



Medicare Advocacy Toolkit

# Oxygen Equipment

An Advocate’s Guide for Helping Medicare Beneficiaries Access Durable Medical Equipment

Winter 2025

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## About the Medicare Rights Center

Based in New York, the Medicare Rights Center is a national, nonprofit consumer service organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Since 1989, Medicare Rights has helped people with Medicare understand their rights and benefits, navigate the Medicare system, and secure the quality health care they deserve. Medicare Rights is committed to:

1. Serving as a **kind and expert** health insurance counselor, educator, and advocate for those who need it most.
2. Providing **independent, timely, and clear** information on Medicare, Medicaid for people dually eligible, and related topics to communities nationwide.
3. Fostering **diverse** partnerships and points of view.
4. Finding **lasting** solutions to systemic problems that prevent older adults and people with disabilities from accessing needed health coverage and care.

## About the Advocacy Toolkits

With 30 years of counseling and advocacy experience, the Medicare Rights Center possesses specialized knowledge about the barriers people with Medicare face in accessing affordable health care, as well as strategies for overcoming these barriers. This series of Medicare Advocacy Toolkits has been developed for any New York advocate who is helping older adults and people with disabilities navigate health insurance benefits. The goal of this project is to empower New York advocates and those they serve to navigate Medicare coverage so that they can access needed care. While intended for a New York audience, the Medicare Advocacy Toolkits may offer lessons to other states and be useful resources as advocates and policymakers think about ways to improve the federal Medicare program, which today serves 60 million Americans. **Advocates with additional questions can contact Medicare Rights' professional email inbox at [professional@medicarerights.org](mailto:professional@medicarerights.org). Consumers with questions can call Medicare Rights' national consumer helpline at 1-800-333-4114.**

## Acknowledgements

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The Medicare Rights Center provides these Medicare Advocacy Toolkits as a public service. They are not intended as personalized legal advice, nor is Medicare Rights acting as a private attorney in providing toolkit content. For the latest information about toolkit topics and

customized assistance, contact Medicare Rights, 1-800-MEDICARE, or a local [State Health Insurance Assistance Program](#) (SHIP).

## Introduction: Accessing Durable Medical Equipment

Every year, more than 500 clients reach out to the Medicare Rights Center’s national helpline with issues relating to accessing durable medical equipment (DME). Medicare’s coverage for DME is vital, since the category includes common medically necessary items, such as diabetes testing supplies, mobility aids, and adaptive medical equipment like commode chairs, patient lifts, and hospital beds.<sup>1</sup> Unfortunately, many individuals find it difficult to access these essential items through Medicare.

This Medicare Advocacy Toolkit serves as a step-by-step resource to help advocates and people eligible for Medicare navigate DME access issues. The toolkit:

1. Describes the problem and target audience;
2. Explains strategies for accessing oxygen equipment; and
3. Offers a case example to demonstrate how to evaluate and use these strategies in a complex scenario.

Throughout the toolkit, content is organized in a way that parallels how our counselors evaluate and troubleshoot actual Medicare issues. In addition, the toolkit contains a wealth of citations to the relevant rules that form the basis for helping people solve their Medicare problems.

## The Problem

Over 1.5 million Americans require supplemental oxygen to keep them healthy and alive.<sup>2</sup> Access to oxygen supplies, then, is a matter of life and death for many Medicare beneficiaries and their families. Yet, Medicare Rights hears from hundreds of callers annually who face barriers to accessing the oxygen supplies and equipment they or their loved ones need. These problems vary from coverage denials, suppliers who refuse to repair or replace broken DME, and individuals struggling to secure appropriate oxygen equipment.

These problems often have a cascading, negative effect on the lives of Medicare beneficiaries who need oxygen therapy. Every year, Medicare Rights hears from people who do not get needed health care for fear of running out of oxygen while traveling to doctors’ appointments; who injure themselves while trying to move oxygen equipment that is too heavy or bulky; or who struggle to access oxygen supplies during a natural disaster. Especially for individuals who need oxygen therapy—whose health is generally vulnerable—injuries, delays in care, and the resulting isolation, unmet medical needs, and worsening health can lead to a downward spiral in health outcomes. Accessing appropriate oxygen equipment is a key component to maintaining many individuals’ health and quality of life.

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<sup>1</sup> [42 U.S.C. § 1395m](#); Medicare.gov, [Durable medical equipment \(DME\) coverage](#).

<sup>2</sup> Jacobs, Susan, et al., [Optimizing Home Oxygen Therapy. An Official American Thoracic Society Workshop Report](#), Annals of the American Thoracic Society, Vol. 15, No. 12 (Dec. 01, 2018).

