



*Caring that Feels Right at Home*

## Press Release

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### **Deep Flaws in Medicare Competitive Bidding Program for Durable Medical Equipment Were Not Fixed and Are Not Addressed by Recent GAO Study**

*Statement by the American Association for Homecare, December 8, 2009*

The American Association for Homecare has worked with Congress and Medicare to address flaws in the competitive bidding program for durable medical equipment, some of which are discussed in a new Government Accountability Office (GAO) report. However, deep structural and design flaws still remain in this bidding program. Those flaws will reduce seniors' access to quality care at home and will put thousands of competitive homecare providers out of business.

The GAO report says the federal agency in charge of the program, the Centers for Medicare and Medicaid Services (CMS), provided unclear and inconsistent information, particularly regarding bidding requirements and financial information. Some bids by equipment providers were incorrectly disqualified. The report further details the lack of notification to providers about the post-bid review process. The GAO report also notes that its report did not identify "concerns with the overall structure and design" of the bidding program because "such an analysis was beyond the scope" of the report.

"The fact remains that CMS has not fixed the fundamental problems in the design and structure," said Tyler J. Wilson, president and CEO of the American Association for Homecare. "Those fundamental flaws in the structure of the program are dangerous because they will reduce seniors' access to quality, cost-effective care at home, and the flaws will needlessly put thousands of competitive, hard-working medical equipment providers out of business."

The initial roll-out of the bidding program in 2008 produced disastrous results for home medical equipment patients and for providers (mostly small businesses), which were excluded from Medicare as a result of the first round of bidding. During the 2008 implementation, serious problems were encountered, such as disruption to patient services, greater costs to Medicare due to delayed discharge of patients to homecare, award of Medicare contracts to companies that were not licensed to furnish equipment and services, and desperation bidding by companies that faced losing their business if they were not awarded a contract.

Due to these problems, Congress delayed the bid program when it enacted the Medicare Improvements for Patients and Providers Act of 2008, in hopes that the federal Centers for Medicare and Medicaid Services would substantially improve and reform the program. However, the fundamental problems still remain in the bid program. The congressional action last year to delay the bidding program also required that the home medical equipment sector accept a 9.5 percent reimbursement cut on all items included in the bidding program effective January 1, 2009 to pay for the savings the bid program would have reaped.

Continuing concerns among patient and provider advocates who oppose the misguided bidding program include:

- Reduced access to quality home medical equipment and services since the bid program would vastly reduce the number of homecare providers allowed to participate in Medicare;
- Widespread business failures and loss of jobs for home medical equipment providers who will be forced out of Medicare – even if they were willing to provide items and services for the lower prices set by the Medicare bid process;
- More difficulty getting basic services and equipment since many Medicare beneficiaries would be forced to use multiple, unfamiliar providers for different items and services, instead of continuing to use a single, familiar provider;
- Lack of transparency within the entire bidding program and a lack of willingness to heed the advice of the Medicare advisory PAOC;
- Reductions in service and quality of items and services based on artificially low winning bid amounts. There is no requirement that providers accept a bid if they are awarded one, which leads to providers submitting artificially low bids.

Elimination of this Medicare competitive bidding program for home medical equipment is supported by numerous consumer and patient groups such as: American Association for People with Disabilities, COPD Alert, International Ventilator Users Network, Muscular Dystrophy Association, National Association for the Support of Long-Term Care, National Emphysema/COPD Association, National Spinal Cord Injury Association, Post-Polio Health International, RetireSafe and United Spinal Association.

A bill in the House of Representatives introduced by Rep. Kendrick Meek (D-Fla.) would eliminate the bidding program and would also help control Medicare spending by reducing Medicare reimbursement rates for home medical equipment and services in 2010, 2011, 2012, 2014, and 2015. At the same time, the bill will allow thousands of home medical providers to keep their doors open to serve the millions of Americans who require home-based care and will allow patients to continue to receive services from the providers of their choice.

The bill, H.R. 3790, has broad bipartisan support with 97 cosponsors so far.

Paul J. Tobin, president and CEO, United Spinal Association, said, “Congressman Meek and other bipartisan leaders in the House have recognized that wheelchairs and a host of other home medical devices are essential tools which, when properly configured for each individual patient, can liberate a person and maximize their quality of life. Unfortunately, the competitive bidding process will eliminate the home medical equipment provider’s ability to individually customize equipment based upon each patient’s medical needs and restrict the patient’s ability to work face-to-face with a local provider. If implemented, competitive bidding will have tragic, unintended consequences for seniors and people with disabilities.”

Durable, or home medical equipment, such as oxygen, wheelchairs, diabetic supplies, and hospital beds, enables seniors and people with disabilities to receive quality care at home. Home-based care represents a cost-effective alternative to institutional care, and seniors prefer to receive care at home rather than in an institution.

The re-bidding process is now under way in nine metropolitan statistical areas (MSAs) across the U.S. – Charlotte, Cincinnati, Cleveland, Dallas-Fort Worth, Kansas City, Miami, Orlando, Pittsburgh, and Riverside, Calif. The bid prices and bid winners would be selected in 2010 and the new prices would become effective January 1, 2011. Another round of bidding will begin shortly after that in 70 MSAs across the U.S. Categories subject to the Round One Rebid include medical oxygen, which is a highly regulated prescription drug, complex rehabilitative power wheelchairs, enteral nutrients (used in tube feeding), as well as hospital beds, among other categories.

In addition to recommending the Meek bill, which would help control Medicare spending, the American Association for Homecare has strongly endorsed the bill recently introduced by Sen. George LeMieux (S. 2128), which would institute real-time claim audits and increase resources available to fraud fighters in Medicare. Earlier this year, the Association introduced an aggressive 13-point anti-fraud legislative action plan. The LeMieux bill incorporated some of those points, and the Association hopes that Congress will go further and adopt the entire 13-point plan (see [www.aahomecare.org/stopfraud](http://www.aahomecare.org/stopfraud)).

Home medical equipment and care is already the most cost-effective, slowest-growing portion of Medicare spending, increasing only 0.75 percent per year according to the most recent National Health Expenditures data. That compares to more than 6 percent annual growth for Medicare spending overall. Home medical equipment represents only 1.6 percent of the Medicare budget.

*The American Association for Homecare represents durable medical equipment providers, manufacturers, and other organizations in the homecare community. Members serve the medical needs of millions of Americans who require oxygen equipment and therapy, mobility assistive technologies, medical supplies, inhalation drug therapy, home infusion, and other medical equipment and services in their homes. The Association’s members operate more than 3,000 homecare locations in all 50 states. Visit [www.aahomecare.org](http://www.aahomecare.org).*