



Issue Paper

Support H.R. 1041 to Protect Patients and End “Competitive” Bidding for Home Medical Equipment

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Issue

Representatives Glenn Thompson (R-PA) and Jason Altmire (D-PA) have introduced the Fairness in Medicare Bidding Act (H.R. 1041), bipartisan legislation that will end the Medicare “competitive” bidding program for home medical equipment and services because the program is fatally flawed.

The program encourages “suicide bidding,” using economic coercion by forcing providers to submit unsustainable bids necessary to win a contract. People who require home medical equipment are being harmed because services are being curtailed due to unsustainable pricing and they are not able to receive the equipment they need. This legislation protects patients’ access to medically required home medical equipment and services. **AAHomecare and NEMED strongly urge members of Congress to support H.R. 1041.**

Background

The Medicare Modernization Act of 2003 (MMA) required Medicare to replace the current HME payment methodology for certain items with a selective contracting process. Any provider not awarded a contract is prohibited from providing bidded Medicare items for the length of the contract, typically a three-year period. The bidding program was implemented on January 1, 2011 in nine cities across the U.S. and begins in an additional 91 metropolitan areas later this year. The first nine areas are Charlotte, Cincinnati, Cleveland, Dallas-Fort Worth, Kansas City, Miami, Orlando, Pittsburgh, and Riverside, California. The Centers for Medicare and Medicaid Services (CMS) originally began implementation of the program in 2007. However, because of fundamental problems with the design of the program, Congress delayed implementation for a period of 18 months in the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) so that CMS could correct those problems. CMS has re-launched the program with minimal changes and ignored congressional intent, which was the basis for the initial delay.

Congress Must Eliminate the Anti-Competitive Bidding Program

It Sacrifices Care for Seniors and People with Disabilities

- Competitive bidding restricts access to and choice of HME items and services.
- It will trigger a race to the bottom in terms of quality. Less expensive items will be provided to patients. With fewer providers, expedient deliveries of items and services will be eliminated and Medicare costs will increase.

The Program Is a Job Killer, and It Is Anti-Competitive

- The bid program is anti-competitive. It reduces the number of competitors.
- 80 to 90 percent of HME service providers would have been barred from the Medicare program in the first round of bidding.
- We estimate that this program will result in approximately 100,000 job losses nationwide.

Not Cost-Effective, Not a Solution for Health Care

- The bidding program will increase Medicare costs. It disrupts the continuum and coordination of care between doctors, discharge planners, patients, and HME providers.
- It will lead to longer, more expensive hospital stays and more physician office visits, nursing home admissions, and emergency room visits.

Auction Experts and Consumer Groups Oppose the Bidding System

In November 2010, 167 leading economists and experts in public and private auctions who have experience in the design and application of auctions around the world, including two Nobel laureates, warned Congress that Medicare's bidding design for medical equipment will fail. Those experts, who design market-based auction systems and do not oppose the concept of using a competitive bidding system to set Medicare prices, found that this particular bidding program designed by CMS has irreparable flaws that will prevent it from achieving its objectives of low cost and high quality equipment and services.

Ultimately, the experts told Congress, the bid design provides "strong incentives to distort bids away from [actual] costs," and lacks transparency, which is "unacceptable in a government auction and is in sharp contrast to well-run government auctions." The experts' letter concludes, "This collection of problems suggests that the program over time may degenerate into a 'race to the bottom' in which suppliers become increasingly unreliable, product and service quality deteriorates, and supply shortages become common."

Also opposing the controversial bidding program are more than a dozen national consumer and patient advocacy groups including the ALS Association, American Association of People with Disabilities, Muscular Dystrophy Association, National Council on Independent Living, National Spinal Cord Injury Association, and United Spinal Association. Last year, a bipartisan group of 260 members of the U.S. House of Representatives supported legislation to repeal the misguided bidding program.

Patient Access Problems in Round One Areas

Since the January 1, 2011, implementation of this program, hundreds of patients and providers have reported problems and complaints about getting medically required home medical equipment and services to seniors and people with disabilities.

The program affects Medicare beneficiaries who require oxygen therapy, enteral nutrients (tube feeding), continuous positive air pressure (CPAP) and respiratory assistive devices, power wheelchairs, walkers, hospital beds and support surfaces, and mail-order diabetic supplies.

In these nine test cities AAHomecare has received more than 250 complaints from beneficiaries, physicians, case managers, and homecare providers about the program. We expect the complaints to increase exponentially as the program progresses.

By design, this new Medicare program severely restricts the number of companies that are allowed to provide the equipment and services subject to bidding. Since the bidding program began on January 1, patients, clinicians, and homecare providers have reported:

- Difficulty finding a local equipment or service provider;
- Delays in obtaining medically required equipment and services;
- Longer than necessary hospital stays due to trouble discharging patients to home-based care;
- Far fewer choices for patients when selecting equipment or providers;
- Reduced quality; and
- Confusing or incorrect information provided by Medicare.

Among the specific complaints AAHomecare has received are:

- A CPAP user in the Orlando area could not find the right supplies from the reduced number of local providers contracted under the bidding system. "I don't like that the local people were cut out. In our area, there are very few suppliers to choose from."

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- A patient in the Charlotte area was required to stay in the hospital for several extra days because of a delay in the delivery of oxygen equipment to the patient's home, reports the North Carolina Association for Medical Equipment Services.
- A director of case management at a Dallas hospital said the bidding program has caused problems and burdens with respect to coordination of equipment and services. "Medicare is making it more difficult to provide services to people in need."
- A provider of home medical equipment and services in the Kansas City area reports that hospital discharge planners are sending patients only to those equipment providers that won contracts for multiple categories under the bidding system, effectively excluding those companies that only won contracts for one or two service categories. This further shrinks the pool of homecare providers available to serve Medicare beneficiaries who depend on home medical equipment and services and does nothing to protect small providers.

AAHomecare shared a number of problems with CMS in January without any type of response on corrective action taken:

- Companies awarded Medicare contracts that are bankrupt.
- Companies awarded Medicare contracts that are not licensed to provide items or services.
- Companies awarded Medicare contracts that have credit problems.

Request

To protect Medicare patients, Congress must stop this anti-competitive, fatally flawed bidding program. AAHomecare and NEMED urge members of Congress to support H.R. 1041 to end the competitive bidding program.

***The American Association for Homecare** represents durable medical equipment providers, manufacturers, and others in the homecare community that serve the medical needs of millions of Americans who require oxygen equipment and therapy, mobility assistive technologies, medical supplies, inhalation drug therapy, and other medical equipment and services in their homes. Members operate more than 3,000 homecare locations in all 50 states. Please visit www.aahomecare.org/athome.*

***The New England Medical Equipment Dealers Association** is the regional trade association representing providers of home medical equipment and supplies, home oxygen therapy and respiratory equipment, custom wheelchairs and assistive technology, and home infusion therapy in the six New England states. Approximately 80% of Medicare and Medicaid beneficiaries receive their home medical equipment and related services from a NEMED member. Visit www.nemed.org.*

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