

*** * *Talking Points* * ***

Medicare's "Competitive" Bidding Program Will Ruin the DME Marketplace

February 18, 2013

What's the issue?

- On January 30, 2013 CMS announced the Round 2 prices for the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program.
- The prices amounted to an average cut of 45% for DME items in 91 competitive bidding areas (CBAs) and diabetic testing supplies under a national mail-order program will be cut by an average of 72%.
- If the program is not stopped, these cuts will go into effect on July 1, 2013 and have a devastating effect on quality and access to durable medical equipment and providers who furnish these items and services to Medicare beneficiaries.

What's wrong with CMS' bidding program?

1. Arbitrary Pricing Process

- Any provider can submit a bid and if awarded a contract they can refuse to accept it.
- Bids from contract winners who refuse to sign are included in the calculation for the payment amount. This keeps the payment rates artificially low.
- The payment rate developed by this program sets the reimbursement rate at the median of the provider's bids.
- This process encourages unethical manipulation of the bidding system by submitting a "low ball" bid in order to increase the probability of being awarded a contract.
- At least half the "winners" receive a contract for a payment rate below their bid and will lose money if they accept it.

2. No transparency

- CMS continues to deny industry and congressional requests for information pertaining to the methodology and specific factors used not only for Round 2, but for the Round 1 rebid which has been in place for over two years!
- This begs the question: Why all the secrecy if CMS has nothing to hide?

3. No appeal process

- Providers have no means to appeal payment rates.
- Providers have no means to appeal not winning a contract.

What problems has CMS' bidding program caused?

- How do Round 2 prices impact your business?
 - Talk about the area(s) you serve, how many years you've been in business, are you a small or family owned company, and how many employees you have.
- How do Round 2 prices impact your patients?
 - Give specific examples.

Why Hasn't Round 1 Failed?

- Providers and manufacturers made Round 1 work because it was only in 9 areas around the country. Providers were able to revenue shift by servicing beneficiaries outside bidding areas to offset reduced reimbursement rates in bidding areas. Providers will not be able to pursue this strategy if Round 2 moves forward in 91 areas around the country.

Is there an alternative?

- Yes. The homecare industry supports the Market Pricing Program (MPP), which has been developed by experts in the field of government auctions. The MPP would address all of the critical problems while still setting fair market prices.

ASK: Lawmakers to stop Round 2 prices from going into effect.

- Request that lawmakers contract their respective leadership in the House and Senate and tell them that this program will hurt beneficiaries and providers and it needs to be stopped.
- If the lawmaker is on the House Ways & Means, House Energy & Commerce or the Senate Finance Committee, ask the lawmaker to express concerns with his/her respective Chairman or Ranking Member.

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CA03	John Garamendi	D	202-225-1880
CA04	Tom McClintock	R	202-225-2511
CA05	Mike Thompson	D	202-225-3311
CA06	Doris Matsui	D	202-225-7163
CA07	Ami B. Bera	D	202-225-5716
CA08	Paul Cook	R	202-225-5861
CA09	Jerry McNerney	D	202-225-1947
CA10	Jeff Denham	R	202-225-4540
CA11	George Miller	D	202-225-2095
CA12	Nancy Pelosi	D	202-225-4965
CA13	Barbara Lee	D	202-225-2661
CA14	Jackie Speier	D	202-225-3531
CA15	Eric Swalwell	D	202-225-5065
CA16	Jim Costa	D	202-225-3341
CA17	Mike Honda	D	202-225-2631
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CA20	Sam Farr	D	202-225-2861
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CA23	Kevin McCarthy	R	202-225-2915
CA24	Lois Capps	D	202-225-3601
CA25	Howard P. (Buck) McKeon	R	202-225-1956
CA26	Julia Brownley	D	202-225-5811
CA27	Judy Chu	D	202-225-5464
CA28	Adam Schiff	D	202-225-4176
CA29	Tony Cardenas	D	202-225-6131
CA30	Brad Sherman	D	202-225-5911
CA31	Gary Miller	R	202-225-3201
CA32	Grace Napolitano	D	202-225-5256
CA33	Henry A. Waxman	D	202-225-3976
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CA46	Loretta Sanchez	D	202-225-2965
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