## Target Audience

This Medicare Advocacy Toolkit is designed to help advocates address the needs of New Yorkers who are eligible for Medicare coverage of oxygen equipment in their home.<sup>3</sup>

Medicare's coverage rules for oxygen equipment are the same regardless of how someone qualifies for Medicare. Thus, this toolkit is intended for use with individuals who are eligible for Medicare due to age, disability, or because they have End-Stage Renal Disease (ESRD).

## Medicare's Coverage of Oxygen Equipment

Before an individual can begin the process of getting oxygen equipment, they must meet Medicare's coverage criteria:<sup>4</sup>

1. The individual has been diagnosed with a severe lung disease (or hypoxia-related symptoms)<sup>5</sup> that can be treated with oxygen therapy;
2. The individual's blood gas levels meet specific criteria and testing requirements;<sup>6</sup> and
3. Other treatments have failed or are deemed to be ineffective.

### Medicare covers DME for use in the home, not outside the home.

One frequent coverage issue stems from the fact that Medicare only covers DME, such as oxygen equipment, when it is appropriate for use in the home.<sup>7</sup> Practically, this rule does not affect most individuals, since as long as they need oxygen equipment in their home, and they are mobile within their home, Medicare will cover their portable oxygen.<sup>8</sup> These individuals can use their Medicare-covered equipment outside of their home. In addition, Medicare explicitly requires oxygen suppliers to "provide whatever quantity of oxygen contents are needed for a beneficiary's activities both inside and outside the home."<sup>9</sup> This quantity requirement is limited only by a rule that suppliers can deliver no more than three months' worth of oxygen contents at any one time.<sup>10</sup> Therefore, as a practical matter, this coverage restriction that DME be appropriate for use in the home does not affect the majority of individuals seeking oxygen equipment coverage through Medicare.

The rule **does** pose a problem when individuals are hoping to change how they receive their oxygen. For instance, some individuals with a stationary oxygen concentrator and portable oxygen tanks may begin to have difficulty moving outside of their home due to the weight and size of their portable tanks. As a result, they may request Medicare coverage for smaller, lighter portable oxygen concentrators. In seeking coverage, the individual might assume they should point out that they need the more-portable oxygen in order to get to their medical appointments,

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<sup>3</sup> For the definition of "home," see Centers for Medicare & Medicaid Services (CMS), Medicare Benefit Policy Manual, [Ch. 15](#), § 110.1(D).

<sup>4</sup> CMS, Local Coverage Determination (LCD) [L33797](#); Medicare.gov, [Oxygen equipment & accessories](#).

<sup>5</sup> CMS, Local Coverage Article (LCA) [A52514](#), Policy Specific Documentation Requirements: Severe lung diseases include, but are not limited to, chronic obstructive pulmonary disease (COPD), diffuse interstitial lung disease, cystic fibrosis, bronchiectasis, and widespread pulmonary neoplasm.

<sup>6</sup> For specifics on the criteria for the blood gas studies, please see LCD [L33797](#); Noridian Healthcare Solutions, [Home Oxygen Initial Qualifications Testing](#).

<sup>7</sup> CMS, Medicare Benefit Policy Manual, [Ch. 15](#), §110 and 110.1(D).

<sup>8</sup> CMS, LCD [L33797](#), Portable Oxygen Systems.

<sup>9</sup> CMS, LCA [A52514](#), Oxygen Contents.

<sup>10</sup> Ibid.

religious services, or the grocery store; however, this argument is unhelpful, since Medicare does not cover oxygen equipment intended for use outside the home.<sup>11</sup> Instead, the individual should provide medical documentation that they need the portable oxygen concentrator for use inside of their home. For example, Medicare Rights' clients have successfully argued that they are too weak due to their medical condition to transport portable oxygen tanks into rooms of their home that their stationary oxygen concentrator does not reach.

## Differences for Individuals in a Medicare Advantage Plan

Medicare's coverage rules for oxygen equipment may change depending on whether the individual receives their Medicare benefits through the federal government (Original Medicare) or through a private health insurance plan (Medicare Advantage). In most cases, there are only small differences, as noted throughout this toolkit. This is because Medicare Advantage (MA) Plans have to cover oxygen equipment that Original Medicare would cover, and the vast majority of plans follow the same documentation and supplier requirements that Original Medicare imposes.<sup>12</sup> However, it is important for any individual in an MA Plan to make sure they follow any specific rules that their plan has imposed for accessing DME. Individuals can find these rules in the plan's Explanation of Coverage (EOC) or by calling member services at the plan.

### What exactly does Medicare cover?

Since Medicare covers oxygen in a variety of forms, it can be helpful to diagnosing and addressing problems to understand the basic types. In Medicare Rights' experience, most individuals use a **compressed oxygen system**, which usually includes:

- A stationary oxygen concentrator that draws in oxygen from the surrounding air. This often sits next to an individual's bed and is attached to a long hose and an electrical outlet.
- Portable oxygen tanks that are usually replaced or refilled by the supplier.
- Instead of portable oxygen tanks, some individuals opt for smaller, battery-operated portable oxygen concentrators.

