



ISSUE PAPER Delay Round One of the Medicare DME Competitive Bidding Program

The American Association for Homecare (AAHomecare) believes that round one of the Medicare durable medical equipment (DME) competitive bidding program must be delayed based on the findings of several recently released analyses of the program. These studies find that the competitive bidding program, as currently designed, will not achieve its intended results and will likely create access problems for beneficiaries, drive up prices, and result in significant job losses. We request that lawmakers contact the Centers for Medicare and Medicaid Services (CMS) and ask that the Agency evaluate the findings of these new reports before moving forward with implementation of the program.

Background:

CMS was mandated by Congress to implement a competitive bidding program for durable medical equipment and off-the-shelf orthotics in the Medicare Modernization Act of 2003 (MMA). This program was launched based on the findings of limited demonstration projects in two metropolitan statistical areas in Texas and Florida.

Round one of competitive bidding is currently scheduled to go into effect on July 1, 2008 in 10 metropolitan statistical areas (MSAs) around the country. Winning bidders are expected to be announced in March 2008. Suppliers not selected by CMS to be contract suppliers will not be able to provide and bill for certain home medical equipment and related services for a three-year period. Since Medicare is generally the largest component of any home medical equipment supplier's practice, failure to win a contract is likely to result in job losses and business failures.

Further, bidding for round two in an additional 70 MSAs will commence this summer and be implemented before the effects of round one can be properly evaluated.

Recently, two analyses of the Medicare competitive bidding program have been published and call into question the market effects of the program over both the short and long term. In addition, CMS has failed to adequately provide answers about the impact competitive bidding will have on suppliers. These issues must be adequately evaluated before implementing this program.

Robert Morris University Study Findings:

- Rather than encourage competition and improve quality of care over the longer term, the bidding program will lead to market concentration, less competition, and significant job loss, according to a recent study by economists from Robert Morris University. The report's findings identify threats to the quality of care provided to Medicare beneficiaries.
- Artificial limits on the number of Medicare providers will produce shortages and access problems in the intermediate run (five to 20 years), will ultimately increase price and

reduce social welfare and will likely result in monopoly profits for the successful bidders that CMS will have little incentive or ability to regulate.

- The artificial limits on competition will produce reduced market efficiencies, created insurmountable artificial barriers to entry, and tremendously dampen the incentive for durable medical equipment manufacturers to seek innovations that reduce costs and improve quality of life.

Drexel-Kennesaw State Study Findings:

- The system may reduce quality of service.
- The bidding process established by CMS does not elicit the intended truthful bidding of costs and can lead to strategic skewing of bids if estimates by DME companies of utilization are not aligned with CMS estimates.
- The design of the bidding system may fail to select the lowest cost provider because of the flawed nature of the bidding mechanism.

Small Supplier Questions:

CMS has failed to respond to requests for further details on the impact of competitive bidding on small suppliers. Such questions include:

- Of the 4,529 suppliers providing DMEPOS in the ten round one competitive bidding areas (CBAs), how many suppliers submitted bids for each of the product categories in each of the ten bid areas? How many of those companies were small businesses?
- In round one, how many contracts does CMS expect to issue for each product category in each of the ten CBAs?
 - a. Are initial bids sufficient to ensure adequate access to each product category in every initial CBA?
 - b. Does CMS have a strong indication that most of the selected suppliers will elect to participate based on the median bid price?
- For round one, will CMS be able to meet the 30 percent small supplier participation target that was established in the final rule dated April 2, 2007, for each product category in each CBA?
- Did CMS receive any applications from networks of small suppliers? If so, how many, for what product categories, and in what competitive bidding areas?

Recommendation:

CMS is heading into uncharted territory with the implementation of a Medicare competitive bidding program where the government discriminates against who can provide items and services to Medicare beneficiaries. The Association believes that CMS has an obligation to determine whether the bidding program will be effective and achieve the goals that were originally intended and expected. Based on CMS' failure to adequately respond to questions about the program and the findings of these economic reports, we ask that lawmakers urge CMS to delay round one immediately.