

## Co-Sponsor HR 3790 - Budget Neutral Repeal of DMEPOS Bidding Program

The Medicare competitive bid program for durable medical equipment and services (Title XVIII of the Social Security Act) began in July, 2008, as a well-intentioned effort to improve quality of service and eliminate excess costs in Medicare. However, serious flaws in the bidding process reduced over 90% of area providers, removed access to quality products and timely services for seniors and those with disabilities who require the right care and equipment in order to live.

Congress delayed the program only two weeks after it began, because of an overwhelming number of out of area companies, inexperienced businesses and illegitimate bidders won contracts. A re-bid is scheduled to begin in October 2009, but Medicare has not made significant changes to eliminate the problems which caused the delay.

### **The DMEPOS Bidding program cannot be fixed**

At the Program Advisory Oversight Committee (PAOC) hearing on June 4, 2009, and later during Medicare educational teleconferences it was realized that:

- It is still a bid without financial accountability that will award contracts based on “blind bids” from inexperienced companies, and again remove over 90% of the local providers.
- Contracts will again be awarded to suppliers which do not have a physical location in or near the bid area.
- Although bidders submit tax returns, Medicare refuses to calculate if providers can stay in business with the bids that are submitted. Tax returns are not even verified as the actual ones filed with the Internal Revenue Service.
- Contract winners can still sell their businesses and their bid contracts without penalty.
- Winners, who submit “blind bids” can walk away without penalty and the unrealistic rates created, will be passed on to everyone.
- There is still no requirement to provide timely deliveries. Deliveries will again be made in days instead of hours.

### **A budget neutral bill that will achieve the projected program savings without limiting access to care**

After a 3 year demonstration project, the Secretary of Health and Human Services projected that the Competitive Bidding Program would result in a 19% savings to Medicare.

- The same figure is achieved by combining the DMEPOS cuts in this bill with the 9.5% cut imposed in 2009 to delay the program.
- Any projected savings above 19.5% from the 2008 bid must be re-calculated, as the bid results were tainted by unlicensed, out of state, out of area and other illegitimate bids.

### **The goals of the DMEPOS Bidding program have been achieved**

Since the demonstration projects began in 1999 new policies have been created to lower Medicare payments, assure equipment need, reduce providers and improve quality standards.

- Effective January 1, 2009, home oxygen was capped at 36 months, a 27% savings to Medicare.
- In 2006 non-oxygen rental items were capped at 13 months, these items were previously paid in perpetuity.
- Proof of patient compliance and ongoing physician progress notes are required to continue rental payments.
- During the demonstration projects, providers operated with only 11 supplier standards; today there are 26.
- Mandatory Accreditation and a Mandatory Surety Bond requirement, begins October 2009. It is estimated that these new policies combined with earlier cuts will remove over 30% of providers in many metropolitan areas.



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