygen equipment. As mandated by the MMA, we recommend that CMS:

Use the FEHB median prices information obtained as part of this review to reduce the rates it pays for home oxygen equipment in 2005.

We also recommend that CMS:

Consider alternative methods for determining future Medicare oxygen payment rates, such as competitive bidding, contracts with local or national providers, and capped rental arrangements.

AGENCY COMMENTS

We received comments on our draft report from CMS. CMS fully supports our findings and recommendations. Regarding the first recommendation to use the pricing information we collected to reduce rates for home oxygen equipment in 2005, CMS agreed that our data support a reduction. Regarding the second recommendation to consider alternative payment methods, CMS stated that it plans to consider including home oxygen equipment as one of the categories of DME subject to competitive bidding in 2007. The agency also supported the concept of capped rental for oxygen equipment. We have also revised the report to reflect the technical comments we received from CMS.

The full text of the agency's comments appears in Appendix B.

METHODOLOGY

Survey response analysis

We obtained a list of 2002 Federal Employees Health Benefits (FEHB) plans from the Office of Personnel Management and a list of 2002 Medicare+Choice plans from CMS. We mailed a survey to each FEHB and Medicare+Choice plan. We received responses to our survey from 322 of 344 (94 percent) plans. Of these responses, we excluded 24 plans from further analysis because they did not meet the study criteria. We dropped seven plans because they indicated that they did not participate as an FEHB or Medicare+Choice plan during 2002. In addition, we eliminated 1 plan because it offered no oxygen benefit, 1 plan because its coverage area fell outside of the United States and Puerto Rico, and 15 plans because payment for oxygen equipment was included in a capitated rate for durable medical equipment. A total of 298 plans met our study criteria. (See Table A-1.)

Table A-1. Respondent Analysis

Type of Plan	FEHB	M+C	TOTAL
Plans Meeting Study Criteria	176	122	298
Plans Not Participating in 2002	2	5	7
Plans with No Oxygen Benefit	1	---	1
Plans with Coverage Outside of U.S. and PR	1	---	1
Plans with Capitated Rates	4	11	15
Total Survey Respondents	184	138	322

Source: OIG analysis of respondents

Consolidation of plans for analysis

After eliminating all plans that did not meet study criteria, we grouped the remaining 298 plans according to their corporate ownership. We did this separately for FEHB and Medicare+Choice plans. For individual plans with a common corporate ownership, we consolidated them into one plan. Typically, we consolidated plans when (1) they had the same company name and contact address with no overlapping service areas, or (2) we received information by telephone or in writing that the plan was part of a larger corporation. After consolidating 298 plans, we identified 164 distinct plans (86 FEHB, 78 Medicare+Choice).

Oxygen payment analysis

For oxygen payment analyses in this report, we used the 164 plans that remained after consolidation of plans (86 FEHB and 78 Medicare+Choice).

Medicare savings based on median payment rates

We calculated the percentage differences between the median Medicare fee schedule allowances for the five oxygen codes and the median plan payment rates (we calculated these separately for FEHB and Medicare+Choice plans). For each code, we calculated the median plan payment rate by extracting all of the distinct payment rates for a given plan (these rates sometimes varied based on coverage area or service date). We then calculated the median among these rates. For FEHB plans, we then calculated the weighted mean from these median FEHB payment rates. The weighted mean was calculated separately for stationary and portable systems. In this calculation, the mean was weighted based on 2002 total Medicare Part B allowances for each code. In this analysis, we included only those plans that provided specific rate information for at least one of the oxygen codes.

