

about the availability of contract suppliers for the beneficiary's area.

(iv) *Pickup procedures.* (A) The pick-up of the noncontract supplier's equipment and the delivery of the new contract supplier's equipment should occur on the same date, that is, the first rental anniversary date of the equipment that occurs after the start of the competitive bidding program unless an alternative arrangement has been made with the beneficiary and the new contract supplier.

(B) Under no circumstance should a supplier pick up a rented item prior to the supplier's receiving acknowledgement from the beneficiary that the beneficiary is aware of the date on which the supplier is picking up the item and the beneficiary has made arrangements to have the item replaced on that date by a contract supplier.

(C) When a beneficiary chooses to switch to a new contract supplier, the current noncontract supplier and the new contract supplier must make arrangements that are agreeable to the beneficiary.

(D) The contract supplier cannot submit a claim with a date of delivery for the new equipment that is prior to the first anniversary date that occurs after the beginning of the CBP.

(7) *Payment for accessories and supplies for grandfathered items.* Accessories and supplies that are used in conjunction with and are necessary for the effective use of a grandfathered item may be furnished by the same grandfathered supplier that furnishes the grandfathered item. Payment is made in accordance with paragraph (a)(1) of this section.

(k) *Payment for maintenance, servicing and replacement of beneficiary-owned items.* (1) Payment is made for the maintenance and servicing of beneficiary-owned items, provided the maintenance and servicing is performed by a contract supplier or a noncontract supplier having a valid Medicare billing number, as follows:

(i) Payment for labor is made in accordance with § 414.210(e)(1) of subpart D.

(ii) Payment for parts that are not items (as defined in § 414.402) is made in accordance with § 414.210(e)(1) of subpart D.

(iii) Payment for parts that are items (as defined in § 414.402) is made in accordance with paragraph (a)(1) of this section.

(2) Additional payments are made in accordance with § 414.210(e)(2), (e)(3) and (e)(5) of this part for the maintenance and servicing of oxygen equipment if performed by a contract supplier or a noncontract supplier having a valid Medicare billing number.

(3) Beneficiaries must obtain a replacement of a beneficiary-owned item, other than parts needed for the repair of beneficiary-owned equipment from a contract supplier. Payment is made for the replacement item in accordance with paragraph (a)(1) of this section.

(1) *Exceptions for certain items and services paid in accordance with special payment rules.* The payment rules in paragraphs (f) thru (h), (j)(2), (j)(3), and (j)(7), and (k) of this section do not apply to items and services paid in accordance with the special payment rules at § 414.409.

[72 FR 18085, Apr. 10, 2007, as amended at 74 FR 2880, Jan. 16, 2009; 74 FR 62009, Nov. 25, 2009; 75 FR 73623, Nov. 29, 2010; 76 FR 70315, Nov. 10, 2011; 79 FR 66264, Nov. 6, 2014]

#### § 414.409 Special payment rules.

(a) *Payment on a bundled, continuous rental basis.* In no more than 12 CBAs, in conjunction with competitions that begin after January 1, 2015, payment is made on a bundled, continuous monthly rental basis for standard power wheelchairs and continuous positive airway pressure (CPAP) devices. The CBAs and competitions where these payment rules apply are announced in advance of each competition, with the payment rules in this section used in lieu of the payment rules at § 414.408(f) thru (h), (j)(2), (j)(3), and (j)(7), and (k). The single payment amounts are established based on bids submitted and accepted for furnishing rented standard power wheelchairs and CPAP devices on a monthly basis for each month of medical need during the contract period. The single payment amount for the monthly rental of the DME includes payment for the rented equipment, maintenance and servicing of the rented equipment, and replacement of supplies and accessories necessary for

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the effective use of the rented equipment. Separate payment for replacement of equipment, repair or maintenance and servicing of equipment, or for replacement of accessories and supplies necessary for the effective use of equipment is not allowed under any circumstance.

(b) *Payment for grandfathered DME items paid on a bundled, continuous rental basis.* Payment to a supplier that elects to be a grandfathered supplier of DME furnished in CBPs where these special payment rules apply is made in accordance with § 414.408(a)(1).

(c) *Supplier transitions for DME paid on a bundled, continuous rental basis.* Changes from a non-contract supplier to a contract supplier at the beginning of a CBP where payment is made on a bundled, continuous monthly rental basis results in the contract supplier taking on responsibility for meeting all of the monthly needs for furnishing the covered DME. In the event that a beneficiary relocates from a CBA where these special payment rules apply to an area where rental cap rules apply, a new period of continuous use begins for the capped rental item as long as the item is determined to be medically necessary.

(d) *Responsibility for repair and maintenance and servicing of power wheelchairs.* In no more than 12 CBAs where payment for power wheelchairs is made on a capped rental basis, for power wheelchairs furnished in conjunction with competitions that begin after January 1, 2015, contract suppliers that furnish power wheelchairs under contracts awarded based on these competitions shall continue to repair power wheelchairs they furnish following transfer of title to the equipment to the beneficiary. The responsibility of the contract supplier to repair, maintain and service beneficiary-owned power wheelchairs does not apply to power wheelchairs that the contract supplier did not furnish to the beneficiary. For power wheelchairs that the contract supplier furnishes during the contract period, the responsibility of the contract supplier to repair, maintain and service the power wheelchair once it is owned by the beneficiary continues until the reasonable useful lifetime of the equipment expires, coverage for the

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power wheelchair ends, or the beneficiary relocates outside the CBA where the item was furnished. The contract supplier may not charge the beneficiary or the program for any necessary repairs or maintenance and servicing of a beneficiary-owned power wheelchair it furnished during the contract period.

[79 FR 66264, Nov. 6, 2014]

### § 414.410 Phased-in implementation of competitive bidding programs.

(a) *Phase-in of competitive bidding programs.* CMS phases in competitive bidding programs so that competition under the programs occurs—

(1) In CY 2009, in Cincinnati—Middletown (Ohio, Kentucky and Indiana), Cleveland—Elyria—Mentor (Ohio), Charlotte—Gastonia—Concord (North Carolina and South Carolina), Dallas—Fort Worth—Arlington (Texas), Kansas City (Missouri and Kansas), Miami—Fort Lauderdale—Miami Beach (Florida), Orlando (Florida), Pittsburgh (Pennsylvania), and Riverside—San Bernardino—Ontario (California).

(2) In CY 2011, in an additional 91 MSAs (the additional 70 MSAs selected by CMS as of June 1, 2008, and the next 21 largest MSAs by total population based on 2009 population estimates, and not already phased in as of June 1, 2008). CMS may subdivide any of the 91 MSAs with a population of greater than 8,000,000 into separate CBAs, thereby resulting in more than 91 CBAs.

(3) After CY 2011, additional CBAs (or, in the case of national mail order for items and services, after CY 2010).

(4) For competitions (other than for national mail order items and services) after CY 2011 and prior to CY 2015, the following areas are excluded:

(i) Rural areas.

(ii) MSAs not selected under paragraphs (a)(1) or (a)(2) of this section with a population of less than 250,000.

(iii) An area with low population density within an MSA not selected under paragraphs (a)(1) or (a)(2) of this section.

(b) *Selection of MSAs for CY 2007 and CY 2009.* CMS selects the MSAs for purposes of designating CBAs in CY 2007 and CY 2009 by considering the following variables: