



## **AAHomecare Summary of HME Cuts in Senate Finance “Chairman’s mark”**

### **Senate Finance Cuts HME in “Chairman’s Mark”**

Senate Finance Committee Chairman Max Baucus (D-Mont.) issued his recommendations for healthcare reform in his long-awaited “Chairman’s mark” version of the bill. The 220-page bill contains several provisions that affect home medical equipment, ranging from power wheelchairs to anti-fraud measures. The bill does not include specific cuts to oxygen payment rates, but the American Association for Homecare believes that the threat of cuts remains.

“While we favor the goals of health care reform and aggressive measures to reduce fraud and waste in Medicare, some of the cuts proposed for home medical are unwarranted and disproportionate,” said Tyler J. Wilson, AAHomecare president. “We don’t believe the cuts will produce either savings or better care for seniors in the long run.”

**Competitive Bidding Program Expansion.** The Chairman’s mark would expand the number of areas to be included in Round Two of the bid program from 79 of the largest MSAs to 100 of the largest MSAs, expanding the target list of areas by the next 21 largest population MSAs. The provision would also require that the bid program apply competitively bid rates to the remaining non-bid areas by 2016. All other provisions in current law would remain in place, such as the authority of the HHS secretary to exempt rural areas and areas with low population density within an MSA.

**First-Month Purchase Option for Power Wheelchairs.** The mark would maintain the first-month purchase option for complex power wheelchairs but eliminate the option for standard power wheelchairs. There is an additional provision that would eliminate the first-month purchase option for replacing a wheelchair for all chairs except complex rehabilitative power wheelchairs.

**Oxygen Therapy.** The mark does not include specific provisions related to oxygen at this time.

**Excise Tax on Manufacturers and Importers of Medical Devices.** The Chairman’s mark would require an annual tax on manufacturers and importers of medical devices that are categorized as Class II or Class III devices offered for sale in the United States, costing device

manufacturers approximately \$29.9 billion over ten years. The tax would be apportioned among the covered entities each year based on each entity's relative market share of covered domestic sales for the prior year.

**Productivity Adjustment.** The mark provides for updates based on the market basket or CPI minus full productivity estimates for all Part A and B providers who are subject to a market basket or CPI update. AAHomecare believes this would reduce the DME annual CPI update by the full productivity adjustment for all DME providers who are subject to a CPI update beginning in 2011 and that productivity adjustments would apply only to items and services that are not subject to competitive bidding.

**Accreditation Exemption for Certain Pharmacies.** The mark would exempt certain pharmacies from DMEPOS accreditation.

**Elimination of Additional Payment in 2014.** In 2014, DMEPOS items and services will not receive an additional 2 percent increase above the scheduled Consumer Price Index-Urban (CPI-U) fee schedule inflation update. The Chairman's mark maintains the CPI-U update in 2014 but eliminates the 2 percent additional increase.

**Anti-fraud and Abuse.** The Chairman's mark contains a number of anti-fraud provisions related to HME providers and others providers:

- **Provider Screening.** The Chairman's mark would require screening of all providers and suppliers before granting Medicare billing privileges. All providers and suppliers would be subject to licensure checks. Certain groups would be subject to additional screening measures such as submission of fingerprints, criminal background checks, multi-state database inquiries, and unannounced site visits.
- **Enrollment Application Fees.** An application fee of \$350 would be imposed on providers and suppliers to cover the costs of screening. Current providers could be subject to a discounted screening fee of \$250 if they pay it within 12 months of enactment.
- **Enrollment Disclosure Requirements.** The Chairman's Mark would impose new disclosure requirements on providers and suppliers enrolling in Medicare. Applicants would be required to disclose affiliations with any enrolled entity that has uncollected Medicare or Medicaid debt. The Secretary would be authorized to deny enrollment in Medicare if these affiliations pose an undue risk to the program.
- **Surety Bonds.** The Secretary would be authorized to require surety bonds up to \$500,000 (the amount of the surety bond would be commensurate with the volume of billing) and, if necessary, impose moratoria on the enrollment of certain groups of new providers or suppliers to prevent fraud.

- **Face-to-Face Exam.** As a condition of payment, physicians must have a face-to-face encounter with the patient before making a referral for home health or durable medical equipment.
- **Payment.** The maximum period for submission of Medicare claims would be reduced from 36 months to not more than 12 months. Also, the Secretary, in consultation with the HHS Office of Inspector General and CMS, could suspend payments to providers and suppliers pending an investigation of credible allegations of fraud.
- **Overpayments.** The 60 days providers and suppliers have to repay Medicare overpayments would be modified to either 60 days after the date on which the overpayment was made or the date the corresponding cost report is due. Providers and suppliers would be required to repay any Medicare or Medicaid overpayment identified through an internal compliance audit.