



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
www.mass.gov/masshealth

MassHealth
Oxygen and Respiratory Therapy
Equipment Provider Bulletin 15
September 2016

TO: Oxygen and Respiratory Therapy Equipment Providers Participating in MassHealth

FROM: Daniel Tsai, Assistant Secretary for MassHealth

**RE: Dual Eligible MassHealth Members:
Coordination of Medicare and Medicaid Coverage**

Reminder: MassHealth is the Payer of Last Resort

MassHealth members who have Medicare and MassHealth are known as Dual Eligibles. Federal and state requirements provide that MassHealth is the payer of last resort for any MassHealth member with other insurance—including Dual Eligibles. This means that a provider must generally make “diligent efforts” to first identify and obtain payment from all other liable parties, including Medicare, *before* billing MassHealth. See [130 CMR 450.316\(A\)](#). This includes, among other things, complying with all of Medicare’s billing and authorization requirements, and appealing a denied claim when the service is payable in whole or in part by Medicare.

MassHealth providers are reminded that third party liability requirements, including MassHealth’s regulations concerning Medicare crossover payments, apply to services provided to Dual Eligibles. See [130 CMR 450.318](#). Specifically, a crossover payment applies “where Medicare has made a payment or has approved an amount that was applied to the member’s deductible.” See [130 CMR 450.318\(A\)](#).

Medicare has established competitive bid areas (CBAs) for certain Oxygen and Respiratory Therapy Equipment (OXY) services. Under the competitive bid program, Medicare requires its beneficiaries—including *Dual Eligibles*—who live in CBAs to obtain Medicare competitively bid items from a Medicare-contracted CBA supplier or *such items will not be covered by Medicare*. See [42 CFR 414.408\(e\)](#).

Accordingly, in circumstances where a Dual Eligible who resides in a CBA obtains a competitive bid item from a non-contract supplier and no Medicare payment has been made to the non-contract supplier or no Medicare-approved amount applied to the Dual Eligible member’s deductible, *MassHealth is not liable for payment*.

Pursuant to 130 CMR 450.205, MassHealth providers must maintain adequate documentation to substantiate payment of claims by MassHealth, and make such records available to the MassHealth agency upon request. MassHealth may, for instance, request documentation of a provider’s diligent efforts to collect payment from Medicare on behalf of Dual Eligibles, including documentation of compliance with Medicare’s billing and authorization requirements. If the requested documentation is not received within the timeframe specified by MassHealth, or the documentation received is incomplete or otherwise does not support payment by MassHealth, the associated claims will be denied.

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Reminder: MassHealth Prior Authorization Does Not Guarantee Payment

Providers are also reminded that MassHealth prior authorization for a MassHealth-covered service is a determination of medical necessity only and does not establish or waive any other prerequisites for payment, such as member eligibility or third-party liability, including making diligent efforts to first obtain payment from Medicare. See [130 CMR 450.303](#).

MassHealth Coverage of OXY *Not* Subject to Medicare Competitive Bid Requirements

Medicare-covered non-competitively bid OXY – Dual Eligibles, including those who live in CBAs, may obtain Medicare-covered *non-competitively bid* items from any Medicare provider also enrolled as a provider in MassHealth, and MassHealth coverage will be available, subject to all other MassHealth requirements, including any applicable prior authorization and third-party liability requirements. As with competitively bid OXY, this includes making diligent efforts to first obtain payment from Medicare.

Non-Medicare Covered OXY – If Medicare does not cover the OXY, but MassHealth does, MassHealth will cover the OXY, subject to all MassHealth requirements, including any applicable prior authorization requirements.

Additional Resources

Additional information regarding coordination of Medicare and Medicaid coverage for Dual Eligibles can be found in the following publications:

Your Guide to Medicare's DMEPOS Competitive Bidding Program, CMS Product 11461, Rev. June 2015. Available at <https://www.medicare.gov/Pubs/pdf/11461.pdf>.

CMCS Informational Bulletin, *Medicare Competitive Bidding Program for Durable Medical Equipment and Coordination of Benefits for Beneficiaries Eligible for Medicare and Medicaid (Dual Eligibles)*, August, 2, 2013. Available at <https://www.medicare.gov/federal-policy-guidance/downloads/CIB-08-02-2013.pdf>.

Additional information regarding Medicare CBA contracted suppliers is available at <https://www.medicare.gov/supplierdirectory/search.html> or 1-800-Medicare.

Questions

If you have any questions about the information in this bulletin, please contact the MassHealth Customer Service Center at 1-800-841-2900, e-mail your inquiry to providersupport@mahealth.net, or fax your inquiry to 617-988-8974.