

Congress of the United States
Washington, DC 20515

Dear Colleague:

We ask you to join us in sending the attached letter to the Centers for Medicare and Medicaid Services (CMS) Acting Administrator Marilyn Tavenner, requesting an administrative delay of Round 2 implementation of the Durable Medical Equipment Prosthetics, Orthotics, and Supplies (DMEPOS) competitive bidding program through the remainder of 2013.

Created in the Medicare Modernization Act of 2003, the goal of the program was to improve quality of service and eliminate excess costs within Medicare. While everyone supports competition and savings, the program is anything but "competitive". Despite strong Congressional concerns about the lack of transparency, the lack of binding bids during the contract process, and the improper vetting of the financial wherewithal of many firms that have been awarded contracts, CMS still plans to move forward.

It has recently been brought to our attention that CMS awarded DMEPOS contracts to dozens of firms that do not have the proper credentials to service contracts in certain states. Unfortunately, CMS has created a situation where servicing contracts will either violate state licensure requirements, or leave contracts unfulfilled, creating access issues for your constituents. More expansively, the unqualified bids from firms that are unlicensed to service contracts create significant distortions of the bid prices in every bidding area nationwide.

For these many reasons, we believe that CMS should delay implementation of Round 2 and review the program in its entirety. Please consider joining us in sending this common sense request to CMS. For more information, please contact matthew.brennan@mail.house.gov, in Rep. Thompson's office or mike.goodman@mail.house.gov, in Rep. Braley's office.

Sincerely,



Glenn 'GT' Thompson
Member of Congress



Bruce Braley
Member of Congress

Dear Acting Administrator Tavenner:

We write to express our serious concerns with the Centers for Medicare and Medicaid Services' (CMS) Competitive Bidding Program for Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) and respectfully request your consideration of implementing an administrative delay Round 2 of the program through the end of 2013.

As you are most-likely aware, many members of Congress have continued concerns about the lack of transparency, the lack of binding bids during the contract process, and the improper vetting of the financial wherewithal of many firms that have been awarded contracts to service many bid areas far from their current base of operations.

We have recently received reports that CMS awarded DMEPOS contracts to as many as 33 bidders that do not hold a valid DME license in the state of Tennessee. We have also been informed that 68 out of 138 unique companies that were awarded contracts for the State of Maryland do not currently hold the necessary Maryland Residential Service Agency (RSA) license. It has further been brought to our attention that 58 of the contracts in the six Ohio bid areas are held by firms that are not appropriately licensed to provide items in Ohio. These awards run contrary to the eligibility rules established by CMS, which provides that such bids "will be disqualified". These problems are not limited to the aforementioned states, but impact all bid areas in all states.

Further analyses also suggest that many contract suppliers in Round 2 bid areas are not accredited, nor certified in the specific product category for which they have been awarded a contract. According to 42 CFR Ch. IV (c) (10-1-11 Edition) Quality Standards and Accreditation, any bidder who is not listed as being accredited for that specific category should have been red flagged and removed from the bidding process.

The list of bid winners who failed to secure the necessary state licenses and product-specific accreditation includes firms that won contracts in virtually every competitive bidding area. As you know, inclusion of unqualified bids would lead to a significant distortion of the bid prices and surely warrants that CMS undertake an immediate review of all legal and valid bid submissions and adjust the bid prices accordingly.

Due to these developments, it is imperative that CMS undertake an immediate assessment of the DMEPOS contracted suppliers and their compliance with applicable accreditation standards and state licensure requirements as of the effective date of Round 2 bidding (May 1, 2012). Furthermore, CMS should determine whether this rule was appropriately enforced and immediately determine whether contract winners were in full compliance with state accreditation standards as of the stated deadline.

We are extremely concerned that any mishandling of the bidding process will impact Medicare's ability to serve its beneficiaries in the respective bid areas. For these many reasons, we respectfully request that you delay the start of this program through the end of 2013 in order to allow for adequate investigation and correction of the significant problems that have been identified.

We look forward to working with you as CMS further implements the DMEPOS Competitive Bidding Program and await your timely response.