Medicare
Carriers Manual
Part 3 - Claims Process

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

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CHANGE REQUEST 2751

HEADER SECTION NUMBERS	PAGES TO INSERT	PAGES TO DELETE
2100.4 – 2100.6	2-43 - 2-46 (4 pp.)	2-43 - 2-46 (4 pp.)

NEW/REVISED MATERIAL--*EFFECTIVE DATE: January 1, 2004*
IMPLEMENTATION DATE: January 1, 2004

Section 2100.4 Repairs, Maintenance, Replacement, and Delivery,--is revised to reflect the current policy for Durable Medical Equipment (DME) replacements.

Provider Education:

Carriers must inform the affected providers communities about the following change through a posting on their Web site within 4 weeks of receiving this instruction and publish in their next regularly scheduled bulletin. If you have a listserv that targets the affected provider community, you must use it to notify subscribers that information about "New Requirements - Physician's Order and CMNs" is available on your Web site. This same information must be shared in your next regularly scheduled bulletin.

DISCLAIMER: The revision date and transmittal number only apply to the redlined material. All other material was previously published in the manual and is only being reprinted.

These instructions should be implemented within your current operating budget.

CMS-Pub. 14-3

2100.3 Definition of Beneficiary's Home.--For purposes of rental and purchase of DME a beneficiary's home may be his own dwelling, an apartment, a relative's home, a home for the aged, or some other type of institution. However, an institution may not be considered a beneficiary's home if it:

A. Meets at least the basic requirement in the definition of a hospital, i.e., it is primarily engaged in providing by or under the supervision of physicians, to inpatients, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, and sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons or

B. Meets at least the basic requirement in the definition of a skilled nursing facility, i.e., it is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Thus, if an individual is a patient in an institution or distinct part of an institution which provides the services described in subsection A or B, he is not entitled to have payment made for rental or purchase of DME since such an institution may not be considered his home. (See §4105.4 when beneficiary is in an institution for part of a month.)

See §4105.1 for claims processing where the beneficiary's residence is in question.

2100.4 Repairs, Maintenance, Replacement, and Delivery.-- Under the circumstances specified below, payment may be made for repair, maintenance, and replacement of medically required DME, including equipment which had been in use before the user enrolled in Part B of the program. However, do not pay for repair, maintenance, or replacement of equipment in the frequent and substantial servicing or oxygen equipment payment categories. In addition, payments for repair and maintenance may not include payment for parts and labor covered under a manufacturer's or supplier's warranty.

A. Repairs.-- To repair means to fix or mend and to put the equipment back in good condition after damage or wear. Repairs to equipment which a beneficiary owns are covered when necessary to make the equipment serviceable. However, do not pay for repair of previously denied equipment or equipment in the frequent and substantial servicing or oxygen equipment payment categories. If the expense for repairs exceeds the estimated expense of purchasing or renting another item of equipment for the remaining period of medical need, no payment can be made for the amount of the excess. (See subsection C where claims for repairs suggest malicious damage or culpable neglect.)

Since renters of equipment recover from the rental charge the expenses they incur in maintaining in working order the equipment they rent out, separately itemized charges for repair of rented equipment are not covered. This includes items in the frequent and substantial servicing, oxygen equipment, capped rental, and inexpensive or routinely purchased payment categories which are being rented.

A new Certificate of Medical Necessity (CMN) and/or physician's order is not needed for repairs.

For replacement items, see Subsection C below.

B. Maintenance.-- Routine periodic maintenance, such as testing, cleaning, regulating and checking of the beneficiary's equipment is not covered. Such routine maintenance is generally expected to be done by the owner rather than by a retailer or some other person who charges the beneficiary. Normally, purchasers of DME are given operating manuals which describe the type of servicing an owner may perform to properly maintain the equipment. It is reasonable to expect that beneficiaries will perform this maintenance. Thus, hiring a third party to do such work is for the convenience of the beneficiary and is not covered.