Other individuals use **liquid oxygen systems**, which usually include:

- A reservoir of liquid oxygen kept at home.
- Portable tanks that are refilled using the reservoir.

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<sup>11</sup> In seeming contradiction to this, elsewhere CMS uses more generous language, stating: "The oxygen supplier must provide you with equipment that fits your needs. It should address your mobility needs both inside and outside your home." Medicare.gov, [Getting oxygen equipment & supplies in certain situations](#). Since most individuals with Medicare-covered oxygen already have both stationary and portable equipment, Medicare Rights has also argued that these individuals have already met the requirement of needing portable oxygen in the home, and, therefore, they should not need to meet this requirement again when requesting a switch from portable oxygen tanks to portable oxygen concentrators. Unfortunately, Medicare Rights has not yet been successful with this argument or using the Medicare.gov language in an Administrative Law Judge hearing without medical evidence that the individual requires a switch in equipment for use in the home.

<sup>12</sup> [42 C.F.R. § 422.101](#); CMS, Medicare Managed Care Manual, [Ch. 4](#), §10.12; Medicare Claims Processing Manual, [Ch. 20](#) § 10.3: "It is important to note that, just because a beneficiary qualified for oxygen under a [MA Plan], it does not necessarily follow that he/she will qualify for oxygen under [Original Medicare]."

In addition to the oxygen equipment itself, Medicare also covers a large variety of accessories, including tubing, masks, oxygen tents, humidifiers, and stands or racks.<sup>13</sup> In fact, suppliers “must provide any accessory ordered by the [individual’s] physician.”<sup>14</sup>

## **Accessing Medicare-Covered Oxygen Equipment**

### **Working with a Provider**

The first step for any individual looking to access Medicare-covered oxygen equipment is to see their provider, usually a pulmonologist, to secure medical documentation and an order for the equipment.<sup>15</sup>

The individual’s provider should take these steps:

1. Prepare the **medical record**.
2. Complete a **Certificate of Medical Necessity**.
3. Sign a **Detailed Written Order**.

### **Medical Record**

The provider must prepare a medical record that shows the patient meets Medicare’s coverage criteria for oxygen therapy, namely that the individual has a qualifying diagnosis, meets the testing requirements, and other treatments have not or will not work.<sup>16</sup>

Specifically, the provider must establish a medical record showing:<sup>17</sup>

1. Qualifying blood gas studies;
2. A clinical evaluation within 30 days prior to the physician’s initial certification;
3. The patient’s continued need and management of his/her oxygen equipment; and
4. The method of oxygen delivery (such as a mask).

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<sup>13</sup> CMS, LCA [A52514](#), Oxygen Accessories, which includes a non-exhaustive list of common accessories with their billing codes.

<sup>14</sup> Ibid.

<sup>15</sup> Noridian Healthcare Solutions, [Medical Records](#).

<sup>16</sup> CMS, LCA [A52514](#), Policy Specific Documentation Requirements; Medicare.gov, [Oxygen equipment & accessories](#).

<sup>17</sup> CMS, Medicare Claims Processing Manual, [Ch. 20](#) § 100.2.3; Noridian Healthcare Solutions, [Oxygen and Oxygen Equipment](#).

## Advocacy Tip: When the Provider Needs Help

Some providers have difficulty putting together the correct medical documentation or understanding the requirements. Fortunately, there are several resources to assist providers.

- **Supplier:** Oxygen equipment suppliers are trained by Medicare to understand the coverage criteria and make assessments to determine when someone qualifies for oxygen equipment.<sup>18</sup> Providers can reach out to the supplier for help in understanding what documentation they need to supply and how to complete it correctly.
- **Centers for Medicare & Medicaid Service (CMS) materials:** CMS has created educational materials for providers,<sup>19</sup> and extensively laid out the coverage criteria and documentation requirements for oxygen equipment.<sup>20</sup>
- **DME Medicare Administrative Contractor (MAC):** The DME MAC processes Original Medicare claims for oxygen equipment and publishes the coverage criteria. Providers can reach out to the DME MAC directly<sup>21</sup> or use their online training materials.<sup>22</sup>
- **Medicare Advantage Plan:** MA Plans process claims for oxygen equipment for their plan members. Providers can reach out to the plan to discuss coverage criteria, documentation requirements, and any other coverage-related questions. In addition, providers, suppliers, and plan members can all request pre-service organization determinations from the plan.<sup>23</sup> An organization determination is the plan's decision about whether it will cover the oxygen equipment.<sup>24</sup> An individual or their provider can appeal an unfavorable organization determination.<sup>25</sup>

## Certificate of Medical Necessity (CMN)

The medical record must be supported by matching information on a timely and accurate CMN for oxygen,<sup>26</sup> form [CMS-484](#).<sup>27</sup> In most cases, the provider's office will obtain a partially completed CMN from the individual's supplier, which it will then complete and return to the supplier with the rest of the medical documentation. Often, providers connect with suppliers by calling in a verbal order or sending a written order (this is called a "dispensing order" and is similar to a prescription) to the individual's supplier, which triggers the supplier sending back a partially complete CMN.

