

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-6-5-29

Rule Title: Oxygen and Durable Medical Equipment Dispensed to Medicare Recipients by Participating Providers

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

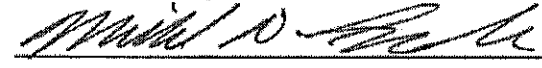
Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 8/20/14

APA-6
10/96

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-5-29

Rule Title: Oxygen and Durable Medical Equipment Dispensed to Medicare Recipients by Participating Providers

 New X Amend Repeal Adopt by Reference

- NO This rule has no economic impact.
 YES This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. **UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**
9. **THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**
10. **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**
11. **OTHER COMMENTS:**

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Sales & Use Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-6-5-.09 Leasing and Rental of Tangible Personal Property

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code of Alabama 1975 to make durable medical equipment, prosthetics and orthotics, and medical supplies as defined under the Medicare program exempt from state and local sales, use and rental tax; therefore, this amendment is necessary to reflect recent statute changes.

RULE NO. & TITLE

810-6-5-.29 Oxygen and Durable Medical Equipment Dispensed to Medicare Recipients by Participating Providers

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code of Alabama 1975 to include rental and leasing tax in the exemption for durable medical equipment. It also expanded the exemption to cover prosthetic and orthotic devices, and medical supplies as defined and covered under the Medicare program; therefore, this amendment is necessary to reflect recent statute changes.

RULE NO. & TITLE

810-6-3-37.03 Medicaid

INTENDED ACTION: Amend above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to comply with the provisions of Act 2014-453. Act 2014-453 amended Section 40-9-30, Code

of Alabama 1975 and expanded the durable medical exemption to include rental tax. In addition, the department proposes to amend the title of the rule.

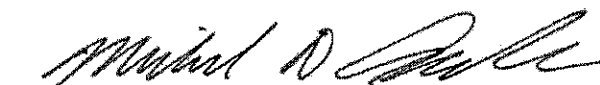
TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on Wednesday, October 8, 2014, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, October 8, 2014

CONTACT PERSON AT AGENCY:

Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

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810-6-5-.29 Oxygen and Durable Medical Equipment Dispensed to Medicare Recipients by Participating Providers.

(1) The term "durable medical equipment" shall mean equipment which can stand repeated use, is used to serve a purpose for medical reasons, and is appropriate and suitable for use in the home. The term "participating provider" shall mean a supplier who accepts Medicare assignments.

(2) ~~Effective October 1, 1994, s~~ Sales of oxygen and durable medical equipment dispensed under orders from a duly licensed physician by a participating provider to a Medicare recipient are exempt from state and local sales and use taxes.

(3) With the exception of the purchases outlined in paragraph (2) above, purchases under Medicare Part B are taxable in the same manner as purchases under any other health care insurance policy.

(4) Effective August 1, 2014, in addition to any other exemptions provided in subsection (2) or (3) above, any item used for the treatment of illness or injury or to replace all or part of a limb or internal body part purchased by or on behalf of an individual pursuant to a valid prescription and covered by and billed to Medicare, Medicaid, or a health benefit plan shall be exempt from state, county, and municipal sales and use taxes. This exemption includes, but is not limited to, any of the following:

(a) Durable medical equipment, including repair parts and the disposable or single patient use supplies required for the use of the equipment,

(b) Prosthetic and orthotic devices, and

(c) Medical supplies as defined and covered under the Medicare program, including, but not limited to, items such as catheters, catheter supplies, ostomy bags and supplies related to ostomy care, specialized wound care products, and similar items that are covered by and billed to Medicare, Medicaid, or a health benefit plan. (Section 40-9-30, Code of Alabama 1975.)

(5) Healthcare providers, including but not limited to, hospitals, physicians' offices, surgery centers, diagnostic centers, and like institutions are rendering services to their patients or clients and are deemed to be the consumer of the tangible personal property they purchase in rendering the services they perform. The sellers of these items are required to collect sales or use tax on sales of the tangible personal property to the providers. Healthcare providers will not bill sales tax for sales made in accordance with paragraph (4).

Author: **Ginger Buchanan, Dan DeVaughn**
Authority: Sections 40-23-31 and 40-23-83, Code of Alabama 1975
History: New Rule: Filed with LRS June 18, 1993, Certification filed with
LRS, September 7, 1993 effective October 12, 1993.