

gap in the entire DMEPOS CBP and/or National Mail Order CBP, the fee schedule amounts for items and services that were competitively bid and furnished in areas that were competitive bidding areas at the time the program(s) was in effect are adjusted based on the SPAs in effect in the competitive bidding areas on the last day before the CBP contract period of performance ended, increased by the projected percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the 12-month period ending on the date after the contract periods ended. If the gap in the CBP lasts for more than 12 months, the fee schedule amounts are increased once every 12 months on the anniversary date of the first day of the gap period based on the projected percentage change in the CPI-U for the 12-month period ending on the anniversary date.

[57 FR 57689, Dec. 7, 1992, as amended at 71 FR 65932, Nov. 9, 2006; 73 FR 69936, Nov. 19, 2008; 73 FR 80304, Dec. 31, 2008; 74 FR 62009, Nov. 25, 2009; 79 FR 66262, Nov. 6, 2013; 81 FR 77965, Nov. 4, 2016; 83 FR 21925, May 11, 2018; 83 FR 57070, Nov. 14, 2018; 85 FR 27623, May 8, 2020; 86 FR 73911, Dec. 28, 2021; 87 FR 199, Jan. 4, 2022; 88 FR 77875, Nov. 13, 2023]

§ 414.220 Inexpensive or routinely purchased items.

(a) *Definitions.* (1) *Inexpensive equipment* means equipment the average purchase price of which did not exceed \$150 during the period July 1986 through June 1987.

(2) *Routinely purchased equipment* means equipment that was acquired by purchase on a national basis at least 75 percent of the time during the period July 1986 through June 1987.

(3) *Accessories.* Effective January 1, 1994, accessories used in conjunction with a nebulizer, aspirator, or ventilator excluded from § 414.222 meet the definitions of “inexpensive equipment” and “routinely purchased equipment” in paragraphs (a)(1) and (a)(2) of this section, respectively.

(b) *Payment rules.* (1) Subject to the limitation in paragraph (b)(3) of this section, payment for inexpensive and routinely purchased items is made on a rental basis or in a lump sum amount for purchase of the item based on the applicable fee schedule amount.

(2) Effective January 1, 1994, payment for ostomy supplies, tracheostomy supplies, urologicals, and surgical dressings not furnished as incident to a physician's professional service or furnished by an HHA is made using the methodology for the inexpensive and routinely purchased class.

(3) The total amount of payments made for an item may not exceed the fee schedule amount recognized for the purchase of that item.

(c) *Fee schedule amount for 1989 and 1990.* The fee schedule amount for payment of purchase or rental of inexpensive or routinely purchased items furnished in 1989 and 1990 is the local payment amount determined as follows:

(1) The carrier determines the average reasonable charge for inexpensive or routinely purchased items that were furnished during the period July 1, 1986 through June 30, 1987 based on the mean of the carrier's allowed charges for the item. A separate determination of an average reasonable charge is made for rental equipment, new purchased equipment, and used purchased equipment.

(2) The carrier adjusts the amount determined under paragraph (c)(1) of this section by the change in the level of the CPI-U for the 6-month period ending December 1987.

(d) *Updating the local payment amounts for years after 1990.* For each year subsequent to 1990, the local payment amounts of the preceding year are increased or decreased by the covered item update. For 1991 and 1992, the covered item update is reduced by 1 percentage point.

(e) *Calculating the fee schedule amounts for years after 1990.* For years after 1990, the fee schedule amounts are equal to the national limited payment amount.

(f) *Calculating the national limited payment amount.* The national limited payment amount is computed as follows:

(1) The 1991 national limited payment amount is equal to:

(i) 100 percent of the local payment amount if the local payment amount is neither greater than the weighted average nor less than 85 percent of the weighted average of all local payment amounts;

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(ii) The sum of 67 percent of the local payment amount plus 33 percent of the weighted average of all local payment amounts if the local payment amount exceeds the weighted average of all local payment amounts; or

(iii) The sum of 67 percent of the local payment amount plus 33 percent of 85 percent of the weighted average of all local payment amounts if the local payment amount is less than 85 percent of the weighted average of all local payment amounts.

(2) The 1992 national limited payment amount is equal to:

(i) 100 percent of the local payment amount if the local payment amount is neither greater than the weighted average nor less than 85 percent of the weighted average of all local payment amounts;

(ii) The sum of 33 percent of the local payment amount plus 67 percent of the weighted average of all local payment amounts if the local payment amount exceeds the weighted average; or

(iii) The sum of 33 percent of the local payment amount plus 67 percent of 85 percent of the weighted average of all local payment amounts if the local payment amount is less than 85 percent of the weighted average.

(3) For 1993, the national limited payment amount is equal to one of the following:

(i) 100 percent of the local payment amount if the local payment amount is neither greater than the weighted average nor less than 85 percent of the weighted average of all local payment amounts.

(ii) 100 percent of the weighted average of all local payment amounts if the local payment amount exceeds the weighted average of all local payment amounts.

(iii) 85 percent of the weighted average of all local payment amounts if the local payment amount is less than 85 percent of the weighted average of all local payment amounts.

(4) For 1994 and subsequent years, the national limited payment amount is equal to one of the following:

(i) If the local payment amount is not in excess of the median, nor less than 85 percent of the median, of all local payment amounts—100 percent of the local payment amount.

(ii) If the local payment amount exceeds the median—100 percent of the median of all local payment amounts.

(iii) If the local payment amount is less than 85 percent of the median—85 percent of the median of all local payment amounts.

(g) *Payment for surgical dressings.* For surgical dressings furnished after December 31, 1993, the national limited payment amount is computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates for 1993 and 1994.

[57 FR 57689, Dec. 7, 1992, as amended at 60 FR 35497, July 10, 1995]

§ 414.222 Items requiring frequent and substantial servicing.

(a) *Definition.* Items requiring frequent and substantial servicing in order to avoid risk to the beneficiary's health are the following:

(1) Ventilators (except those that are either continuous airway pressure devices or respiratory assist devices with bi-level pressure capability with or without a backup rate, previously referred to as “intermittent assist devices with continuous airway pressure devices”).

(2) Continuous and intermittent positive pressure breathing machines.

(3) Continuous passive motion machines.

(4) Other items specified in CMS program instructions.

(5) Other items identified by the carrier.

(b) *Payment rule.* Rental payments for items requiring frequent and substantial servicing are made on a monthly basis, and continue until medical necessity ends.

(c) *Fee schedule amount for 1989 and 1990.* The fee schedule amount for items requiring frequent and substantial servicing is the local payment amount determined as follows:

(1) The carrier determines the average reasonable charge for rental of items requiring frequent and substantial servicing that were furnished during the period July 1, 1986 through June 30, 1987 based on the mean of the carrier's allowed charges for the item.