

Congress of the United States
Washington, DC 20515

June 5, 2013

Marilyn Tavenner
Administrator
Centers for Medicare and Medicaid Services
U.S. Dept. of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Administrator Tavenner:

We write today to express our concern about the Centers for Medicare and Medicaid Services (CMS) policy of allowing Durable Medical Equipment (DME) providers to win Medicare contracts to supply DME products in Ohio even though they do not comply with the state's licensure and/or registration requirements. We request that CMS suspend the July 1 implementation of this program so that Congress can examine the full extent of these flaws and develop an appropriate resolution.

Ohio has six additional metropolitan statistical areas included in Round 2 of the Medicare DME competitive bidding program. We have received reports that Medicare awarded nearly 80 DME contracts in Ohio to suppliers not licensed and/or registered to serve Medicare beneficiaries in the state of Ohio. CMS clearly states in the "Request for Bids," a document that spells out the rules for suppliers to initially compete, that "every supplier location is responsible for having all applicable license(s) for each state in which it provides services." Nonetheless, CMS has awarded contracts to suppliers without a license and/or without being registered in Ohio. Ohio has licensure requirements through the Ohio Department of Commerce for a supplier to provide certain products that are included in the competitive bidding program as well as separate registration requirements through the Ohio Respiratory Care Board for a supplier to provide other products in the program.


Since these bids came from providers not properly licensed and/or registered in Ohio, they should not have been included in the pool of applicants for the bidding program. Neither should their bid prices have been included to determine median pricing for affected product categories. These bidders may have prevented other bidders from being offered contracts, and most likely skewed the bid price, polluting the entire contractor selection and bid price calculation processes.

We are concerned about the impact of allowing unlicensed/non-registered firms to provide what can be life-sustaining products and services to seniors in the state of Ohio. We request your plan of action to ensure that all Medicare beneficiaries in Ohio will continue to have access to necessary items and services from firms that are appropriately licensed and/or registered in Ohio.

Since we are only 25 days away from the July 1 planned implementation date, we are concerned that these issues must be resolved before moving forward with the program. We therefore request that CMS suspend the July 1 implementation of this program so that Congress can examine the full extent of these flaws and develop an appropriate resolution. Thank you for your attention to this important matter. We request a reply by June 19, 2013.


Sincerely,

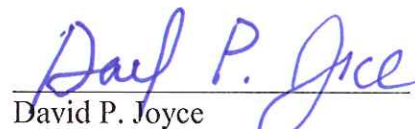

Bill Johnson
Member of Congress


Pat Tiberi
Member of Congress



Tim Ryan
Member of Congress

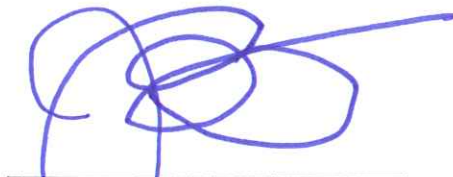

Steve Stivers
Member of Congress


Jim Jordan
Member of Congress


David P. Joyce
Member of Congress


Steve Chabot
Member of Congress


Marcy Kaptur
Member of Congress


Jim Renacci
Member of Congress


Bob Latta
Member of Congress

Michael R. Turner

Michael R. Turner
Member of Congress

Bob Gibbs

Bob Gibbs
Member of Congress

Marcia Fudge

Marcia Fudge
Member of Congress

Joyce Beatty

Joyce Beatty
Member of Congress