However, more extensive maintenance which, based on the manufacturers' recommendations, is to be performed by authorized technicians, is covered as repairs for medically necessary equipment which a beneficiary owns. This might include, for example, breaking down sealed components and performing tests which require specialized testing equipment not available to the beneficiary. Do not pay for maintenance of purchased items that require frequent and substantial servicing or oxygen equipment. See §5102.2.G.

Since renters of equipment recover from the rental charge the expenses they incur in maintaining in working order the equipment they rent out, separately itemized charges for maintenance of rented equipment are generally not covered. Payment may not be made for maintenance of rented equipment other than the maintenance and servicing fee established for capped rental items in §5102.1.E.4.

A new CMN and/or physician's order is not needed for covered maintenance.

C. Replacement.--Replacement refers to the provision of an identical or nearly identical item. Situations involving the provision of a different item because of a change in medical condition are not addressed in this section.

Equipment which the beneficiary owns or is a capped rental item may be replaced in cases of loss or irreparable damage. Irreparable damage refers to a specific accident or to a natural disaster (e.g., fire, flood, etc.). A physician's order and/or new Certificate of Medical Necessity (CMN), when required, is needed to reaffirm the medical necessity of the item.

Irreparable wear refers to deterioration sustained from day-to-day usage over time and a specific event cannot be identified. Replacement of equipment due to irreparable wear takes into consideration the reasonable useful lifetime of the equipment. If the item of equipment has been in continuous use by the patient on either a rental or purchase basis for the equipment's useful lifetime, the beneficiary may elect to obtain a new piece of equipment. Replacement may be reimbursed when a new physician order and/or new CMN, when required, is needed to reaffirm the medical necessity of the item.

The reasonable useful lifetime of durable medical equipment is determined through program instructions. In the absence of program instructions, carriers may determine the reasonable useful lifetime of equipment, but in no case can it be less than 5 years. Computation of the useful lifetime is based on when the equipment is delivered to the beneficiary, not the age of the equipment. Replacement due to wear is not covered during the reasonable useful lifetime of the equipment. During the reasonable useful lifetime, Medicare does cover repair up to the cost of replacement (but not actual replacement) for medically necessary equipment owned by the beneficiary. (See subsection A.)

Charges for the replacement of oxygen equipment, items that require frequent and substantial servicing or inexpensive or routinely purchased items which are being rented are not covered.

Cases suggesting malicious damage, culpable neglect or wrongful disposition of equipment as discussed in §2100.6 should be investigated and denied where the DMERC/Carrier determines that it is unreasonable to make program payment under the circumstances.

D. Delivery.--Payment for delivery of DME whether rented or purchased is generally included in the fee schedule allowance for the item. See §5105 for the rules that apply to making reimbursement for exceptional cases.

E. Leased Renal Dialysis Equipment.--Generally, where renal dialysis equipment is leased directly from the manufacturer, the rental charge is closely related to the manufacturer's cost of the equipment which means it does not include a margin for recovering the cost of repairs beyond the initial warranty period.

In view of physical distance and other factors which may make it impractical for the manufacturer to perform repairs, it is not feasible to make the manufacturer responsible for all repairs and include a margin for the additional costs. Therefore, reimbursement may be made for the repair and maintenance of home dialysis equipment leased directly from the manufacturer (or other party acting essentially as an intermediary between the patient and the manufacturer for the purpose of assuming the financial risk) if the rental charge does not include a margin to recover these costs, and then only when the patient is free to secure repairs locally in the most economical manner.

Where, on the other hand, a third party is in the business of medical equipment retail supply and rental, the presumption that there is a margin in the rental charge for dialysis equipment to cover the costs of repair services will be retained. The exclusion from coverage of separately itemized repair charges will, therefore, continue to be applied in these situations, and the patient must look to the supplier to perform (or cover the cost of) necessary repairs, maintenance, and replacement of the home dialysis equipment.

