

## § 414.229

## 42 CFR Ch. IV (10–1–06 Edition)

(5) For 1992 and subsequent years, CMS determines a national average purchase price equal to the unweighted average of the purchase prices determined under paragraph (b)(4) of this section for all carriers.

(6) CMS determines the fee schedule amount equal to 100 percent of the purchase price determined under paragraph (b)(4) of this section, subject to the following limitations:

(i) For 1992, the amount cannot be greater than 125 percent nor less than 85 percent of the national average purchase price determined under paragraph (b)(5) of this section.

(ii) For 1993 and subsequent years, the amount cannot be greater than 120 percent of the national average nor less than 90 percent of the national average purchase price determined under paragraph (b)(5) of this section.

[57 FR 57691, Dec. 7, 1992, as amended at 60 FR 35498, July 10, 1995]

### § 414.229 Other durable medical equipment—capped rental items.

(a) *General payment rule.* Subject to the limitation set forth in paragraph (b) of this section, payment is made on a rental or purchase option basis for other durable medical equipment that is not subject to the payment provisions set forth in §§ 414.220 through 414.228.

(b) *Fee schedule amounts for rental.* (1) For 1989 and 1990, the monthly fee schedule amount for rental of other covered durable medical equipment equals 10 percent of the purchase price recognized as determined under paragraph (c) of this section subject to the following limitation: For 1989 and 1990, the fee schedule amount cannot be greater than 115 percent nor less than 85 percent of the prevailing charge, as determined under § 405.504 of this chapter, established for rental of the item in January 1987, as adjusted by the change in the level of the CPI-U for the 6-month period ending December 1987.

(2) For 1991 and subsequent years, the monthly fee schedule amount for rental of other covered durable medical equipment equals 10 percent of the purchase price recognized as determined under paragraph (c) of this section for each of the first 3 months and 7.5 per-

cent of the purchase price for each of the remaining months.

(c) *Determination of purchase price.* The purchase price of other covered durable medical equipment is determined as follows:

(1) For 1989 and 1990. (i) The carrier determines a base local purchase price amount equal to the average of the purchase prices submitted on an assignment-related basis of new items supplied during the 6-month period ending December 1986.

(ii) The purchase price is equal to the base local purchase price adjusted by the change in the level of the CPI-U for the 6-month period ending December 1987.

(2) For 1991. (i) The local payment amount is the purchase price for the preceding year adjusted by the covered item update for 1991 and decreased by the percentage by which the average of the reasonable charges for claims paid for all other items described in § 414.229, is lower than the average of the purchase prices submitted for such items during the final 9 months of 1988.

(ii) The purchase price for 1991 is the national limited payment amount as determined using the methodology contained in § 414.220(f).

(3) For years after 1991. The purchase price is determined using the methodology contained in paragraphs (d) through (f) of § 414.220.

(d) *Purchase option.* Suppliers must offer a purchase option to beneficiaries during the 10th continuous rental month and, for power-driven wheelchairs, the purchase option must also be made available at the time the equipment is initially furnished.

(1) Suppliers must offer beneficiaries the option of purchasing power-driven wheelchairs at the time the supplier first furnishes the item. Payment must be on a lump-sum fee schedule purchase basis if the beneficiary chooses the purchase option. The purchase fee is the amount established in § 414.229(c).

(2) Suppliers must offer beneficiaries the option of converting capped rental items (including power-driven wheelchairs not purchased when initially furnished) to purchased equipment during their 10th continuous rental month. Beneficiaries have one month

from the date the supplier makes the offer to accept the purchase option.

(i) If the beneficiary does not accept the purchase option, payment continues on a rental basis not to exceed a period of continuous use of longer than 15 months. After 15 months of rental payments have been paid, the supplier must continue to provide the item without charge, other than a charge for maintenance and servicing fees, until medical necessity ends or Medicare coverage ceases. A period of continuous use is determined under the provisions in § 414.230.

(ii) If the beneficiary accepts the purchase option, payment continues on a rental basis not to exceed a period of continuous use of longer than 13 months. On the first day after 13 continuous rental months during which payment is made, the supplier must transfer title to the equipment to the beneficiary.

(e) *Payment for maintenance and servicing.* (1) The carrier establishes a reasonable fee for maintenance and servicing for each rented item of other durable medical equipment. The fee may not exceed 10 percent of the purchase price recognized as determined under paragraph (c) of this section.

(2) Payment of the fee for maintenance and servicing of other durable medical equipment that is rented is made only for equipment that continues to be used after 15 months of rental payments have been made and is limited to the following:

(i) For the first 6-month period, no payments are to be made.

(ii) For each succeeding 6-month period, payment may be made during the first month of that period.

(3) Payment for maintenance and servicing DME purchased in accordance with paragraphs (d)(1) and (d)(2)(ii) of this section, is made on the basis of reasonable and necessary charges.

(f) *Transition to the fee schedules.* For purposes of computing the 10-month or 15-month period of continuous use for other durable medical equipment, as described in § 414.230, the carrier counts the first month that the beneficiary continuously rented the equipment without regard to whether that month occurred before January 1, 1989 or

after. If a beneficiary's 15-month rental period ends prior to January 1, 1989, no further purchase or rental payments are to be made except for maintenance and servicing of equipment as described in paragraph (e) of this section.

(g) *Replacement of equipment.* If the item of equipment has been in continuous use by the patient on either a rental or purchase basis for the equipment's useful lifetime, or if the carrier determines that the item is lost or irreparably damaged, the patient may elect to obtain a new piece of equipment.

(1) The reasonable useful lifetime of DME or prosthetic and orthotic devices is determined through program instructions. In the absence of program instructions, carriers may determine the reasonable useful lifetime of equipment but in no case can it be less than 5 years. Computation is based on when the equipment is delivered to the beneficiary, not the age of the equipment.

(2) If the beneficiary elects to obtain replacement equipment, payment is made on a rental or purchase basis in accordance with paragraph (a) of this section or on a lump-sum purchase basis if a purchase agreement had been entered into in accordance with paragraph (d) of this section.

[57 FR 57691, Dec. 7, 1992, as amended at 60 FR 35498, July 10, 1995]

#### **§ 414.230 Determining a period of continuous use.**

(a) *Scope.* This section sets forth the rules that apply in determining a period of continuous use for rental of durable medical equipment.

(b) *Continuous use.* A period of continuous use begins with the first month of medical need and lasts until a beneficiary's medical need for a particular item of durable medical equipment ends.

(c) *Temporary interruption.* (1) A period of continuous use allows for temporary interruptions in the use of equipment.

(2) An interruption of not longer than 60 consecutive days plus the days remaining in the rental month in which use ceases is temporary, regardless of the reason for the interruption.