



## Issue Paper

# Home Medical Equipment Sector Continues to Promote Tough Anti-Fraud Measures

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The American Association for Homecare (AAHomecare) and the New England Medical Equipment Dealers (NEMED) have long advocated for tough anti-fraud measures for Medicare. The Associations are and always has been ready, willing, and able to work with the Centers for Medicare and Medicaid Services (CMS) to prevent fraud and urge Congress to continue to focus on effective, targeted measures aimed at criminals' intent on stealing taxpayer dollars. AAHomecare and NEMED represent providers of durable medical equipment, otherwise known as home medical equipment and services (HME).

As we have stated, our Associations and memberships have zero tolerance for fraud and will continue to work with federal officials to prevent fraud. In fact, in 2009, AAHomecare proposed to Congress an aggressive 13-point Medicare Anti-Fraud Legislative Action Plan ([www.aahomecare.org/stopfraud](http://www.aahomecare.org/stopfraud)) that includes tougher penalties for fraud, more site visits, and real-time claims audits to prevent fraud at the front-end of the process rather than relying on the ineffective pay-and-chase system.

The majority of the Association's recommendations have been adopted by Congress. However, we encourage Congress to adopt all of our proposals to ensure a comprehensive approach that directly shuts down avenues for Medicare fraud.

A number of important new anti-fraud measures are now in place, which were long overdue. But Congress, CMS, and the Office of Inspector General (OIG) should not impose unreasonable burdens on the existing, accredited home medical equipment providers.

### **Getting the Facts Straight**

Discussions about Medicare fraud in the home medical equipment sector are often colored by distortions, half-truths, and incomplete information. It's important to remember several key points:

### **Competitive Bidding Is a Price-Setting Mechanism, Not an Anti-Fraud Device**

The Medicare bidding system is a payment mechanism—not an anti-fraud tool. When the bidding program was mandated by law, Congress adopted a number of separate mechanisms to address fraud and abuse through the establishment of quality standards and mandatory accreditation. CMS also has taken additional steps recently to prevent fraud. Starting in October of 2009, all home medical equipment providers in Medicare were required to be accredited by a deemed accrediting agency, and they must also purchase a surety bond.

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### **Internet Pricing Is the Wrong Benchmark for Reimbursement Rates**

Several studies conducted by federal agencies such as the Government Accountability Office (GAO) and the OIG highlighted the disparity between Internet prices and Medicare payments for home medical equipment. This is not an accurate comparison. First, these studies clearly cite that their analyses did NOT look at service-related costs in the provision of home medical equipment. The studies also ignore overhead, staffing costs, mandatory accreditation, 24-7 emergency care, adherence to quality standards, and FDA's home use requirements. There has been only one comprehensive study that has evaluated both service and equipment costs. This study found that in the oxygen arena, equipment costs account for just 28 percent of the total cost of providing oxygen therapy to Medicare patients at home. The remaining 72 percent of the costs relate to services and general and administrative costs.

### **Payment Rates Do Not Promote Fraud**

Criminals out to defraud the Medicare program are intent on stealing. They do not provide equipment and services and they do not follow Medicare regulations. But the OIG claims that because home medical equipment reimbursement rates in Medicare are often higher than prices on the Internet, this difference inherently leads to greater fraud and abuse. OIG cites no facts, research, or any evidence to support that claim. Criminals intent on defrauding Medicare are not real equipment providers, and they have no intention of providing the items and services to beneficiaries – regardless of the payment rate.

### **There Is Not an Excessive Number of HME Providers**

Federal officials frequently point to the need to reduce the number of suppliers that participate with the Medicare program. What is overlooked is that there are only approximately 15,000 home medical equipment providers nationwide—or about one for every 2,500 Medicare beneficiaries. The vast majority of entities that have medical equipment supplier numbers are large pharmacy chains, physical therapists, physicians, ophthalmologists, prosthetists, neurosurgeons, dentists, and other providers.

### **Home Medical Equipment Rates Have Been Cut Deeply and Repeatedly**

In urging competitive bidding, some at CMS and in Congress have argued that the durable medical equipment fee schedule is a relic that hasn't been changed since the mid 1980s. This is not true. Starting with health care reform last year and going back over the past 12 years, there is a long list of deep reimbursement cuts and rate freezes that have been imposed on home medical equipment.

### **Improper Payments Should Not Be Confused with Fraud**

There have been a number of audit samples of specific HME items such as oxygen therapy, power wheelchairs and continuous positive airway pressure (CPAP) devices that indicate a high improper payment rate. As the OIG correctly points out, the increase in the Medicare error rate in the home medical equipment sector is “not necessarily due to more fraud in the program. In fact, the error rate is not a measure of fraud.” Homecare providers and the Medicare beneficiaries they serve require clear, reasonable, consistent, and unambiguous guidance that does not change from auditor to auditor.

### **CMS and Its Private Contractors Have Failed in their Oversight of Supplier Enrollment**

CMS and its contractors have failed in their oversight responsibility. It is CMS' responsibility to determine whether a homecare provider should be granted Medicare billing privileges. CMS is required to conduct a site visit for any new provider and upon renewal of the supplier number every three years. If CMS were doing its job effectively, criminal enterprises that bilk millions of Medicare dollars would never receive supplier numbers. Congress has also addressed this vulnerability by requiring mandatory accreditation and quality standards for all home medical equipment providers. This should serve as a double check on CMS and raise the barrier of entry to protect the Medicare program.

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## **Home Medical Equipment Receives Disproportionate Attention**

The media has widely reported examples of home medical equipment fraud committed by suppliers who billed for services they never actually provided. The Associations support the government's efforts to stop providers from engaging in these flagrant violations of the law. We will continue to work with Congress and regulators to stamp out fraud in the homecare sector. But if the size of overall Medicare fraud truly is in the neighborhood of \$60 billion annually, federal officials must highlight and pursue the far greater fraud losses in other areas of Medicare since spending in the home medical equipment sector represents less than 1.5 percent of total Medicare spending.

The vast majority of homecare providers make every effort to comply with very complex Medicare rules and regulations. And unlike other providers, we are dependent not only on compliance with detailed supplier requirements but also on the accurate documentation of physicians. Highlighting the homecare sector overlooks the high quality of care that home medical equipment providers furnish and disparages the reputation of those who furnish the most cost-effective care in our health care system.

***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](http://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](http://www.nemed.org).*