

March 5, 2009

Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, Maryland 21244

Re: CMS-1561-IFC

Cleveland Clinic is an integrated, not-for-profit health care provider dedicated to patient care, teaching and research. Additionally, the Clinic is the centerpiece of a larger system in northeast Ohio that provides a comprehensive range of services to patients, including durable medical equipment, prosthetics, orthotics, and supplies.

These services are provided through Cleveland Clinic Home Care Services. Its patient population is limited to patients being treated within the Cleveland Clinic Health System. These patients are defined as those discharged from a Cleveland Clinic Hospital, who receive care from a Cleveland Clinic Family Health Center, a Cleveland Clinic physician, or a physician formally affiliated with the Cleveland Clinic Health System. We have chosen this approach so that we are able to offer high quality, coordinated care to our patients that is responsive to their individual needs. We have found that this method of care delivery allows us to dramatically reduce the amount of time it takes to get the patient the needed supplies and lowers costs because of the complete integration with the health system. In turn, we feel that Cleveland Clinic then experiences lower re-admission rates because of this timely, coordinated care.

An Exemption for Provider-Based DMEPOS Entities

Outside of a small component addressing inpatient DMEPOS services, the law is silent in terms of provider-based, integrated health care entities. So are the CMS regulations. We believe this is the case because, in large part, neither the Congress nor the Agency is fully aware of the existence of such entities and the crucially important role they play in assuring that patients receive timely services that are linked with their larger illness. Competitive bidding has the effect of directly undercutting integrated care, which is so important for this patient population. Accordingly, we ask that CMS provide in its regulations an exemption from competitive bidding for such entities so long as these entities agree to meet the financial and accreditation standards established and also accept the competitive bid prices set for the area.

Covered Documents

As noted in the rule, Section 1847 of the Act prohibits the Secretary from awarding a contract under the program to a supplier “unless the supplier meets applicable financial standards...” The recent amendments also direct CMS to notify suppliers of missing “covered documents.” CMS has interpreted this amendment to apply just to whether the document is present, but not its completeness. We believe this is an unduly narrow interpretation of congressional intent, which was for a more complete exchange between bidders and the government. Much of the controversy that took place during the original period was about whether the information provided was sufficient, not just whether it was present. Accordingly, we recommend that CMS broaden its feedback to be more constructive than is the case in this rule.

While not expressly addressed in the statute, there is a move throughout government to encourage more transparency in government activity. We believe CMS can improve in its interactions with the provider/supplier community in this particular instance by clarifying the minimum financial requirements. Under the current rule, a bidder is required to submit their documentation but there do not appear to be any clear guidelines that define the standards. We would suggest that CMS provide further information surrounding the standards so that bidders have a full understanding of the criteria that will be utilized by the contractor to determine if the bidder meets the financial requirements.

Accreditation

We support the accreditation requirement and believe it is an important minimum requirement. However, we believe it is too limited to assure that the entity in question has the capability to provide service in the particular area where it is bidding. Last year’s round was replete with instances where an entity won the bid, but had no local capability, and would have led to a serious drop in service quality and timeliness. In order to address this situation, we recommend that CMS also require State licensure. This extra step would provide assurance that is more geographically based than is accreditation, which has no geographic basis related to competitive bidding areas.

We thank you for your consideration of these comments and look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Hundorfean', with a long horizontal flourish extending to the right.

Cynthia Hundorfean
Chief Administrative Officer
Clinical Services