

Wyden Asks CMS To Use Health-Reform Measure To Ban New DME Suppliers

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Sen. Ron Wyden (D-OR) asked CMS on Friday to use its new authority under health reform law to temporarily ban durable medical equipment suppliers from enrolling in Medicare during the roll-out of the DME competitive bidding program. Congressional aides said suppliers have told them that the moratorium would be helpful during the roll out to ensure that fraudulent suppliers do not sneak in, but an industry trade group called Wyden's proposal "drastic" and said it is not warranted.

The senator is worried that fraudulent suppliers that are shut down will merely relocate, and says a moratorium would make it more likely that suppliers would comply with requirements to retain their billing privileges, according to the lawmaker's Dec. 3 letter to CMS.

"While the competitive bidding program which is soon to be operational in 9 areas across the country seeks to provide immediate savings to beneficiaries and taxpayers and should help ensure that only legitimate providers are serving Medicare beneficiaries, further restricting the proliferation of fly by night operations -- such as through a national moratorium on new entrants into Medicare -- will go towards strengthening program integrity," the letter states.

Fraud has been a big problem among DME suppliers, Wyden states in the letter. For example, an investigation by the Office of Inspector General found that in 2007 Medicare allowed more than \$6 million for DME claims with invalid referring physician identifiers and \$28 million for claims with inactive physician identifiers. The IG recommended that CMS update its claims-processing system.

CMS is not enforcing DME-supplier standards, which range from licensing to requiring that companies maintain business phones, congressional aides said. If CMS cannot enforce those standards for the some 100,000 existing DME suppliers, then it should not be allowing new ones in, they said. Thus, the senator urged CMS to redouble its efforts to enforce the 30 standards for current suppliers during the moratorium.

Wyden also asked that CMS deactivate provider numbers that have been dormant because those numbers can be transferred and used to defraud the government.

CMS said it is reviewing the letter and declined further comment.

The American Association for Homecare said freezing supplier numbers for an indefinite period of time would harm beneficiary access to home medical equipment that facilitate discharges from hospitals, nursing homes and emergency departments. "The Association believes that a moratoria on the issuance of supplier numbers should be reserved for situations where CMS can clearly articulate the basis for imposing such an extreme measure."

The Center for Regulatory Effectiveness, which has some oxygen-supplier clients, said Wyden is contradicting himself. If Medicare is incapable of screening suppliers, then the competitive bidding program does not help ensure that only legitimate providers are serving Medicare beneficiaries, the CRE states. Rather, Wyden raises the possibility that the winning bidders may include fraudulent companies. Allowing the competitive program to go forward before revamping it would result in trapping Medicare beneficiaries in a limited number of possibly fraudulent providers, which is all the worse given that many beneficiaries will be unable to continue with their current legitimate DME providers, according to the CRE. -- *John Wilkerson* (jwilkerson@iwpnnews.com)