<sup>18</sup> Noridian Healthcare Solutions, [Durable Medical Equipment, Prosthetics, Orthotics and Supplies \(DMEPOS\)](#).

<sup>19</sup> CMS, Medicare Learning Network [Home Oxygen Therapy](#) (ICN 908804).

<sup>20</sup> CMS, National Coverage Determination (NCD) [240.2](#); LCD [L33797](#); LCA [A52514](#).

<sup>21</sup> In New York, this is [Noridian Healthcare Solutions](#), which providers can reach online at the [Noridian Medicare Portal](#) or by calling (866) 419-9458.

<sup>22</sup> E.g., Noridian Healthcare Solutions, [Clinician DME on Demand Tutorials](#).

<sup>23</sup> CMS, Medicare Managed Care Manual, [Ch. 4](#), § 160; Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance, § 40.6.

<sup>24</sup> CMS, Medicare Managed Care Manual, [Ch. 4](#), § 160.

<sup>25</sup> *Ibid.*; Parts C & D Enrollee Grievances, Organization/Coverage Determinations, and Appeals Guidance, § 50.1.

<sup>26</sup> Noridian Healthcare Solutions, [Completion of Certificates of Medical Necessity \(CMN\)](#).

<sup>27</sup> CMS, LCD [L33797](#); [Certificate of Medical Necessity CMS-484 Oxygen](#), DME 484.03.

Note: Preparing the medical record to meet Medicare’s coverage criteria for oxygen does not take place in a single doctor’s visit. It takes a series of visits with the provider or providers, since there will need to be medical documentation of an appropriate diagnosis, notes on attempted treatments, tests, interpretations of tests, etc.<sup>28</sup>

### **Advocacy Tip: Details Matter**

It is crucial for providers to follow all directions and accurately report the required information in a timely fashion. Medicare Rights hears from many callers who are denied coverage for oxygen or are unable to get a supplier to provide oxygen to them because of incomplete, inaccurate, or untimely documentation.

For instance, a physician must sign and date Section D of the CMN even though another staff member can complete Section B. The CMN is not valid if.<sup>29</sup>

- A physician’s office staff member signs Section D instead of the physician;
- The blood gas study was obtained more than 30 days prior to the date the physician signs the CMN; or
- The information on the CMN does not match the rest of the medical record.

### **Detailed Written Order (DWO)**

When the medical record and CMN are complete, the provider should sign and date a DWO sent to them by the supplier.<sup>30</sup> While the provider already sent to the supplier a verbal or written dispensing order for the oxygen equipment, the DWO is the final, itemized order that furnishes specific instructions to the supplier. For example, the DWO should present the specific, requested accessories, supplies, number of refills, brand of equipment, modality of oxygen, and all other particulars of the order.<sup>31</sup>

### **Advocacy Tip: Order Matters**

To ensure Medicare coverage, it is crucial for providers and suppliers to complete the required paperwork in the correct order. For example, if the supplier delivers oxygen equipment prior to the receipt of the DWO, Medicare should deny the equipment for being statutorily non-covered, meaning the equipment fails to meet the Medicare law’s definition of DME since it was not properly ordered by a doctor.<sup>32</sup> This is true even if the supplier acquires a DWO after the fact.<sup>33</sup>

<sup>28</sup> Noridian Healthcare Solutions, [Clinicians Ordering Oxygen and Oxygen Equipment - Reference Guide](#).

<sup>29</sup> CMS, Medicare Program Integrity Manual, [Ch. 5](#), § 5.9.1; Noridian Healthcare Solutions, [Completion of Certificates of Medical Necessity \(CMN\)](#).

<sup>30</sup> [42 C.F.R. § 410.38\(g\)](#); CMS, MLN Matters, [Detailed Written Orders and Face-to-Face Encounters](#) (MM8304); Noridian Healthcare Systems, [Detailed Written Orders](#).

<sup>31</sup> CGS, [Detailed Written Orders](#).

<sup>32</sup> CMS, LCA [A52514](#), Requirements for Specific DMEPOS Items Pursuant to 42 CFR 410.38(G).

<sup>33</sup> Ibid.

