

June 17, 2013

The Honorable Marilyn B. Tavenner
Administrator
Center for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Tavenner:

The undersigned organizations are writing to urge the Centers for Medicare & Medicaid Services to delay implementation of Round 2 of the DMEPOS competitive bidding program, and the National Mail Order Program for diabetic testing supplies, until important issues pertaining to winning suppliers' eligibility for the program can be addressed. Round 2 and the National Mail Order Program are scheduled to be implemented on July 1st, but recent evidence indicates that a significant number of DMEPOS suppliers that have won contracts under the program never should have been offered contracts due to their non-compliance with Medicare rules.

Specifically, a significant number of suppliers won contracts to provide competitively bid items such as in Tennessee, despite their not possessing the required licenses to provide those items. A fundamental rule of the competitive bidding program is that all applicants must be in full compliance with applicable state laws and regulations prior to applying to participate in the program.

These reports suggest that the bidding process, as well as its results, were influenced by suppliers whose applications never should have been considered by CMS. The actions of these suppliers may range from inadvertent mistakes to confusion about the requirements, but the ultimate impact is clear – these suppliers have taken contracts from suppliers who diligently complied with the applicable rules, and their bids undoubtedly affected the single payment amounts for Round 2 items. For these reasons, it would be enormously unfair and inappropriate for CMS to go forward with Round 2 on July 1st. This round of the program should only proceed when CMS can assure itself and all relevant stakeholders that the winning bidders who will participate in the competitive bidding program are in full compliance

with all rules and that the single payment amounts reflect their bids. In addition, due to these licensure issues, some of these winning suppliers actually may be prohibited from providing products and services to Medicare beneficiaries in their respective competitive bidding areas. This may raise access to care issues as well as add more uncertainty to an already confusing situation for beneficiaries.

As you know, there are critically important beneficiary issues at stake with the competitive bidding program. The single payment amounts for Round 2 are so dramatically lower than the current fee schedules that there is great concern about the ability of the contract suppliers to meet the needs of Medicare beneficiaries with the quality products prescribed and preferred by their physicians. Problems in the bidding process only increase those concerns. What is at stake is the improved health and well-being that the DMEPOS benefit was established to ensure. We, therefore, urge you to delay the beginning of Round 2 until problems in the bidding process are satisfactorily addressed.

Sincerely,

Advanced Medical Technology Association

American Association for Homecare

Diabetes Access to Care Coalition

Health Industry Distributors Association (HIDA)

Healthcare Nutrition Council

National Association of Chain Drug Stores.

National Association for the Support of Long Term Care (NASL)

National Community Pharmacists Association

National Home Infusion Association

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