

CAPPED RENTAL ON HOME OXYGEN: THIS IS NOT THE ANSWER

by *Kenneth A. Wyka, MS, RRT, FAARC*

When the 36-month capped rental on home oxygen became reality in summer 2008, most people felt a victory was won on Capitol Hill for respiratory patients using home oxygen, the respiratory profession and the home care industry. However, the reverse appears to be the case. In fact, I was one of those that believed the victory on Capitol Hill demonstrated what we could accomplish when we collectively put our efforts together to effect change. How wrong we all were.

Congress apparently believes that capping the rental on home oxygen systems after 36 months makes sense and the Centers for Medicare & Medicaid Services naturally deems it a cost-saving measure. But what about patient access to ongoing, quality care and the role of the RT in providing proper follow-up to these patients? Finally, what impact will this measure have on the viability of DME companies that provide 24/7 service to these patients?

Home oxygen systems require maintenance and emergency service, and this is an expense home care companies must carry despite any fee that might be paid to them for these services.

On July 21, 2008, Congress passed H.R. 6331, the Medicare Improvements for Patients and Providers Act (MIPPA). Specifically, section 144 of this act made the transfer of ownership of oxygen equipment, as enacted in the Deficit Reduction Act of 2005, obsolete. While Medicare beneficiaries will not have ownership of their equipment after 36 months of rental, the monthly payment to DME companies is terminated. Consequently, patient access to continuing patient care is definitely affected if these patients choose to relocate or seek another home care provider. This includes patients who must move closer to their families because of changes in their condition or the "snowbirds" that seek warmer climates during the winter months.

Because payments cease after 36 months of rental, DME companies are not willing to accept these patients if they move, relocate for finite periods of time or wish to change providers. In addition, these companies will be responsible for finding another provider for these patients if they move. If companies are unable to do so, then they are responsible for the care of these patients. This may be easier for the national DME companies, but even they have regional centers that are responsible for a healthy bottom

line and may balk at taking an oxygen patient whose monthly equipment rental has been capped.

According to the regulations that were released in November 2008, DME companies will receive \$50 every six months to maintain the home oxygen equipment that has been capped. In addition, they will receive about \$70 per month for portable oxygen delivery. This would be for one delivery of cylinders per patient per month. Patients on trans-filling home oxygen systems or portable oxygen concentrators (POCs) do not qualify for this delivery fee and, therefore, the DME company would receive only the \$50 per six month maintenance fee.

This brings up several critical issues. First, is the number of cylinders that would be placed in a patient's home. High-volume users could conceivably have 40 to 50 cylinders in their garage, basement or other room in the house. Is this a safe scenario? An option would have the home care company agreeing to provide several deliveries per month with no extra compensation from Medicare. Second, will patients be limited to the number of cylinders they could have each month? Will this scenario limit their physical activity and lifestyle? Finally, will home-filling systems or POCs become less widely used? What impact would this have on patient activity and mobility?

It appears that Congress or CMS is not aware of these scenarios or perhaps, even worse, does not care. By the way, after two years on this maintenance schedule, the patient may be re-qualified and receive new home oxygen equipment with another 36 month rental period.

CMS is unwilling to take any action to help these patients until problems relating to access of continuing care is clearly demonstrated. The issue is not equipment but, instead, the ongoing service both the equipment and

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"I'm not dumping you...I'm merely upgrading."

patients require. In order to demonstrate this along with the need to repeal the cap on oxygen equipment rental, specific patient situations and related problems need to be identified and brought to the attention of CMS.

Already there have been a number of patient-related cases that already have been documented illustrating this problem. For example, there was a patient in one state that wished to move to her daughter's home in another state because of her failing respiratory condition. She was unable to find a DME provider that would take her case. It took several home care companies working together to come up with a workable solution. But cases such as this may not always be easily remedied.

Another example involved a Medicare patient who had been on home oxygen for more than five years. His condition warranted a respiratory assist device (RAD) to be used nocturnally with an O₂ bleed-in. However, his oxygen company did not provide such equipment. When the case manager referred the case to another home care company, they did not want to take the case because of the upcoming capped rental on the oxygen equipment. Unfortunately, it came down to economics with the patient in the middle. In the end, one company did agree to take on the case and provide the patient with both the RAD and the oxygen system.

The simplest action would be to repeal the 36-month capped rental. However, Congress has to be convinced that such action would be beneficial to the thousands of Medicare beneficiaries on home oxygen. Hardship cases need to be identified and documented, and this can only be accomplished through a concerted effort on the part of the home care industry and the health care professionals.

In the meantime, there is a movement in the House calling for a delay in the implementation of the 36-month capped rental. Representatives Heath Shuler (D-N.C.) and Tom Price (R-Ga.) are requesting that fellow members of the House of Representatives sign a "dear colleague" letter urging CMS to delay implementing its recently released rules for home oxygen services. These two representatives appear to be very well aware of the potential problems Medicare patients will face when the 36-month capped rental rule takes effect beginning January 1, 2009.

Furthermore, they state in their letter that "without adequate recognition of the services that home oxygen providers furnish, the quality of care that patients have come to expect will deteriorate, leading to an increase in the number of emergency room visits." This, of course, will lead to increased hospitalizations and health care expenditures.

They are also requesting Congress to legislatively reform the Medicare policy because it is necessary to the survival of the home care companies and the high level of care they provide to patients with chronic lung disease requiring long-term home oxygen therapy. Naturally, the home care industry is backing this initiative and is requesting all providers and interested parties to contact their Representatives to support this measure and to sign the letter.

So it appears the battle may not be over and that there is still hope that patients will continue to have options pertaining to their home oxygen therapy in terms of equipment, use of portable systems and selection of home care companies that will meet their specific needs.

Ken Wyka RRT is a veteran therapist, author and lecturer. He is also a clinical specialist for the Home Therapy Equipment Corporation of Clifton Park, NY

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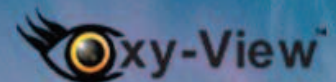
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