Medicare savings based on lowest and highest payment rates

We used a four-step process to compare Medicare's payment rates with FEHB and Medicare+Choice plans and calculate savings:

1. We extracted 100 percent of Medicare claims for oxygen codes E0431, E0434, E0439, and E1390 from the Common Working File, limited to claims with service dates during 2002 that were submitted between January 1, 2002 and June 30, 2003. This resulted in a database containing 15,663,270 oxygen claims. From this database, we extracted claims (1) that listed the beneficiary residence in the 50 United States, District of Columbia, or Puerto Rico, (2) which did not have modifiers that would affect the

payment under the Medicare fee schedule, and (3) for which we could replicate the calculation of the allowed amount based on the Medicare fee schedule. The resulting database contained 15,486,844 claims (98.9 percent of the original 15,663,270 claims, and 98.7 percent of the original total allowed amount of $2.198 billion).

2. For each plan that provided payment rates, we extracted claims (from the database created in step 1) for beneficiaries residing within the plan's coverage area. For each claim, we determined the amount that the plan would have allowed based on the specific oxygen code, date of service, and beneficiary's location. If the plan was only able to provide an average payment rate for an oxygen code, we used that rate instead of a specific payment rate. For example, some plans contracted with multiple providers and could not give us enough detail for us to determine the specific amount that the plan would have allowed for any given Medicare claim in the plan's coverage area. Using the resulting database, we calculated the ratio of total charges that the plan would have allowed to the total Medicare allowed charges. We used the results of this analysis to produce Chart 1 of this report.

3. After we had completed step 2 for each plan, we merged the data by claim, so that the resulting database contained one observation per claim with associated payment rates for each plan whose coverage area included that claim.

4. For each claim in the step 3 database, we determined the lowest and highest payment rates among FEHB and Medicare+Choice plans whose coverage area included that claim. We then calculated the difference between total Medicare allowed charges and the total charges that would have been allowed using the lowest and highest Medicare+Choice payment rates for each claim. We calculated a similar difference using FEHB payment rates.

   In this analysis, we included only those plans that provided specific rate information for at least one of the four oxygen Healthcare Common Procedure Coding System (HCPCS) codes with one exception. We included one national FEHB plan that had multiple contracts and provided a median rate among the contracts for each oxygen code. This analysis included 51 of 86 (59 percent) FEHB plans and 55 of 78 (71 percent)

Medicare+Choice plans. We used the results of this analysis to produce the potential Medicare savings in Tables 4 and 5 of this report.

Rate comparisons

For each plan that provided payment data, we calculated the ratio of total Medicare-allowed charges to the charges that the plan would have allowed for that beneficiary's residence and HCPCS code.

In this analysis, we included only plans that provided either specific payment rates or average rates per HCPCS code for all four oxygen HCPCS codes. This analysis included 50 of 86 (58 percent) FEHB plans and 57 of 78 (73 percent) Medicare+Choice plans. We used the results of this analysis to produce Chart 1 of this report. (See Table A-2.)

Table A-2. Oxygen Payment Analysis

Type of Analysis	Type of Data	Number of FEHB Plans	Number of M+C Plans
Median Payment Rates (Tables 2 and 3) and Potential Medicare Savings (Tables 4 and 5)	Actual Payment Rate for 1 or more Oxygen Codes	51	55
Comparisons Among Medicare, FEHB and M+C Plans (Chart 1)	Actual or Average Payment Rates for all 4 Oxygen Codes	50	57

Source: OIG analysis of 2002 FEHB and M+C oxygen payment rates

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

RECEIVED
2004 AUG 20 PM 1:32
OFFICE OF INSPECTOR GENERAL

DATE: AUG 19 2004

TO: Dara Corrigan
Acting Principal Deputy Inspector General
Office of Inspector General

FROM: Mark B. McClellan, M.D., Ph.D.
Administrator
Centers for Medicare & Medicaid Services

SUBJECT: Office of Inspector General (OIG) Draft Report: "Medicare Payment Rates for Home Oxygen Equipment" (OEI-09-03-00160)

Thank you for the opportunity to review and comment on the OIG report which compares Medicare Part B payments for home oxygen equipment to payments by Federal Employees Health Benefits (FEHB) plans and Medicare + Choice (M+C) plans. Several attempts have been made in recent years to establish reasonable payment amounts under Medicare Part B for oxygen and oxygen equipment furnished to beneficiaries in their homes (home oxygen). Home oxygen is covered under the durable medical equipment (DME) benefit and payment is currently made on the basis of fee schedule amounts mandated by 1834(a) of the Social Security Act (the Act). The statute classifies DME into several payment categories, including one for home oxygen. In 2002, Medicare expenditures for home oxygen ($2.2 billion in allowed charges) made up 32 percent of total expenditures for DME ($6.9 billion in allowed charges).

The fee schedule amounts for home oxygen are based on average Medicare payments made under the previous reasonable charge payment methodology in 1986. The fee schedule amounts are updated on an annual basis in accordance with covered item update factors specified in the statute. The fee schedule amount is a monthly payment amount for furnishing oxygen to the patient in their home and is modality neutral, i.e., the same payment amount applies regardless of whether the patient uses a gaseous, liquid, or concentrator system. The Medicare fee schedule amounts range from $194.48 to $228.80.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) mandates additional payment reductions for home oxygen in 2005 equal to the percentage difference in 2002 Medicare fee schedule amounts and median FEHB plan prices reported by the OIG. The MMA also mandates the phase in of a national competitive bidding payment methodology for DME beginning in 2007. Medicare payments for home oxygen could be further reduced under the competitive bidding program.

Page 2 — Dara Corrigan

The OIG draft report on home oxygen provides the data necessary to implement the 2005 payment reductions for home oxygen mandated by the MMA and compares Medicare Part B payments with payments made by FEHB plans and M+C plans. The OIG has conducted a very thorough survey of the payments made by these plans and provides valid and reliable data that indicates that Medicare payments for home oxygen continue to be excessive. This report supports the 2005 payment reductions and underscores the fact that continued attention to the amount Medicare pays for these items under Part B is warranted. This report reinforces our efforts to ensure reasonable payments for home oxygen both today and under the competitive bidding programs to begin in 2007.

OIG Recommendation
Use the pricing information obtained as part of this review to reduce the rates it pays for home oxygen equipment in 2005.

CMS Response
We concur with this recommendation and will be reducing the Medicare fee schedule amounts for home oxygen in 2005 using the data from the report. This action is specifically mandated by section 1834(a)(21) of the Act, and will ensure that Medicare payments do not exceed the median price paid for these items under the FEHB plans.

OIG Recommendation
Consider alternative methods for determining future Medicare oxygen payment rates, such as competitive bidding, contracts with local or national providers, and capped rental arrangements.

CMS Response
We also concur with this general recommendation. The CMS plans to consider including home oxygen as one of the categories of DME that will be phased in during the initial year of competitive bidding in 2007.

We also concur with the specific recommendation that the monthly payments for oxygen equipment be capped at some point after the average purchase price of the equipment has been exceeded. However, this change would require an amendment to section 1834 of the Act. We note that it would also be necessary to continue making payments for the ongoing delivery of oxygen contents for gaseous and liquid systems after the rental payments for the equipment have ceased.

We conclude by offering our thanks to the OIG for this very important report that satisfies the goal of our Agency and the mandate of the statute to adjust Medicare payments for home oxygen equipment to a more reasonable level.

Attachment

A C K N O W L E D G M E N T S

This report was prepared under the direction of Paul Gottlober, Regional Inspector General for Evaluation and Inspections in the San Francisco Regional Office, and Deborah Harvey, Assistant Regional Inspector General. Other principal Office of Evaluation and Inspections staff who contributed include:

Cindy Lemesh, *Project Leader*

Camille Harper, *Project Leader*

China Eng, *Program Analyst*

Scott Hutchison, *Program Analyst*

Cheryl Dotts, *Program Assistant*

Stephanie London, *Program Specialist*

Tricia Davis, *Director, Medicare and Medicaid Branch*

Technical Assistance

Rob Gibbons, *Program Analyst*