## **Remember to Follow any Additional Rules Required by the Medicare Advantage Plan**

MA Plans sometimes impose additional DME coverage requirements. For example, a plan might require prior authorization before approving oxygen equipment for one of their plan members. To avoid problems, individuals with an MA Plan should ensure they understand the plan's rules, follow them, and communicate with their in-network provider and supplier to ensure the rules are followed. Individuals can find these rules in their plan's Explanation of Coverage or by calling member services at the plan (being careful to note the name of the person they speak with, the date and time of the call, and any information that was obtained).

### **Working with a Supplier**

The second step for accessing Medicare-covered oxygen equipment is to find a supplier that is knowledgeable and communicative. Finding the right oxygen equipment supplier can help an individual avoid access problems immediately and in the future, as individuals normally rely on the same supplier for the five-year lifespan of their oxygen equipment.<sup>34</sup> Suppliers are expected to:<sup>35</sup>

- Evaluate individuals for coverage, including acquiring the required medical documentation and assisting with appeals for coverage denials from Medicare or their MA Plan.<sup>36</sup>
- Communicate with the individual's provider at the time of the initial order to secure the required medical documentation, CMN, and DWO.
- Communicate with the individual's provider after the initial order to acquire any needed recertifications and document continued need and use.
- Deliver an individual's supplies, repair or replace their equipment, and arrange for the same services if the individual travels or moves away from the supplier's service area.<sup>37</sup>

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<sup>34</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>35</sup> CMS, LCA [A52514](#).

<sup>36</sup> Suppliers have a variety of resources available through the DME MACs, e.g., Noridian Healthcare Solutions, [Documentation Checklist Oxygen and Oxygen Equipment](#).

<sup>37</sup> Medicare.gov, [Getting oxygen equipment & supplies in certain situations](#).

### Advocacy Tip: Provider-Supplier Miscommunications

Some of the most difficult oxygen-access cases Medicare Rights encounters are where there is a breakdown in communication between the ordering provider and the oxygen equipment supplier. When encountering this situation, individuals can:

- **Advocate:** The individual or their advocate can educate themselves on the coverage criteria and process and reach out to the provider and suppliers making specific, actionable requests.
- **Complain:** Suppliers should have grievance processes that individuals can use to try to escalate a problem internally.
- **Escalate:** Individuals in Original Medicare can contact the CMS Regional Office to get assistance from a caseworker.<sup>38</sup> Both the Regional Office and 1-800-MEDICARE can also forward a complaint to the Medicare Ombudsman or Competitive Acquisition Ombudsman. Individuals in an MA Plan can call member services at the plan, file a grievance with their plan, or file a complaint against their plan with 1-800-MEDICARE.

### Finding a Supplier

To ensure their oxygen equipment is covered and to protect themselves from higher costs, individuals should carefully choose their oxygen equipment supplier. How to find an appropriate supplier depends on whether the individual receives their Medicare benefits through Original Medicare or an MA Plan.

Those with Original Medicare should use a Medicare-approved supplier that takes assignment. Individuals can call 1-800-MEDICARE or visit [www.medicare.gov/supplier](http://www.medicare.gov/supplier) to find DME suppliers who take assignment.

- **If the supplier takes assignment for oxygen equipment:**<sup>39</sup> Once an individual meets their Part B deductible, Original Medicare normally pays 80% of the Medicare-approved amount for oxygen equipment leaving individuals (or their secondary insurance) responsible for 20% of the Medicare-approved amount. The supplier must accept Medicare's approved amount as payment in full.
- **If the supplier does not take assignment for oxygen equipment:**<sup>40</sup> The supplier may charge the individual more than Medicare's approved amount for oxygen equipment. Medicare may still pay the same 80% of the Medicare-approved amount, which leaves the individual responsible for the additional costs. There is no limiting charge for DME as there is with most health care services, meaning a supplier who does not accept assignment can charge an amount over the Medicare-approved cost for a service or item.

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<sup>38</sup> CMS, [New York Regional Office](#).

<sup>39</sup> Medicare.gov, [Lower costs with assignment](#); CGS, [DME Supplier Participation and Assignment Reminders](#).

<sup>40</sup> Ibid.