In all cases, whether the dialysis equipment is being purchased, is owned outright, or is being leased, Medicare payment is to be made only after the initial warranty period has expired. Generally, reimbursement for repairs, maintenance, and replacement parts for medically necessary home dialysis equipment may be made in a lump sum payment. However, where extensive repairs are required and the charge for repairing the item represents a substantial proportion of the purchase price of a replacement system, exercise judgment with respect to a possible need to make periodic payments, instead of a lump-sum payment, for repair of such equipment.

As in the case of the maintenance of purchased DME, routine periodic servicing of leased dialysis equipment, including most testing and cleaning, is not covered. While reimbursement will be made for more extensive maintenance and necessary repairs of leased dialysis equipment, the patient or family member is expected to perform those services for which the training for home or self-dialysis would have qualified them, e.g., replacement of a light bulb.

Reasonable charges for travel expenses related to the repair of leased dialysis equipment are covered if the repairman customarily charges for travel and this is a common practice among other repairman in the area. When a repair charge includes an element for travel, however, the location of other suitably qualified repairmen will be considered in determining the allowance for travel.

NOTE: The above coverage instructions pertain to a special case and no extension of such coverage with respect to other items should be inferred.

2100.5 Coverage of Supplies and Accessories.--Reimbursement may be made for supplies, e.g., oxygen (see §60-4 in the Coverage Issues Manual for the coverage of oxygen in the home), that are necessary for the effective use of durable medical equipment. Such supplies include those drugs and biologicals which must be put directly into the equipment in order to achieve the therapeutic benefit of the durable medical equipment or to assure the proper functioning of the equipment, e.g., tumor chemotherapy agents used with an infusion pump or heparin used with a home dialysis system. However, the coverage of such drugs or biologicals does not preclude the need for a determination that the drug or biological itself is reasonable and necessary for treatment of the illness or injury or to improve the functioning of a malformed body member.

In the case of prescription drugs, other than oxygen, used in conjunction with durable medical equipment, prosthetic, orthotics, and supplies (DMEPOS) or prosthetic devices, the entity that dispenses the drug must furnish it directly to the patient for whom a prescription is written. The entity that dispenses the drugs must have a Medicare supplier number, must possess a current license

to dispense prescription drugs in the State in which the drug is dispensed, and must bill and receive payment in its own name.

A supplier that is not the entity that dispenses the drugs cannot purchase the drugs used in conjunction with DME for resale to the beneficiary. Payments made for drugs provided on or after December 1, 1996 to suppliers not having a valid pharmacy license to dispense prescription drugs must be recouped.

Reimbursement may be made for replacement of essential accessories such as hoses, tubes, mouth pieces, etc., for necessary DME, only if the beneficiary owns or is purchasing the equipment.

2100.6 Miscellaneous Issues Included in the Coverage of Equipment.-- Payment can be made for the purchase of DME even though rental payments may have been made for prior months. This could occur where, because of a change in his/her condition, the beneficiary feels that it would be to his/her advantage to purchase the equipment rather than to continue to rent it.

A beneficiary may sell or otherwise dispose of equipment for which he/she has no further use, for example, because of recovery from the illness or injury which gave rise to the need for the equipment. (There is no authority for the program to repossess the equipment.) If after such disposal there is again medical need for similar equipment, payment can be made for the rental or purchase of that equipment.

However, where an arrangement is motivated solely by a desire to create artificial expenses to be met by the program and to realize a profit thereby, such expenses would not be covered under the program. The resolution of questions involving the disposition and subsequent acquisition of durable medical equipment must be made on a case-by-case basis.

Cases where it appears that there has been an attempt to create an artificial expense and realize a profit thereby should be developed and when appropriate denied. After adjudication refer such cases to the program integrity specialist in the RO.

2105. COVERAGE GUIDELINES FOR DURABLE MEDICAL EQUIPMENT CLAIMS.

Reimbursement may be made for expenses incurred by a patient for the rental or purchase of durable medical equipment (DME) for use in his/her home provided that all the conditions in column A have been met. Column B indicates the action to be taken to establish that the conditions have been met.

The patient, not the carrier, decides whether an item is to be rented or purchased. The patient may elect to rent even though purchase is more economical.