

**Oral Statement of Joel D. Marx
Chairman, Medical Service Company, Cleveland, OH
On behalf of the American Association for Homecare**

**Before the Subcommittee on Health
House Committee on Ways and Means on
Medicare's Durable Medical Equipment Competitive Bidding Program
May 9, 2012**

Good morning Chairman Herger, Congressman Stark, and members of the Subcommittee.

My name is Joel Marx. I operate Medical Service Company, based in Cleveland, Ohio. We provide virtually all types of home medical equipment and services, including oxygen therapy, wheelchairs, and hospital beds. My company was founded by my parents in 1950. It has grown over the years and is now larger than the typical provider in our sector. We serve more than 25,000 patients annually through 14 locations in Ohio, Pennsylvania, upstate New York, and West Virginia.

You should know that my company was awarded several contracts under the bidding program.

I am also testifying today as chairman of the board of the American Association for Homecare, which is the primary trade association for providers and manufacturers of home medical equipment. The vast majority of the Association's members are small, family operations that, like my company, have served seniors and people with disabilities in their communities for many years.

Let me cut straight to the heart of this issue:

We don't oppose competitive bidding for home medical equipment in Medicare.

In fact, we favor and strongly endorse a state-of-the-art auction system that would:

- 1) Achieve true market-based pricing,
- 2) Save exactly the same amount of Medicare dollars that the current bidding system is projected to save, and
- 3) Correct the fundamental flaws in the current system.

The current system limits Medicare beneficiaries' access to care. It limits choices for consumers. And it will eliminate the nation's existing network of homecare providers, which will ultimately result in hardship and added costs for patients. That would be extremely shortsighted since homecare is cost effective and preferred by patients.

The existing Medicare bidding program designed by CMS distorts the marketplace and the intent of Congress. It radically reduces the number of providers (that is, competitors) allowed to serve Medicare patients, thereby creating oligopolies in the marketplace. It forces homecare providers to reduce supporting services in order to accept manipulated reimbursement rates obtained through a flawed process. These deficiencies have been highlighted numerous times before Congress.

More than 240 economists and auction experts, including several Nobel laureates, have told CMS that significant modifications are needed to fix the current bidding program.

More than 30 patient advocacy groups believe that the bidding program, as structured today, is flawed and needs to be changed.

I describe the flaws in the current bidding program in detail in my written testimony. But let me mention a few of them, briefly.

- The bids are not binding. This is unheard of in any auction system.
- The pricing calculation uses a median bid rather than a clearing price.
- And there has been a troubling lack of transparency at CMS;

Fixing the Bidding Program

To fix the fundamental flaws in the bidding program, an alternative market-based pricing program for home medical equipment has been proposed by market auction experts and

providers. That proposal, known as the Market Pricing Program or MPP, would require changes to ensure a sustainable program. These changes are consistent with the original intent of Congress.

I'll list just a few of the key features of the Market Pricing Program:

- It is designed to be budget-neutral and it is now at CBO for scoring.
- The bids are binding. You have to stand behind your bid. Bid bonds and performance guarantees ensure that only serious bidders participate and no one games the system.
- The bid price is based on the “clearing price,” not the “median price,” which conforms with standard auction design.

- Reimbursement rates in areas would be adjusted based on auctions conducted in comparable geographic areas. Rural areas that are currently exempted would remain exempt.
- Finally, bid areas would be smaller than metropolitan statistical areas and more homogeneous. Current bidding areas can encompass up to three states with differing laws, regulations and costs. This ensures fairness to smaller, community providers.

We strongly urge Congress to pass legislation that would change the current bidding system to a sustainable market pricing program at the earliest legislative opportunity. This will not result in higher costs to Medicare beneficiaries and will fix a flawed program.

We hope Congress will take the advice of auction experts, listen to patient advocacy groups, and work with the affected stakeholders to create a sustainable bidding system that will serve as successful model for other parts of Medicare and not serve as a cautionary tale.

I thank you and would be pleased to answer any questions the Committee may have.