



# *Trends-in-Medicine*

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by D. Woods

## *Quick Pulse*

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### **CMS EXPANDS COMPETITIVE BIDDING PROGRAM IN EFFORT TO REDUCE MEDICARE FRAUD**

On January 8, 2008, the Centers for Medicare and Medicaid Services (CMS) announced it is expanding a competitive bidding program on equipment, which it said would lower out-of-pocket costs and reduce fraud and abuse. The expansion affects durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). DMEPOS items include standard and complex power wheelchairs, walkers, oxygen supplies and equipment, certain devices, and hospital beds.

CMS officials described the changes at a press briefing in Los Angeles. CMS will require medical equipment suppliers to be accredited, and suppliers also will have to set their prices through a competitive bidding process. Under the current system, providers go through an inspection and must be on par with general benchmarks to show legitimacy. Patients pay about 20% of the government-listed price, and Medicare pays 80%.

CMS Acting Administrator Kerry Weems said that in 2006, 10%-20% of the \$360 billion spent on the Medicare program “went out the door” in fraud, waste, and abuse, “That is all the more reason to make sure that the program...scrutinizes those people looking to come into the durable medical equipment arena.” He said that he expects about 20% in savings from the program, “The demonstration project showed cost savings in aggregate of about 20% – 20% both on the federal and beneficiary side. For some products we expect that savings could be as much as half, but, overall, our experience has been about 20%.”

The first round of the program will begin in 10 cities in July 2008, including Charlotte, Concord, and Gastonia, NC; Cincinnati and Cleveland, OH; Dallas-Ft. Worth, TX; Miami and Orlando, FL; Pittsburgh, PA; and San Juan, Puerto Rico. Weems said, “In those cities, physicians will have to say that durable medical equipment is medically necessary, and suppliers will have to be Medicare-approved and have to have completed the competitive bidding program. Other suppliers will not be eligible to participate.”

The new prices will go into effect in July 2008. Weems said, “We’re still working with the suppliers and our own schedule for the second round. We expect the initial bidding process to occur in the winter of 2008, and we expect that, for the second round, the new pricing will go into effect in the summer of 2009. There will be roughly a year lag between Round 1 and Round 2.” Seventy urban areas will participate in Round 2.

According to Weems, small businesses will be included, “We will allow small businesses to continue to be part of the program. They can also set up networks, so they can participate as larger entities within the antitrust laws. How the

competitive bidding process works is that bidders come in, get accredited, and then submit bids. It is a fairly complex process ... We will accept bids up to the market clearing price. That's the best way to think of it. We know the volume in the area for a particular product, and we'll work from the bottom up to the market clearance price. That's the pivotal price, and everyone below that price will be eligible to participate."

Round 2 will include eight of the top DMEPOS product categories, including high price and utilization. The new categories are:

1. Oxygen supplies and equipment.
2. Standard power wheelchairs, scooters, and related accessories.
3. Complex rehabilitative power wheelchairs and related accessories.
4. Enteral nutrient equipment and supplies.
5. Continuous positive airway pressure devices, respiratory assist devices, and related accessories.
6. Hospital beds and related accessories.
7. Negative pressure wound therapy, pumps, and related supplies and accessories.
8. Walkers and related accessories.

The list of items in each product category will be announced in the next few months. Weems said, "Medicare will get items through contract suppliers when the program begins... This will be a significant effort at improving access, quality, lowering prices, and providing an additional layer of protection against fraud."

Diabetes testing supplies will be exempt from Round 2. Weems said, "We expect to do a nationwide competitive bid on that in a subsequent round."

This new CMS initiative is designed to reduce fraud. Weems said, "We expect the program will deter fraud by eliminating unscrupulous providers from the program. Providers have to be accredited by the Medicare program. Suppliers who want to participate must apply for accreditation as soon as possible... What this is about is setting market-based prices for Medicare products. Competitive bidding is about providing quality and about getting competitive-based prices for these products, not prices set by federal workers in Washington, DC, and Baltimore."

Gerald Roy, assistant inspector general for investigations in the Department of Health and Human Services (HHS), said, "I'm here to applaud the efforts of CMS with regard to parameters in place on durable medical equipment. I believe these parameters serve two purposes: They are going to keep perpetrators of fraud out of the program, and they will also provide a better service to Medicare beneficiaries."

A victim of Medicare fraud, Joe O'Malley, a senior Medicare patrol volunteer, described how he was approached by a supplier while he was sitting in a dialysis chair in a dialysis clinic and offered diabetic monitoring equipment, which he refused. However, he was sent the equipment, for which Medicare was billed. Weems said that senior citizens who are Medicare beneficiaries can help combat fraud by watching for so-called "red flags," such as being asked outside a physician's office about their desire for medical equipment. If they suspect fraud, they are asked to call 800-HHS-TIPS.

*Asked if CMS is tightening up on fraud coverage or concentrating more on price control,* Weems said, "Congress mandated that we have a competitive bidding project for durable medical equipment... We know that... we overpay. That's the beginning proposition. We also know that this is an area in which there is substantial fraud. So, the project we put together is a competitive bidding program with a quality accreditation that goes along with it. If you wish to be part of the program, you don't just bid; you submit to quality review and accreditation with Medicare. That provides another layer of protection against fraud. If you go to some places where fraud occurs, in some cases they're empty store fronts... You have to be an ongoing business, with a financial statement, and show you can be a good quality provider. So, it lowers the cost to the government and to the beneficiary, it provides access and quality, and it provides a layer of protection against fraud."

Round 1 suppliers have not been announced. Weems said, "We're not in a position to disclose those figures yet. We'll all have to be content in the coming weeks to say that we had substantial participation. There will be a substantial number of bids accepted, and we had quite a robust competition."

*Asked when the entire country will be part of the plan,* Weems said, "We're still considering the options. We don't have a final plan. It certainly is a distinct possibility that we could go nationwide on Round 2, but we still need to consider our options, especially in rural areas. I expect an announcement later this year." He had no comment on whether or not CMS plans to introduce a mail-order option.

Weems said that, at the request of industry, all DMEPOS suppliers will be required to be accredited, whether they participate in competitive bidding or not, by September 30, 2009. He said CMS expects to see multiple suppliers, "That's the experience we see... and that's especially true because of the small business set-aside."

