

Oxygen Payment Policy Revisions:

Fiscal Implications

Prepared for:
Council for Quality Respiratory Care
(CQRC)

The Fiscal Implications of Oxygen Payment Policy Revisions

The Moran Company, a HMA Company, was engaged by the Council for Quality Respiratory Care (CQRC) to analyze how the Congressional Budget Office (CBO) might “score” the budgetary implications of legislation which removes oxygen care from the competitive bidding program and sets payment policy directly for oxygen care under the Medicare Durable Medical Equipment policy.

Highlights of Our Findings:

- We estimate that removing oxygen from competitive bidding and setting rates directly in the legislation would increase federal spending by \$398M over 10 years.
- We estimate that adding Medicare reimbursement for respiratory therapy for Oxygen and Ventilator patients would increase federal spending by \$198M over 10 years.
- We estimate that allowing the use of electronic templates for medical necessity documentation for oxygen would increase federal spending by \$58M over 10 years.
- In total, we estimate that the proposed legislation would increase federal spending by \$654M over 10 years.

The balance of this paper provides more details on our findings.

Basis of the Estimate

Our estimate assumes that the proposed changes would be enacted at the beginning of fiscal year 2024. The impact of the bill was scored against CBO's latest baseline projection of Medicare spending, which was published in May 2023.

Our estimate of removing oxygen from competitive bidding references prior published savings resulting from competitive bidding for oxygen. Prior reports peg the savings due to the overall competitive bidding program of approximately 35%.¹ Much of these savings will remain realized since the legislative mechanism sets oxygen rates close to current DMEPOS rates for oxygen therapy at time of enactment. Rather the legislative cost is derived from the possible savings foregone in future rounds of competitive bidding, should CMS resume the program. In addition, we have discounted by 50% the possible foregone savings since it is unclear at this time whether CMS will restart and successfully re-implement competitive bidding for oxygen services. This assumption is very sensitive to any information CBO would be able to obtain from CMS regarding the likelihood and timing of a resumption of the competitive bidding program for oxygen.

We estimated the cost of adding a respiratory therapy benefit for oxygen and ventilator patients. Our estimate is built on the assumption that Medicare will set the reimbursement for respiratory therapy at the average hourly rate for respiratory therapists (\$35.73)² and will reimburse for an average of one hour per year for each oxygen patient and two hours per year for each ventilator patient. This results in an increase to federal spending of \$174M over 10 years for oxygen patients and \$25M over 10 years for ventilator patients. If CMS made a different utilization or rate assumption it could arrive at a different cost estimate.

With regard to electronic templates, we began by analyzing CY 2021 claims data, determining how many Oxygen claims used billing modifier CR, which indicates that the claim did not produce medical necessity documentation due to the waiver. We found allowed charges for oxygen services billed with the CR modifier amounting to \$13.6M in 2021. We assumed that half of these cases might represent oxygen cases which would not exist but for the waiver and might similarly benefit from the streamlined template process for medical necessity.

We then took the published CBO May 2023 baseline to project the increased spending for each of these policies across the 10-year scoring window. Table 1 presents the year-by-year score.

¹ <https://www.healthaffairs.org/doi/10.1377/hlthaff.2016.1323>

² <https://www.bls.gov/oes/current/oes291126.htm>

Table 1. 10-Year Budget Score

<i>\$ in millions</i>	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2024-2033
Section 101 - Removal from Medicare competitive bidding	\$ 20.3	\$ 22.7	\$ 25.3	\$ 28.0	\$ 30.7	\$ 34.3	\$ 37.3	\$ 40.7	\$ 47.3	\$ 55.1	\$ 342
Section 102 - Separate payment rate for liquid oxygen	\$ 3.3	\$ 3.7	\$ 4.1	\$ 4.6	\$ 5.0	\$ 5.6	\$ 6.1	\$ 6.7	\$ 7.7	\$ 9.0	\$ 56
Section 103 - Oxygen supplier responsibilities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Section 104 - Technical Correction	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Section 201 - Respiratory Therapists for Oxygen Patients	\$ 12.8	\$ 13.6	\$ 14.4	\$ 15.3	\$ 16.2	\$ 17.4	\$ 18.4	\$ 19.6	\$ 21.8	\$ 24.2	\$ 174
Section 201 - Respiratory Therapists for Ventilator Patients	\$ 1.8	\$ 1.9	\$ 2.0	\$ 2.2	\$ 2.3	\$ 2.5	\$ 2.6	\$ 2.8	\$ 3.1	\$ 3.4	\$ 25
Section 301 - Electronic Templates	\$ 4.2	\$ 4.5	\$ 4.8	\$ 5.1	\$ 5.4	\$ 5.8	\$ 6.1	\$ 6.5	\$ 7.2	\$ 8.1	\$ 58
Section 401 - Beneficiary Rights	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total	\$ 42.5	\$ 46.3	\$ 50.8	\$ 55.2	\$ 59.6	\$ 65.6	\$ 70.6	\$ 76.1	\$ 87.2	\$ 99.8	\$ 654