

MEMORANDUM

Date: November 17, 2017

Subject: CMS GENERALLY MET REQUIREMENTS IN ROUND 2 OF THE DMEPOS COMPETITIVE BIDDING PROGRAM

OVERVIEW

On November 15, 2017, the Department of Health and Human Services Office of Inspector General (OIG) published the report titled, "[CMS GENERALLY MET REQUIREMENTS IN ROUND 2 OF THE DMEPOS COMPETITIVE BIDDING PROGRAM](#)." The OIG conducted this review to determine whether CMS followed the procedures and requirements of the federal regulations in the selection of competitive bidding (CB) contract winners, calculation of single payment amounts (SPA), and monitoring of contract winners. The OIG reviewed 240 SPAs and 214 suppliers for this report. Although the OIG found that CMS usually was in accordance with established rules and procedures of the CB program, CMS miscalculated some SPAs and did not properly monitor supplier licensures.

BACKGROUND

The OIG conducted this review in accordance with the Medicare Improvements for Patients and Providers Act of 2008. Due to the OIG findings in the May 2016 report that found many contract winners from Round 2 did not meet licensure requirements the OIG included an audit on supplier licensure in this report.

REVIEW

The OIG reviewed from the following sample:

1. Round 2 claims for all covered services under CB from July 1-December 31, 2013
2. Randomly selected 8 CBAs
3. Randomly selected 30 SPAs from the 8 CBAs, totaling 240 SPAs

From the sample, the OIG examined:

1. 55 competitions
2. 215 contract winners and 37 non-winners associated with the sample

OIG evaluated CMS' procedures in evaluating supplier financial statements. OIG received documentation on CMS' explanations for the 37 nonwinning suppliers. The claims for the last six months of 2013 for Round 2 accounted for \$3.6 million in payments from Medicare.

FINDINGS

Of the 215 contracted suppliers, 23 did not meet requirements (10.7%). Due to the 23 suppliers not meeting requirements, OIG found that 99 of the sampled SPAs were miscalculated. OIG estimates suppliers could have received \$181,980 more in reimbursement if CMS did not award the 23 suppliers, which is less than 3% of total paid during the 6-month timeframe.

Of the 23 that did not meet requirements, 10 suppliers did not meet financial requirements. Nine of the suppliers submitted financial data that was not accurate and one of the suppliers did not submit



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financial documents that matched with related financial documents. The OIG discovered these discrepancies by reviewing documents shared by CMS.

Of the 23 that did not meet requirements, 13 did not meet licensure requirements for at least one CBA. The 13 suppliers failed to submit state licenses to NSC MAC on or before May 1, 2012, which was the licensure deadline. OIG discovered this finding through reviewing NSC's PECOS.

OIG also found that CMS did not properly monitor licensure requirements after contracts were awarded. 31 of the winners did not maintain proper licenses during the 6-month period. These 31 suppliers did not influence the SPAs because they had proper licenses by the licensure deadline (May 1, 2012). However, these suppliers did not maintain their licenses which is required under the CB program and CMS did not have a system in place to ensure suppliers maintain their required licenses.

OIG RECOMMENDATIONS

OIG recommended CMS to:

- work with state licensing boards, which was recommended in a previous report, to ensure that suppliers have proper licenses for each competition they are submitting a bid;
- implement a system to monitor suppliers on their licensure requirements; and
- abide by the established processes and requirements when assessing financial documents.

CMS RESPONSE

CMS concurred with the recommendations.