## Finding a Supplier for those in a Medicare Advantage Plan

Follow the plan's rules for getting DME, including which providers and suppliers to use. Individuals can find these rules in the plan's Explanation of Coverage or by calling member services at the plan. In most MA Plans, it is important to find a supplier that contracts with that plan (an in-network supplier). In most cases, individuals who use an out-of-network supplier will face higher costs and may lose some billing protections. Plans are required to keep up-to-date lists of their in-network suppliers.<sup>41</sup>

## Choosing a Brand

Individuals can face pressure in choosing which brand of oxygen equipment to select. The ordering provider, friends and family, suppliers, the insurance plan, and advertising all often offer different reasons for different brands. From an advocate's perspective, there are a few reasons to choose one brand over the other:

- **Many MA Plans have preferred and non-preferred brands of DME.**<sup>42</sup> This is important to consider because non-preferred brands will almost always be more expensive for the individual because they pay a greater share of the cost. If the individual needs a particular brand and that brand is non-preferred by their MA Plan, they may want to consider switching plans.<sup>43</sup> MA Plans are required to disclose information about any brand limitations in the Explanation of Coverage and Annual Notice of Change.<sup>44</sup>
- **Suppliers may not carry all brands of oxygen equipment.** Before choosing a supplier, the individual should consider whether the supplier carries their brand preference by contacting the supplier or their plan. In addition, they have to ensure in-network suppliers provide access to all of the plan's preferred brands and that preferred brands are not removed from coverage mid-year.<sup>45</sup>
- **Different brands sell substantively different products.** For example, there can be significant weight differences between different brands of portable oxygen concentrators. For individuals who have mobility issues and require lightweight equipment, making sure they use a brand that offers the equipment they need should be a chief consideration.

## Supplier is Contracted for Five Years

Medicare covers oxygen equipment by renting it in five-year cycles, beginning when the individual first receives the oxygen equipment.<sup>46</sup> Although the rental period is for five years,

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<sup>41</sup> CMS, Medicare Managed Care Manual, [Ch. 4](#), §10.12.1.

<sup>42</sup> CMS, Medicare Managed Care Manual, [Ch. 4](#), §10.12.2.

<sup>43</sup> For a list of special enrollment periods MA Plan members can use to switch mid-year, see Medicare Rights, [Special Enrollment Periods for Medicare Advantage Plans and Medicare Part D Drug Plans](#).

<sup>44</sup> CMS, Medicare Managed Care Manual, [Ch. 4](#), §10.12.1.

<sup>45</sup> [42 C.F.R. § 422.100](#)(1)(2); CMS, Medicare Managed Care Manual, [Ch. 4](#), §10.12.2.

<sup>46</sup> CMS, LCA [A52514](#), Oxygen Equipment; Medicare Rights, [Special rules for oxygen equipment rental, repairs, and maintenance](#). For a more in-depth explanation of billing for oxygen equipment, see CMS, Medicare Claims Processing Manual, [Ch. 20](#), § 130.6 *et seq.* For information on how billing changes when an individual with Medicare-covered oxygen equipment for the home is hospitalized (or put in a similar institution) see § 211.2 of the same manual chapter.

Medicare only pays a monthly fee to the supplier for the first three years of the cycle.<sup>47</sup> This fee is a prospective bundled payment, meaning it covers delivery, back-up equipment, maintenance, supplies, and accessories in one payment.<sup>48</sup> Like other Part B services, Medicare only covers 80% of the rental fee, so individuals with Medicare or their secondary insurer are responsible for the other 20%.<sup>49</sup> **Once the three years is up**, Medicare (and any individual responsible for the 20% coinsurance) will stop paying the monthly rental fee, but will still pay for oxygen tank refills and maintenance for the last two years of the cycle.<sup>50</sup>

Even if the individual moves, exchanges their oxygen equipment, switches from tanks to a portable oxygen concentrator, or moves to a different supplier, their five-year cycle continues without restarting.<sup>51</sup> As a result, it can be very difficult for individuals to find a new supplier after a contract has started, since the new supplier will not be receiving the full three years of payments but will have to provide services for whatever is left of the five-year cycle. In cases like this, the supplier who received the prospective bundled payment should make arrangements to have a new supplier begin covering the oxygen.<sup>52</sup>

### **After Five Years, Get New Oxygen Equipment**

At the end of the five-year cycle, individuals—in almost all cases— should request new oxygen equipment and begin another five-year cycle. This is because Medicare will no longer cover anything other than oxygen refills for the original equipment.<sup>53</sup> The same is true for people who already have their own oxygen equipment when they join Medicare.<sup>54</sup> Unless they get new equipment through Medicare, the program will only pay for oxygen refills.<sup>55</sup> Individuals also become eligible for new equipment if their supplier “abandons” them (e.g., the supplier goes out of business) in the middle of a contract cycle without arranging for a new supplier.<sup>56</sup>

### **Back-Up Oxygen**

Since suppliers are required to provide 24/7 access to oxygen, this means, in most cases, that suppliers have to provide back-up systems in case the power goes out or equipment breaks down.<sup>57</sup> This is only true, however, for people who regularly use oxygen: Medicare does not cover emergency oxygen or stand-by systems for individuals who are not regularly using

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<sup>47</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>48</sup> CMS, LCD [L33797](#), Miscellaneous.

<sup>49</sup> Medicare Rights, [Special rules for oxygen equipment rental, repairs, and maintenance](#)

<sup>50</sup> Ibid.

