



NATIONAL HEADQUARTERS

December 19, 2008

Charles D. Connor  
President &  
Chief Executive Officer

Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Room 445-G, Hubert H. Humphrey Building  
200 Independence Avenue, SW.  
Washington, DC 20201

1301 Pennsylvania Ave., NW  
Suite 800  
Washington, DC 20004-1725  
Phone: (202) 785-3355  
Fax: (202) 452-1805

RE: CMS-1403-FC

To Whom It May Concern:

61 Broadway, 6th Floor  
New York, NY 10006-2701  
Phone: (212) 315-8700  
Fax: (212) 315-8800

The American Lung Association is the nation's oldest voluntary health organization. Founded in 1904 to combat tuberculosis, our mission continues to prevent lung disease and promote lung health. Through research, advocacy and education, the American Lung Association works to fight all lung diseases.

[www.LungUSA.org](http://www.LungUSA.org)

Stephen J. Nolan, Esq.  
Chair

On behalf of millions of Americans with lung disease and especially those Medicare patients who require oxygen, the American Lung Association is grateful for the opportunity to submit these comments. In the last few months, the American Lung Association has heard from patients and their family members with concerns and questions about the new regulations. We note that many patients can advocate for themselves or have loved ones to do that on their behalf. We are most concerned about the patients who are not able to articulate their concerns or do not have loved ones who can speak up on their behalf.

Mary H. Partridge  
Chair-elect

Bruce A. Herring  
Past-Chair

H. James Gooden  
Secretary

Terrence L. Johnston  
Treasurer

We appreciate that Centers for Medicare and Medicaid Services (CMS) has written the most recent regulations with patients in mind. However, based on the level of confusion and misinformation surrounding these new regulations, the American Lung Association urges CMS to further clarify the regulations to patients and suppliers to ensure the highest possible standard of patient care.

Albert J. Rizzo, MD  
Nationwide Assembly Speaker

- **Repair and Maintenance** – There has been much confusion within the patient community about the responsibilities of the suppliers regarding repair and maintenance. It is critical for CMS to ensure that patients and suppliers are aware that suppliers are still responsible for responding to urgent maintenance and repair issues at any time of day, any day of the week, as it currently occurs.
- **Supplies** – While CMS has stated that home oxygen suppliers will still be required to deliver tanks after 36 months, patients and patient advocates are still concerned about how often other supplies will be delivered and tubing changed. Delivery and basic maintenance by suppliers should continue to occur at the appropriate times to reduce the risk of infection.
- **Changing Oxygen Delivery Systems** – The American Lung Association is very concerned that suppliers may switch patients to different types of oxygen without physician directive – solely based on costs to the suppliers. We've had reports that one company is changing patients from liquid oxygen to other oxygen delivery systems unless the patient's prescription specifically calls for liquid oxygen. This can have dramatic consequences on health and quality of life.

We are also concerned that the current regulations leave patients with few safeguards to ensure that suppliers are maintaining high standards of care. CMS must ensure that patients have tools to make certain that patients are not provided inferior service or "dumped" by suppliers when they reach 36 months.

The American Lung Association urges CMS to closely monitor the situation surrounding the change in the law, track reported violations and move swiftly to pursue any allegations of wrongdoing. We also ask that staff operating the 1-800-Medicare phone number have the most accurate and up to date information to give to any patients or caregivers who call.

Thank you for the consideration of our comments.

Sincerely,



Charles D. Connor  
President and CEO