

FEB 18

120 Bloomingdale Road
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February 12, 2009

Centers for Medicare & Medicaid Services (CMS)
Department of Health and Human Services
Attention: CMS-1561-NC
Mail Stop C4-26-05
7500 Security Blvd.
Baltimore, MD 21244-1850

Dear CMS administration:

Byram Healthcare is writing in response to the CMS announcement of its interim final rule with comment period (IFC) which implements certain limited changes required by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) to the DMEPOS competitive bidding program.

Byram understands that the following elements have been included in the interim ruling:

- CMS is required to start the Round 1 rebid competition in 2009.
- IFC implements the MIPPA process for providing feedback to suppliers regarding missing financial documentation.
- Suppliers that submit financial documents within a specified time period known as the covered document review date will be notified by CMS regarding any missing financial documentation.
- If a bidder is notified, it has ten business days to submit the proper information to CMS. This notice only applies to the receipt of the financial documents. It does not include a review of the accuracy of the documents submitted or whether the documents meet applicable requirements. The requirements for bid application will be detailed in the request for bids (RFB).
- The IFC also implements the MIPPA provision requiring DMEPOS suppliers that are awarded a contract under the program to disclose information to CMS on each subcontracting relationship.
- Contract suppliers must also provide information on whether each subcontractor meets the applicable accreditation requirements.
- The IFC implements the MIPPA exemption for hospitals that provide certain types of durable medical equipment (DME). Specifically, hospitals are exempted from the competitive bidding program when they provide certain types of DME items, like crutches, walkers, and canes, to their own patients during an admission or on the date of discharge.

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■ Diabetes ■ Ostomy ■ Wound Care ■ Continence Care ■ Enteral Nutrition

Byram believes that Competitive Bidding will not only limit Medicare participant access to care but will actually increase costs to CMS overall while creating competitive imbalance in the market place. As such, Byram Healthcare believes that if CMS requires that all DME providers become accredited by one of the designated agencies, obtain surety bonds for each of its locations and also adjust to the HME fee schedule to all providers, Competitive Bidding is unnecessary and will ultimately weaken the supply network to the Medicare patients.

Byram would like to submit additional comments related to the existing ruling for Competitive Bidding and considerations to be made.

- For diabetes supplies, Retail providers (i.e. pharmacies) should not be unfairly excluded from the Competitive Bidding process and its associated guidelines. Retail providers (pharmacies) are able to be excluded today from NCB and do not have to provide the same services as a company that operates under NCB requirements. Medicare beneficiaries should not have the option of using a retail provider with fewer restrictions.
- The definition of a "Common Carrier" shall not provide an alternative work around for delivery to the home via a delivery service provided by the supplier. All items included in Competitive bidding shall be delivered by the designated provider selected.
- Competition is based on the quality and service of the provider while Medicare sets the appropriate competitive reasonable rates.
- The CMS- bidding program is anti-competitive and flawed.
- The CMS bidding program will create a mandated reduction of the marketplace which will lead to significant job losses. The program will force providers out of business that have been serving Medicare and their communities for decades.
- Diabetes supplies should be excluded from Competitive Bidding for the following reasons:
 - Stress is a contributing factor to poor glucose control and high glucose readings. Transitioning a senior population from current suppliers with whom they have established relationships is a highly stressful event.
 - Diabetes is a chronic disease which requires lifestyle adjustments to those beneficiaries affected. Not all DME suppliers are able to offer the level of customer support to provide the education and reinforcement necessary to make these lifestyle adjustments. Competitive Bidding forces competition on price vs. service, which will leave beneficiaries less able to manage this complex disease with successful outcomes. This leads to higher costs for managing this disease due to an increase in complications,

more medical visits required, higher incidence rates of hospitalizations and other issues arising from poor glucose control.

- Most beneficiaries rely on referrals from their healthcare providers. These providers base their referrals on their comfort level with the suppliers in the marketplace. Suppliers win this comfort by having to compete on service features they offer to consumers. Competitive Bidding removes this focus on service enhancement and works against the best interest of the patient.

Thank you in advance for your review and incorporation of Byram's comments and concerns.

Sincerely,

Raymond Kreiger
Byram Healthcare Centers, Inc.
Vice President Contracts and Pricing