Ronja L. Roland
Provider Relations Analyst
CIGNA Government Services
Provider Outreach & Education

CIGNA Government Services

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Sylvia King
President, MAMES

Here are the responses to the questions raised at your recent MAMES meeting.

Question: We were told that if a patient has equipment for 5 years, then they can request new equipment and start a new rental. This was discussed in reference to the oxygen concentrators after 5 years. One member stated they were told it went from the date of service and the other stated they were told you had to prove the patient had the exact same concentrator for the 5 years. Can you clarify?

Response: In accordance with section 414.210 (f)(1) the reasonable useful lifetime of durable medical equipment, including oxygen equipment, begins on the date that the equipment is first delivered to the beneficiary. The reasonable useful lifetime of oxygen equipment furnished to beneficiaries on December 31, 2005, was not adjusted to begin anew on January 1, 2006, to correspond with the start of the 36- month rental period. Therefore, in these situations, the equipment's reasonable useful lifetime may end at any point during or after the 36-month rental period.

For further information regarding this, please refer to the **Federal Register** / Vol. 73, No. 224 / Wednesday, November 19, 2008 / Rules and Regulations *beginning with* **J. Section 144(b): Repeal of Transfer of Title for Oxygen Equipment.**

A new Medlearn Matters Article has been released regarding the Oxygen Changes, it is **MLN Matters Number: SE0840.**

Question: A patient needs a sleep study and is referred to the sleep center. At the sleep center that patient is evaluated by a treating physician and the physician records their BMI, neck circumference, Epworth sleepiness scale, and history of

problems. He does this on the same day the patient has the sleep study done, prior to their test. Does this count as the face to face?

Response: Medicare statute defines treating physician as one "...who furnishes a consultation or treats the beneficiary for a specific medical problem and who uses the [diagnostic x-ray tests, diagnostic laboratory tests and other diagnostic tests] results in the management of the beneficiary's specific medical problem." In a scenario where the beneficiary visits their primary care provider (PCP) who then refers the beneficiary to a sleep specialist for a polysomnographic test and subsequent treatment with PAP and follow-up, both the PCP and the sleep specialist would be considered a "treating physician" within the context of Medicare regulations. Both physicians are engaged in diagnosing and treating the beneficiary for sleep disordered breathing. This scenario is quite common in medical practice where the primary medical care for the patient is rendered by the PCP and subspecialty physician consultation is engaged for specific diagnostic and/or therapeutic treatment outside the scope of the PCP's area of medical expertise.

In your example, this would be considered the face to face evaluation.

Question: After equipment has been purchased by Medicare, if a patient calls and says they would like for us to come check to see if there is a problem with it, can we charge a fee for going to their home, even if we don't find anything to be wrong with the item? The example mentioned in the meeting was: A person has bed rails, can't get them to raise properly on the bed, and feels they are not functioning properly. A tech goes to the home and assesses the rails and the bed and finds nothing wrong with the equipment, but notes that the patient was trying to use them improperly. Can we charge this as a labor charge since no actual labor was performed? Are we allowed to charge this as a 'service charge' just like an air conditioner technician would? *Or* are we just supposed to refuse to service the patient since they 'own' the equipment and no warranty is left on it?

Response: There is no definitive response to this question, because proper billing is determined on a case by case basis. According to the IOM Publication 100-02, Chapter 15, section 110.2 (b): "Routine periodic servicing, such as testing, cleaning, regulating and checking of the beneficiary's equipment 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."

Please refer to this section of the IOM for further details.

Thank you,

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