



## Grandfathering

As part of National Competitive Bidding, CMS is allowing the opportunity for non-contract providers to maintain their existing business on rental items.

Beneficiaries in a Competitive Bidding Area (CBA) may choose to continue receiving oxygen and oxygen equipment from their current supplier (called a grandfathered supplier) or they may switch to a contract supplier. The grandfathered supplier does not have to be a contract supplier in order to continue the relationship. The following rules govern the grandfathering provision for oxygen and oxygen equipment.

- This process only applies to suppliers that are furnishing oxygen and oxygen equipment to beneficiaries who maintain a permanent residence in the CBA at the time that competitive bidding is implemented for that item in the CBA.
- The grandfathering provisions also apply to beneficiaries who transition from a Medicare Advantage Plan.
- If a supplier declines to become a grandfathered supplier, the supplier must pick up its oxygen and oxygen equipment, and the beneficiary must choose a contract supplier to assume responsibility for furnishing the oxygen and oxygen equipment.

### Grandfathered Suppliers:

- Suppliers that agree to be grandfathered suppliers for oxygen and oxygen equipment must serve as a grandfathered supplier to all eligible beneficiaries who elect to receive oxygen and oxygen equipment from them.
- Grandfathered suppliers in a CBA that furnish oxygen and oxygen equipment will be paid the single payment amount determined for those items in the competitive bidding program.
- Suppliers that lose their contract status in subsequent competitive bidding programs may choose to become grandfathered suppliers and continue furnishing medically necessary oxygen and oxygen equipment to beneficiaries who choose to continue that relationship. Payment for the item will be the single payment amount established for that item under the new competitive bidding program for that area.
- The grandfathered supplier must accept assignment on all claims for oxygen and oxygen equipment furnished to beneficiaries in a CBA. The beneficiary is only responsible for the 20 percent co-payment and any unmet annual Part B deductible.

### Contract Suppliers:

- A beneficiary may elect to transition from a non-contract supplier to a contract supplier at any time, and the contract supplier would be required to accept the beneficiary as a customer.
- Contract suppliers will be paid at least 10 monthly payment amounts at the single payment amount in those cases where they must furnish oxygen and oxygen equipment to Medicare beneficiaries who previously received the items from non-contract suppliers. The minimum of 10 monthly payments will be made regardless of how many months the previous supplier was paid; however, payments only continue if the item continues to be medically necessary. The beneficiary would be responsible for the 20 percent co-payment and any unmet annual deductible. The contract supplier must accept assignment on the monthly rental claims.
- If the beneficiary transitions to a new contract supplier, the oxygen and oxygen equipment must be returned to the original supplier that owns the equipment.
- When a beneficiary switches from a contract supplier to another contract supplier to receive oxygen and oxygen equipment, the new contract supplier would be paid the single payment amount for the duration of the equipment rental period not to exceed 36 months of continuous use.