

**§ 414.222**

**42 CFR Ch. IV (10–1–24 Edition)**

(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.

(2) The carrier adjusts the amounts 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 fee schedule amounts for years after 1990.* For years after 1990, the fee schedules are determined using the methodology contained in paragraphs (d), (e), and (f) of § 414.220.

(e) *Transition to other payment classes.* For purposes of calculating the 15-month rental period, beginning January 1, 1994, if an item has been paid for under the frequent and substantial servicing class and is subsequently paid for under another payment class, the rental period begins with the first month of continuous rental, even if that period began before January 1, 1994. For example, if the rental period began on July 1, 1993, the carrier must use this date as beginning the first month of rental. Likewise, for purposes of calculating the 10-month purchase option, the rental period begins with the first month of continuous rental without regard to when that period started. For example, if the rental period began in August 1993, the 10-month purchase option must be offered to the beneficiary in May 1994, the tenth month of continuous rental.

(f) *Multi-function ventilators*—(1) Definition. For the purpose of this paragraph (f), a multi-function ventilator is a ventilator as defined in paragraph (a)(1) of this section that also performs medically necessary functions for the patient at the same time that would otherwise be performed by one or more different items classified under § 414.220, § 414.226, or § 414.229.

(2) *Payment rule.* Effective for dates of service on or after January 1, 2019, the monthly rental fee schedule amount for a multi-function ventilator described in paragraph (f)(1) of this section is equal to the monthly rental fee schedule amount for the ventilator established in paragraph (c) and paragraph (d) of this section plus the average of the lowest monthly cost for one additional function determined under paragraph (f)(3) of this section and the monthly cost of all additional functions determined under paragraph (f)(3) of this section, increased by the annual

covered item updates of section 1834(a)(14) of the Act.

(3) *Monthly cost for additional functions.* (i) For functions performed by items classified under this section prior to 1994, the monthly cost is equal to the monthly rental fee schedule amount established in paragraphs (c) and (d) of this section increased by the covered item update of section 1834(a)(14) of the Act.

(ii) For functions performed by items classified under § 414.220, the monthly cost is equal to the fee schedule amount for purchased equipment established in § 414.220(c), (d), (e), and (f), adjusted in accordance with § 414.210(g), divided by 60 months or total number of months of the reasonable useful lifetime of the equipment.

(iii) For functions performed by items classified under § 414.226, the monthly cost is equal to the monthly payment amount established in § 414.226(e) and (f), adjusted in accordance with § 414.210(g), multiplied by 36 and divided by 60 months or total number of months of the reasonable useful lifetime of the oxygen equipment.

(iv) For functions performed by items classified under § 414.229, the monthly cost is equal to the purchase price established in § 414.229(c), adjusted in accordance with § 414.210(g), divided by 60 months or total number of months of the reasonable useful lifetime of the equipment.

[57 FR 57690, Dec. 7, 1992, as amended at 60 FR 35497, July 10, 1995; 71 FR 4525, Jan. 27, 2006; 83 FR 57071, Nov. 14, 2018]

#### § 414.224 Customized items.

(a) *Criteria for a customized item.* To be considered a customized item for payment purposes under paragraph (b) of this section, a covered item (including a wheelchair) must be uniquely constructed or substantially modified for a specific beneficiary according to the description and orders of a physician and be so different from another item used for the same purpose that the two items cannot be grouped together for pricing purposes.

(b) *Payment rule.* Payment is made on a lump sum basis for the purchase of a customized item based on the carrier's individual consideration and judgment of a reasonable payment amount for