<sup>51</sup> CMS, LCA [A52514](#): The five-year cycle will restart in very limited circumstances. First, in certain cases where the equipment suffered a “specific incident of damage beyond repair (e.g., dropped and broken, fire, flood, etc.) or the item is stolen or lost.” Second, in certain circumstances, where the individual stopped needing oxygen and then, later, needed oxygen again (referred to as a “break-in-need.”). We have also seen CMS restart a contract when a supplier has gone out of business mid-contract. For example, see Noridian, [Supplier Exit from Oxygen Equipment Business – Revised](#) and Palmetto GBA, [Suppliers of Oxygen Equipment and/or Supplies](#).

<sup>52</sup> CMS, [Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program: Temporary Gap Period](#). In practice, “must arrange,” seems to mean the original supplier pays a supplier in the new location to continue providing oxygen for the rest of the contract.

<sup>53</sup> CMS, LCA [A52514](#), Oxygen Equipment; Medicare Claims Processing Manual, [Ch. 20](#), §§ 30.6.2 and 30.6.3.

<sup>54</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>55</sup> Ibid.

<sup>56</sup> CMS, Medicare Claims Processing Manual, [Ch. 20](#), § 50.4; CGS, [Supplier Exit from Oxygen Equipment Business – Revised](#).

<sup>57</sup> CMS, LCA [A52514](#), Oxygen Equipment.

oxygen.<sup>58</sup> Medicare generally considers these items, in this case, to be precautionary, therapeutic, or non-medical and, therefore, not reasonable and medically necessary.<sup>59</sup>

## Addressing Problems with a Supplier

Medicare imposes specific requirements on DME suppliers and MA Plans regarding DME coverage, delivery, maintenance, and replacement. Relevant to individuals on oxygen therapy, suppliers must:<sup>60</sup>

- Document compliance with medical device safety standards.
- Employ appropriately credentialed personnel to deliver, set-up, and train the patient on how to use the equipment.
- Inform patients about the equipment's use and maintenance in a way that is tailored to the patient's particular needs and abilities.
- Ensure patients can use the equipment safely in the setting in which the patient plans to use it.
- Repair and maintain equipment.
- Investigate any accident or injury to which the equipment may have contributed.
- Provide 24/7 access to oxygen.

### Advocacy Tip: Escalating Supplier Issues for those in Original Medicare

When suppliers fail to meet these requirements, individuals can escalate the issue in different ways, depending on whether they have Original Medicare or Medicare Advantage. For those in Original Medicare:

- File a complaint with the supplier, as all suppliers are required to have an internal grievance process.
- Contact the CMS Regional office to request a caseworker.<sup>61</sup>
- Call 1-800-MEDICARE to file a complaint against the supplier and ask for the complaint to be sent to the Medicare Ombudsman or Competitive Acquisition Ombudsman.

### Escalating Supplier Issues for those in a Medicare Advantage Plan

- File a complaint with the supplier.
- Call member services at the plan asking for help with the in-network supplier.
- If the plan is not helping, file a grievance with the plan for failing to assist with the supplier issue. Forward a copy of the grievance to the CMS Regional Office.<sup>62</sup>
- If the plan does not resolve the supplier issue, call 1-800-MEDICARE to file a complaint against the plan.

<sup>58</sup> CMS, LCD [L33797](#), Miscellaneous.

<sup>59</sup> CMS, LCD [L33797](#), Miscellaneous; Medicare Benefit Policy Manual, [Ch. 15](#), §110.1(B)(2).

<sup>60</sup> CMS, [Supplier Quality Standards and Beneficiary Protections](#).

<sup>61</sup> CMS, [New York Regional Office](#).

<sup>62</sup> Ibid.

Two situations when an individual or advocate may need to address supplier problems are if an individual needs repairs or maintenance or if they are changing suppliers. If suppliers are not cooperative, an individual or advocate should follow the complaint and grievance processes depending on the type of coverage the individual has.

## Repairs and Replacement

Suppliers are required to repair defective oxygen equipment during their five-year contract.<sup>63</sup> Payment for repairs is already factored into the monthly rental fee, so the individual should not be paying additional money to their supplier for repairs.<sup>64</sup> While making repairs, the supplier should provide a temporary replacement.<sup>65</sup> If the equipment is beyond repair, lost, or stolen, the supplier will need to replace it.<sup>66</sup> In addition to defective equipment, the supplier may also have to replace equipment with a different type when a doctor orders a different type of equipment, the individual chooses an upgrade and agrees to pay for it, or if CMS or the DME MAC determines that a change is warranted.<sup>67</sup>

## Changing Suppliers

Although individuals have the right to change their oxygen supplier, it is often difficult to find a new supplier who will accept an individual mid-contract. In these cases, it is important to keep supplier requirements in mind. In most cases, suppliers do not have the right to stop servicing their clients.<sup>68</sup> Even if an individual travels or moves outside of the supplier's service area, Medicare requires the suppliers to continue to furnish all of the normal services or "make arrangements" with another supplier who can furnish the services.<sup>69</sup> Based on Medicare Rights' communication with CMS, "make arrangements" means the original supplier is required to contract with another supplier who can continue to serve the individual, even though the original supplier may no longer be receiving rental payments from Medicare (such as if the original supplier was more than three years into the rental cycle).

