

## United States Senate

WASHINGTON, DC 20510-3802  
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March 11, 2009

Mr. Charles Johnson  
Acting Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20002

Dear Acting Secretary Johnson:

I am writing to express my continued concerns with the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) competitive bidding program and ask that the interim final rule be rescinded in order to allow the Administration more time to review and analyze the program prior to determining whether to move forward with this program.

Congress delayed the bidding program because it believed the initial roll-out of the program in 2008 had negative results for the four million patients affected and for the hundreds of providers, mostly small businesses, that were excluded from Medicare as a result of the award of first round contracts. The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) required that several reforms be incorporated into the bidding program. MIPPA addressed several near-term concerns with the program, but thoughtful and deliberate rulemaking by CMS was clearly anticipated by Congress, given Congressional and stakeholder concern during initial implementation.

It is my understanding that the homecare community has expressed an interest in working with CMS to review the mechanics of the bidding program. However, CMS has not utilized the only existing mechanism, the Program Advisory and Oversight Committee (PAOC), to seek or incorporate feedback since MIPPA became law. I am informed that CMS in fact disbanded the initial PAOC, which was created to provide the agency with concrete, real-world guidance on the development and implementation of the bidding program.

I recommend the Administration rescind the interim final rule, and do a thorough and complete analysis of the competitive bidding program to determine the best way to move forward for beneficiaries.

Sincerely,



Arlen Specter