There are two limits, though, on an oxygen supplier's responsibilities for individuals travelling outside of their service area:

- **Flying:** When flying, individuals may need to use the oxygen supplied through an airline-approved vendor; however, if they do, Medicare will not pay for the airline-provided oxygen services.<sup>70</sup> In some cases, individuals with portable oxygen concentrators can use their own device on a plane.<sup>71</sup> Medicare also recommends renting a portable oxygen concentrator from the supplier.<sup>72</sup>
- **Outside the U.S.:** Medicare will not pay, and suppliers do not have to provide oxygen equipment and servicing outside of the country.<sup>73</sup>

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<sup>63</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>64</sup> Ibid.

<sup>65</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>66</sup> CMS, Medicare Benefit Policy Manual, [Ch. 15](#), § 110.2.

<sup>67</sup> CMS, LCA [A52514](#), Oxygen Equipment.

<sup>68</sup> Ibid: There are four exceptions: "Beneficiary relocates temporarily or permanently outside of the supplier's service area; Beneficiary elects to obtain oxygen from a different supplier; Individual case exceptions made by CMS or DME MAC; Item becomes subject to competitive bidding."

<sup>69</sup> CMS, LCA [A52514](#), Relocation and Travel; Medicare.gov, [Getting oxygen equipment & supplies in certain situations](#).

<sup>70</sup> CMS, LCA [A52514](#), Relocation and Travel, Miscellaneous.

<sup>71</sup> E.g. United Airlines, [Portable Oxygen Concentrators](#).

<sup>72</sup> Medicare.gov, [Getting oxygen equipment & supplies in certain situations](#).

<sup>73</sup> CMS, LCA [A52514](#), Relocation and Travel, Miscellaneous; Medicare Claims Processing Manual, [Ch. 20](#) §30.9.1.

## Case Example

Natalie is enrolled in an MA Plan that first began covering a stationary oxygen concentrator and portable oxygen tanks for her two years ago. Natalie does not often use the tanks: they are heavy, bulky, and she is worried she will injure herself trying to move them. Natalie is also afraid she will run out of oxygen when outside of her home, since she has unreliable transportation. A few years ago, Natalie's family pitched in to get her a portable oxygen concentrator she can wear like a backpack. Unfortunately, the portable oxygen concentrator needs repairs, which Natalie cannot afford. How do you help Natalie?

- How does the plan cover oxygen equipment?** Since this is an MA Plan, you should first check with the plan's explanation of coverage or call member services at the plan to determine what rules you are working under. Since most MA Plans simply follow Medicare's coverage criteria and documentation requirements, we will assume that is true here.
- Will the MA Plan cover repairs?** Unfortunately, since the MA Plan did not pay for the portable oxygen concentrator, they do not have to pay for repairs.
- Will the supplier provide free repairs?** This portable oxygen concentrator was purchased outside of Medicare's protections, so the supplier responsibilities do not apply. That being said, it may still be worth asking the supplier to take a look. The supplier may be able to cheaply repair the equipment or provide a replacement if it was defective and there is a warranty.
- Will the MA Plan cover a new portable oxygen concentrator?** Under Medicare's guidelines, Natalie could switch from using plan-covered portable oxygen tanks to a plan-covered portable oxygen concentrator if a doctor ordered it based on a medical need. While Natalie has expressed medical reasons for needing it outside of the home, this is not enough to require the plan to cover it. Instead, she would need to show that she had a medical need for the portable oxygen concentrators in the home. For example, if Natalie's stationary oxygen concentrator did not extend enough to allow her to use her kitchen and Natalie was too unstable to wheel a portable oxygen tank into her kitchen with her, then the plan may be required to cover the new equipment. If her plan does cover a portable oxygen concentrator, it is important to remember that Natalie would be limited in her choice of portable oxygen concentrators to the plan's preferred brands.

### What if Natalie had Original Medicare?

- One difference: If Medicare covered a new portable oxygen concentrator, she would not be limited by her plan's preferred brands, but she would be limited by what brands her supplier offered. This is because: 1) Medicare does not require suppliers to carry all brands of portable oxygen concentrators, and 2) another supplier would be unlikely to take Natalie in the middle of a contract.